SENATE—*Friday, July 1, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

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

Let us pray:

Commit thy way unto the Lord; trust also in him; and he shall bring it to pass.—Psalm 37:5.

Almighty God, in the regular rhythm of the Senate schedule, the days and hours before a legal holiday adjournment are loaded with pressure. At times like this we are grateful for strong, fair, patient, honorable leadership. We ask for our leaders today a special dispensation of divine grace and wisdom. Cover them with Your love and peace. Guide them through the milieu of amendments, debates, and rollcall votes in these final hours.

Gracious Father in Heaven, may this Independence Day recess be a time for personal and family blessing. Enable the Senators to meet all the commitments that have been made and yet have time for personal rest and relaxation. Prepare them for the arduous schedule which awaits them upon their return.

We pray this in the name of Him who said, "My peace I give unto you." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 1, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADERSHIP TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2182 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Johnston Amendment No. 1840, to restore funding for the National Defense Sealift Fund and reduce funding for the LHD-7 Amphibious Ship.

(2) Dole/Lieberman Amendment No. 1851, to terminate the United States arms embargo applicable to the Government of Bosnia and Herzgovina.

(3) Nunn/Warner Modified Amendment No. 1852, to express the sense of the Congress that the United States should work with NATO Member nations and members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia and Herzegovina.

(4) Levin Amendment No. 2142, to strike out the funds for a B-2 Bomber Industrial Base Program and make available such funds for environmental restoration activities at military installations approved for closure.

(5) Warner Amendment No. 2143, to eliminate the disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995.

AMENDMENT NO. 1852, AS MODIFIED

AMENDMENT NO. 1851, AS MODIFIED

The ACTING PRESIDENT pro tempore. The time until 9:10 a.m. shall be for debate on amendment No. 1852, as modified, and amendment No. 1851, as modified. The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, it is my understanding, as the Chair just reported, we will be on the Bosnia amendment and the time is controlled.

Will the Chair remind the Senate as to how the time is controlled?

The ACTING PRESIDENT pro tempore. The time will be controlled by the Senator from Georgia and the minority leader.

Mr. NUNN. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut [Mr. LIEBERMAN] is recognized.

Mr. LIEBERMAN. Mr. President, I yield myself 4 minutes from the time controlled by the minority leader.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. LIEBERMAN. Mr. President, those of us who are supporting the amendment offered by the Senator from Kansas and myself and several other bipartisan cosponsors, have reached some conclusions about the war in the Balkans which has gone on now for almost 3 years, killing over 200,000 people, creating 2 million refugees, and it is that the Serbs are the aggressors; that an aggression by one nation against another nation has occurred; and that the Serbs have carried out a consistent pattern of brutal, barbaric acts including the systematic use of rape as an instrument of war, random killings of a nature that raise itself to genocidal because it is directed against noncombatants, civilians, simply because of who they are, which in this case is Bosnian Moslems.

Mr. President, those of us who submit and support this amendment feel that the United States has an interest in this conflict, first, in standing up against aggression by one nation against another; second, in not standing idly by while genocidal acts occur; and, third, in acknowledging that what happens in Europe has twice drawn us into world wars in this century and we have a strategic interest in preserving order there, particularly in the aftermath of the collapse of the Soviet Union with all the potential for ethnic conflict elsewhere as has occurred in the Balkans now.

We also feel that while we have an interest in the Balkans, it is not sufficient to justify sending American soldiers there. It is sufficient to support lifting the arms embargo so that the victims of aggression and genocidal acts will at least have the means with which to defend themselves. To deny them that is an invalid act, contrary to international law, contrary to the best moral principles upon which this country is founded.

The administration is opposing the amendment that we have introduced, and that troubles me. It disappoints me because the administration itself adopted last year a policy of lift and strike to combat Serbian aggression in the Balkans—lift the embargo and strike from the air. And the intention of this amendment is simply to carry out that policy.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The House of Representatives a while ago adopted a similar amendment by 66 votes. This Chamber on May 10 adopted two amendments, one like ours demanding the unilateral lifting of the embargo, the other suggesting a multilateral lifting under certain conditions. Some of our colleagues voted for both amendments on the theory that they were making a statement: that they preferred the embargo to be lifted multilaterally but would support unilateral lifting if necessary, and they wanted to give the administration time to carry out that policy.

Mr. President, that vote occurred in this Chamber on May 10. It is now July 1 and nothing has happened to bring about a multilateral lifting of this policy. So we are here again today with two choices. In my opinion the choices are clear. Only one amendment, the amendment that Senator DOLE and I have introduced, with several bipartisan colleagues, lifts the arms embargo. It requires it. The other amendment is a sense of the Congress with no effect in law. The other amendment is full of conditions. The other amendment endorses the carving up of Bosnia and puts America in a position to have to send American soldiers to keep a peace which will be unstable.

Mr. President, the Bible tells us that the sound of the trumpet should be certain on who will follow us into battle.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LIEBERMAN. I yield myself an additional 30 seconds.

Only one amendment sounds a certain trumpet. That is our amendment. The second is uncertain and responds to the cries of the people of Bosnia for help with a face turned essentially in the other direction.

I urge my colleagues to support the Dole-Lieberman amendment and oppose the Nunn-Warner amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. JEFFORDS. Mr. President, I believe I have been allocated 2 minutes for the Dole-Lieberman amendment.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I rise to speak on behalf of the Dole-Lieberman amendment, as originally introduced with my cosponsorship, to require the immediate lifting of the United Nations arms embargo on Bosnia.

That embargo, I believe, fails the tests of legality, of morality, and of statesmanship. It is neither consistent with American traditions or values, nor with our long-term interests. And the strategy of which it is a part will not bring lasting peace to the region.

The embargo flies in the face of article 51 of the U.N. Charter, which grants to every State the inherent right of self-defense. With 72 percent of its territory occupied by Serbian-supported militias, there is no denying that Bosnia has been the victim of externally inspired aggression and has every right under international law to defend itself.

It has been asserted that the United States must not lift the embargo unilaterally because to do so would violate a Security Council resolution. But, Mr. President, that resolution has validity only insofar as it is consistent with the United Nations' own charter.

The charter exists to implement international law, not to empower the Security Council to override that law or the charter's own provisions. One may attempt to argue political reasons against unilateral U.S. action, but it strains credibility to claim a legal barrier.

As mandated by the Security Council, the embargo was directed against Yugoslavia at a time when Bosnia did not even exist as an independent State. It is a legal absurdity to assert that the same embargo extends to a new nation, internationally recognized, which is no longer a part of Yugoslavia and, indeed, is the object of attack by the regime against which the embargo was levied in the first place.

In moral terms, this embargo is an abomination. It denies a small State the means to defend itself against aggression. It denies a people the wherewithal to fend off violent assaults intended to wipe them off the map by murder or forced flight. It binds the victim while benefiting a predatory regime and its proxies, whose leaders have been denounced by our own Government as war criminals.

If the embargo itself is immoral, it is the instrument of an even more bankrupt policy, namely the effort to impose an unjust peace on the victims of aggression. United States diplomacy is focused now on persuading the Bosnians—among others—to accept a territorial settlement, the so-called 51/49 map, which consolidates and legitimizes a large portion of Serb conquests. Maintenance of the embargo serves to weaken the Bosnians' resistance to these efforts. Such a strategy is inconsistent with our deepest values and ideals as a nation, and it is in total opposition to our historical tradition. The defenders of the embargo maintain that lifting it will bring more fighting and suffering to Bosnia. They are probably right. But the implication of their argument is that submitting to aggression is preferable to paying the price of freedom. We have here, Mr. President, the modern equivalent of the "better Red than dead" thesis of the 1950's. It is the sort of proposition which the American people have always rejected with the contempt it deserves. And we cannot in good conscience seek to impose it on others.

Mr. President, the embargo and current United States policy on Bosnia also fail the test of realism and statesmanship. An unjust peace imposed on Bosnia will not long endure. Rather, it will sow the seeds of renewed conflict as soon as the Bosnians bind up their wounds and arm themselves—as they eventually will, whether or not a formal embargo persists.

The region of ex-Yugoslavia has long been a cockpit of strife—and the suffering and atrocities associated with the current war have contributed further to deeply rooted national and ethnic antagonisms. It is sad, but true, that the only real guarantee of a durable peace in ex-Yugoslavia—or at least an extended interval of peace—is a stable balance of power or a state of mutual exhaustion among the contending parties. It is clear from their valiant struggle, which reflects their past history, that the Bosnians are defiant of adversity and far from exhausted. And no stable balance of power exists or can exist so long as the embargo conveys an artificial—and inevitably temporary—advantage on Serbia and its proxies. Consequently, no unjust peace settlement imposed on Bosnia under the shadow of the embargo will endure. The embargo has already begun to erode in some respects and will melt away more quickly, in substance if not in form, as soon as a settlement is reached. Serbia's military advantage will erode as Bosnia arms itself, and the stage will have been set for another war.

If lifting the embargo now leads to further strife, it also makes it likely that the outcome of that conflict—and the peace that follows—will be more durable than anything produced by a sham settlement imposed from the outside. Whether it is more just can only be decided by the fortunes of war when the Bosnians no longer have one hand tied behind their backs. But one thing is certain: an imposed settlement along the lines now proposed offers neither justice nor peace. What it offers is merely a brief respite from the political inconvenience this war represents for the leaderships of those Western countries which are pushing this plan.

Even that, however, is likely to prove illusory. It is clear that an imposed settlement will require the presence of massive outside military forces to separate the parties and monitor a ceasefire, and that such a force is unlikely to materialize without the large-scale participation of the United States. The figure most quoted is 25,000 U.S. troops. Are the American people—or this Congress—prepared to tolerate, much less support, the dispatch of thousands of Americans to sit on an ethnic powder keg which may explode in their midst and will certainly explode the moment they depart? And to do this all in the name of defending a status quo founded on brutal Serb consquest? I think not, Mr. President. America will have no part of such an

expeditionary force, and because it will not, the current effort to impose a settlement based on the 51/49 map will collapse of its own weight.

Mr. President, in our careers as legislators we are called upon to cast many votes. A rare few of those decisions go beyond the conduct of the Nation's business to define the essence of the Nation's conscience. In so doing, they define as well how posterity will judge our own careers as public men and women and what we stood for in this Chamber. This is such an occasion—and an opportunity to stand up for both moral principle and practical realism. I urge my colleagues to join me in voting to lift immediately the United States embargo on Bosnia.

Mr. President, in summary, I urge the immediate lifting of the U.N. arms embargo on Bosnia. The embargo violates fundamental international law and the United Nations Charter granting every State the right of self-defense.

Some claim we must not act unilaterally lest we violate a Security Council resolution, but that resolution is valid only so far as it is consistent with the United Nations' own charter and is not where Bosnia is concerned.

In moral terms, this embargo is an abomination. It denies a nation and a people the means to fend off violent assaults intended to wipe them off the map by murder and forced flight.

It binds the victims while benefiting the aggressor, and is the instrument of an even more bankrupt policy which seeks to impose an unjust peace on the victims of aggression.

Those who argue that lifting the embargo will bring more fighting and suffering in Bosnia are probably right. But the implication of their argument is that submitting to aggression is preferable to paying the price of freedom.

This is a proposition that American people have always rejected with the contempt that it deserves. The embargo and current policies also fail the test of realism. An unjust peace imposed on Bosnia will not endure. The region has long been a cockpit of strife. Sadly, the only real guarantee of a durable peace is a stable balance of power or a state of mutual exhaustion. The Bosnians are far from exhausted, and no stable balance of power can exist so long as the embargo conveys an artificial—and inevitably temporary—advantage on Serbia and its proxies.

Mr. President, an imposed settlement will require a massive outside force which is unlikely without U.S. participation. I do not believe Americans will tolerate the dispatch of thousands of our soldiers to sit on an ethnic powder keg which may explode in their midst, and will certainly explode the moment they depart, all in the name of maintaining a status quo based on brutal Serb conquest, and an imposed embargo violating international law.

America will have no part of such an expeditionary force, and because it will not, the current effort to impose a settlement will collapse of its own weight.

Mr. LIEBERMAN. Mr. President, I yield 3 minutes to the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona [Mr. DECONCINI] is recognized for 3 minutes.

Mr. DECONCINI. Mr. President, I thank the Senator from Connecticut for his leadership in this area, along with the Senator from Kansas.

I have some hesitation, I guess, in the sense that I want to see this administration succeed in its efforts in Bosnia, but I rise in support of the Dole-Lieberman amendment.

Mr. President, as Chairman of the Helsinki Commission and Vice Chairman for the last roughly 10 years, I have had the occasion to visit the Balkans, and particularly Bosnia and Herzegovina, on four different occasions.

I have seen the most unfair treatment of an independent sovereign state of almost any place in the world that I can think of in recent history. Here is a nation that has been recognized by most nations, including the United States. And after it was recognized as an independent sovereign nation, an embargo and sanctions that were imposed on a former nation, called Yugoslavia, which no longer exists, were imposed on Bosnia. There is no longer a Yugoslavia as we knew it. That country has been divided democratically. And part of that division of course is Serbia, Croatia, and Bosnia and Herzegovina.

Now that embargo is being enforced by the United Nations, with support of the United States. It is not right. There is no justification for it, and we should not impose this on these people. We should impose an embargo on the Serbs and in the past were considering one on the Croats for some of their past atrocities. But now the Croats have made peace, and they have decided to be part of an independent country known as Bosnia and Herzegovina. But the Serbs refused.

We must lift the arms embargo and let those people defend themselves and act with dignity; and yes, if they die, they die for their independence, their families, their country, and for what they believe in.

That is easy for me to say because I do not have to go there and die. But how many of us in this country would stand by, or in this body would stand by, if another foreign country took 70 percent of our territory or even 1 percent of our territory? Would we permit that? We would not. We would fight. We would ask other nations to help, and we would be against any efforts to impose an embargo or sanctions on us that prohibited us from defending ourselves and regaining our territory.

Now the United States is part of imposing a peace settlement that solidifies roughly 51 percent to the aggressor, to the country which committed genocide, the country that has caused ethnic cleansing and has murdered and raped people for the last 3 years.

Mr. President, it is time to face this issue. It is genocide, just as it was during the Second World War. People ignored it then; people cannot ignore it now. We see it. We read it. I have talked to people.

I sat as close as that chair to a man who is 54 years old, a Bosnian, who came out of a concentration camp, a death camp, who saw his mother left on the mountain because he was afraid she would be murdered and raped if he brought her down. And he is sure she is dead. He saw his wife and sister murdered, and one of them raped. He saw his brother beat to death over 2 days in the same concentration camp. Those are real people; those are real people.

Who were the aggressors there? The Serbians, the Bosnian-Serbians; and the Serbian-Serbians armed those Bosnian-Serbians. We cannot continue, Mr. President, to accept this in this country.

Mr. President, I rise to state my unequivocal support for the Dole-Lieberman amendment to the Defense authorization bill.

As we consider the amendments, I urge my colleagues to look at what has really happened in Bosnia and Herzegovina. Military confrontation has been relatively rare; more characteristic of this conflict is the senseless, continual shelling of innocent civilians who have been herded into destroyed cities and overcrowded villages by the Serb militants' ethnic cleansing campaigns. It has been estimated that 80 to 85 percent of the casualties have been civilians, and the number of children killed is about equal to that of combatants.

This can hardly be called a war at all. Aggression and genocide are more accurate descriptions. "Warring factions" misses the reality of the well armed-versus-the defenseless. "Settling old ethnic scores" overlooks the resolve of those surviving to maintain a multiethnic society even in the face of genocide and an unwillingness of the West to assist.

At present, the Bosnian people and their representatives feel abandoned. They desperately want to remain part of Europe. But, in the face of threat to their continued existence, only the Islamic world willingly offers them the assistance they need. In their desperation, they are also more determined than ever to defend their country, despite the arms embargo.

Yes, the Bosnians are recently able to take some offensive action against Serb positions. But we, in response, now pressure all sides to make peace, after the Serbs have taken and consolidated their holdings on over 70 percent

of the country? Why are we now pressing for peace at any cost? Would we not fight to liberate territory taken from us? Would we accept an internationally imposed division of our country?

Lifting the arms embargo increases the likelihood that the Bosnians and the Serbs will accept an agreement that is more balanced and viable. It also increases our ability to influence the Bosnians to ensure that liberation, and not revenge, is their objective.

Will lifting the arms embargo on Bosnia and Herzegovina unilaterally violate international law? No, because the embargo is legally invalid. The United Nations Charter supersedes Security Council resolutions, and under article 51 of the charter Bosnia and Herzegovina has the right to self-defense, including the right to receive weapons necessary to defend itself.

Will lifting the embargo lead others to act unilaterally in areas contrary to U.S. interests? It would be hard for them to make the case for doing so. We are justifying our call on the basis of the sovereign right to self-defense, as stated in the U.N. Charter. Aggressor or repressive States like Iraq, Libya, Haiti, Serbia, and North Korea cannot be compared with Bosnia and Herzegovina, a country victimized by aggression. A case for the invalidity of U.N. embargoes on these countries cannot be made.

Will lifting the embargo Americanize the Bosnian war? Not at all. It is precisely because the United States and other European powers have refused to stop Serb aggression and genocide that recourse must be made to give the Bosnians the means to do so.

Will it hurt the Bosnian peace process? No. At present, the Serb militants have no incentive to give up any of the 72 percent of Bosnia and Herzegovina they now control. Arming the Bosnians will convince the Serb militants to stop playing their games, negotiate in good faith and implement the resulting agreement. It will also foster a viable Bosnian State for the future. It is the present course that has allowed the conflict to go on with no end in sight, and the death toll to reach the 200,000 level.

Will it allow the the Bosnians to seek revenge? There is a risk here, but the risk is greater if we press the Bosnians instead to accept defeat and the loss of their country. Faced with destruction, the Bosnians have become more committed than ever to maintaining a multiethnic state. Only a feeling of abandonment generates the desperation that leads to acts of revenge, as well as to greater influence from Islamic extremists.

Does lifting the embargo mean taking sides in a complex war? Yes, but keeping an embargo on Bosnia and Herzegovina knowing that the Serb militants have the preponderance of weaponry at their disposal is tantamount to siding with the Serbs. Moreover, supporting a victim's right to self-defense when facing aggression is a position of principle, not of favoritism.

Now, those opposed to Dole-Lieberman have brought senior officials from the Clinton administration and European governments before the Senate to allege the opposte point of view on these questions. I appreciate hearing these views, but I also view the effort as potentially dangerous. Nothing can justify what the Serb militants have done in Bosnia and Herzegovina, but these militants have sought to justify their efforts, with some success, by saying it was our fault for recognizing Bosnian independence. The arguments made by opponents of Dole-Lieberman—that the Serbs will react negatively and fighting will intensify—are those that will then be used by Mr. Karadzic, Mr. Mladic, and Mr. Milosevic.

They will be encouraged in their aggression, as they will sense that the United Nations and Europe will blame the U.S. Congress for what they do, rather than stand against further aggression.

Is the unilateral lifting of the embargo our optimal choice for standing against aggression? For me, it definitely is not, but it is better than our current policy.

In a recent article, even the Bosnian Prime Minister, Haris Silajdzic, asserts that it would be best for the international community to take direct action to stop Serb aggression. But he, too, concludes that the political will to do so remains shamefully absent.

From the beginning, selective but substantial airstrikes by NATO should have been used to try to stop the Serbs. My guess is that it would have stopped them, but, even if it had not, it would have leveled the playing field. Followed by an arming of the Bosnians if necessary, we would not have had to confront ground troop deployments, nor the mess we have right now.

But U.N. representatives even refuse to enforce the resolutions passed by the Security Council, such as those being violated by recent Serb activity in the Sarajevo and Gorazde exclusion zones. Given this dismal situation, there is no excuse for not letting the Bosnians defend themselves.

Of course, we would all prefer to see the arms embargo wrongfully imposed on Bosnia and Herzegovina lifted multilaterally, but that, unfortunately, seems unlikely at present as well. It is not good enough for a President to say he supports lifting the arms embargo. While the administration is unable to get anybody to go along, its efforts have been half-hearted at best.

This is all the more shameful in light of the broad consensus that the arms embargo was desired by the Serbian leaders who controlled all the weapons, and should never have been imposed on Bosnia in the first place. Instead, State Department efforts focus on trying to convince the Congress not to push this issue, and those of us who are pushing it are accused of bumper sticker diplomacy.

This feckless stance convinces me that the Congress must act by supporting a unilateral lifting if necessary. Otherwise, nothing more will be done.

I urge my colleagues to do what is principled here, and to vote for this amendment to the Defense authorization bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NUNN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Georgia [Mr. NUNN] is recognized.

Mr. NUNN. Mr. President, what is the time remaining on each side?

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 22 minutes and 8 seconds; the minority has 12 minutes and 6 seconds.

Mr. NUNN. Mr. President, I will certainly share my time if someone comes in. I will begin making remarks. If someone comes in that would like to be recognized, I will be glad to yield.

Mr. President, there is one part of this debate that I think has been virtually overlooked; that is, what is the U.S. obligation under the U.N. Security Council Charter? I am not one of those who believes that the United Nations is right on everything, and that we ought to be signing up pledges of allegiance to everything the United Nations does. That body has made an awful lot of mistakes. But I believe when you sign an international charter and you are part of the organization, you ought to have consciousness of the obligations that you have subscribed to.

Mr. President, the Security Council of the United Nations has broad authority under the charter, and it makes it very clear under that charter that the U.N. Security Council has responsibility in the international peacekeeping areas where they assume jurisdiction.

We have heard over and over again about article 51. That article says, as the proponents of the Dole-Lieberman amendment have noted over a period of time, that "Nothing in this present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations * * *" That is where the quotation usually stops; that is where we stop hearing about it. But the rest of that sentence says, "comma," "until the Security Council has taken measures necessary to maintain international peace and security."

Mr. President, the way I interpret it, that means until the Security Council has acted in an area. That does not necessarily mean they have absolutely succeeded. It means until they have acted.

What has the Security Council done in regard to Bosnia and Herzegovina? We have heard this in testimony before our committee, and I have seen it in op-ed pieces over and over again. Well, this action by the Security Council was taken before there was a Bosnia, and therefore is not binding on Bosnia. We have heard that argument on the floor. We have said we have heard it in a valid resolution.

Mr. President, what the people who are basically advocating that line of reasoning have omitted from their presentation, but it is an absolute crucial, I think, omission, is that the Security Council on at least 12 occasions since Bosnia became a sovereign nation or sovereign state has reaffirmed its action on the arms embargo, and the United States has voted for that. This is not something that was done over our veto, or we were not absent; we were voting for that. So the proponents of this resolution, my friend from Connecticut and my friend from Michigan, are among the strongest proponents of acting multinationally—particularly the Senator from Michigan—through the United Nations and Security Council. But the Senator and no one on this side of the argument has explained at all how we get around our obligation under the Security Council. We are basically about to pass a law—the Dole-Lieberman resolution—that defies the Security Council resolution and our obligation under that resolution.

I am one who has said over and over again that I think the embargo has been a mistake. I think they ought to be in the Security Council every day saying that it ought to be changed; it does not make sense. I do not see how we can cavalierly forget about the fact that we are obligated under that charter and we have taken that pledge. In effect, this resolution violates the charter of the Security Council and our obligation.

On January 8, 1992, after there was a Bosnia, the Security Council reaffirmed its Resolution 713 of 1991, September 25, and in paragraph 6 of that resolution in 1992, after there was a Bosnia, "reaffirm the embargo applied in paragraph 6 of Resolution 713, 1991 and in paragraph 5 of Resolution 724, 1991, and decides that the embargo applies in accordance with paragraph 33 of the General Secretariat's report."

And that report specifically states, in part, that "the arms embargo would continue to apply to all areas that have been part of Yugoslavia, decisions on the recognition of independent certain republics notwithstanding."

I do believe that those advocating passing this resolution have some obligation to tell us why we are not violating our own obligation and why we are not violating the Charter of the United Nations. Maybe there are a lot of people—maybe a majority of people do not care about that. But I think it is going to be hard to come back and talk about that on the other side of another question when there are different circumstances. It is going to be hard to point to Russia, France, Great Britain, or any other country, and say, "Why do you not abide by what you said in the Security Council?" when we ourselves are about to pass a resolution which would defy that obligation. Maybe somebody can explain it. But I have certainly seen no explanation of this anywhere of how we basically rationalize this course.

Mr. President, I am not going to repeat all of the arguments I have made on this resolution. I know the majority leader will be here in a few minutes to make his presentation. I will repeat briefly what I have said in the past. I believe the arms embargo has been a mistake. But I believe that the way you lift that embargo is enormously important, not only in Bosnia, but also around the world. We have vital interests in Korea. I am not one of these who believes that problem has gone away. I do not believe that we may not have more difficulty. If we have more difficulty in North Korea, what we are going to do first, I trust and I believe, is go to the Security Council and ask them for sanctions against North Korea.

We have 38,000 troops in North Korea. If we do not have any international cooperation, and if the North Koreans defy the obligations under the IAEA, which they have, and if they continue to move toward being a nuclear state, then we may have to take serious steps. If there are no sanctions involved, if there are no courses involved short of actual military steps, then, of course, we may have to take those military steps.

Mr. President, I cannot conceive of the United States unilaterally defying the Charter of the United Nations Security Council resolution and its own vote in Bosnia, and then going straight back to the Security Council and saying to China, Russia, France, and Britain, who oppose what this resolution does here, "We want you to help us on North Korea." I cannot conceive of how we would do that with any degree of success.

So what we are doing, in my opinion, here is we are in a very understandable effort to "do something" on Bosnia, and we are forgetting the worldwide implications of what we do.

Mr. President, I think it is important that we understand, also, that lifting the embargo unilaterally—and perhaps this is just being used as leverage to get the White House to be more assertive in a multinational way. If that is the motivation here, then I have some understanding of that. But if this is a serious resolution to say we really ought to, in law, require the lifting of the embargo, then somebody better think through how military forces are going to carry it out, because right now the United States is participating in an air protective zone. We are flying every day to protect that zone. We have flown thousands of sorties over there protecting the air zone. How does anyone believe we are going to get supplies in during an emergency situation, because if we lift the embargo unilaterally, the military and intelligence analysis is that the Bosnian Serbs, and even those in Serbia, will become very assertive, and the Bosnian Government will need immediate relief. And if we fly immediate relief in there and we do it in defiance of the United Nations and in defiance of NATO and in defiance of our allies, what are we going to do about the air cover we are participating in? Are we going to say to our F-15 and F-16 pilots do not shoot down the C-130's delivering arms, or are we going to say, "Pull out of that," or are our British and French partners going to say, "We give up. We are going to get out of the no fly zone"? Probably the latter. Certainly, one of those courses. We are not going to shoot down our own aircraft.

What are we going to do then when the British and French people pull out of the no fly zone? Who has the airplanes? It is not the Bosnian Moslems; it is the Serbs that have the airplanes. Then what are we going to do in America? Are we going to ask the British and French to help us now protect the Bosnian Moslems from the airplanes that we were flying the no fly zone over, but they are now going after the Moslems? Are we then going to do it ourselves and get in an air war? In my opinion, we will have to. In my opinion, we will also have to be prepared—and maybe we should have done this all along; there has been a case for it to some extent. We are going to have to go after strategic targets in Serbia, if the Serbs take action against the Bosnian Moslems with aircraft. And we have basically said to our colleagues and friends and allies that we are no longer going to participate in any kind of collective action.

If we are marching off on our own, make no mistake about it, Mr. President, we are going to have to get in an air campaign of very significant proportions. We are going to have to take it, in my opinion, straight to Serbia. There are not enough good targets in these villages under attack; there are very limited targets. The lucrative targets are in Serbia. Are we ready to do that? If we are, go right ahead and pass this resolution.

If we are ready to do it, we also better be prepared for what the Russians are going to do. Do I think they will get into the war? No, I do not. I do believe they will immediately lift the embargo on Serbia. I think they will lift the economic embargo within a week after we pass anything like this into law. When they do that, what we

are going to have is the Bosnian Government beleaguered and outgunned and outarmed because we cannot get arms in there fast enough, individually and unilaterally, to protect them. They are going to be outgunned and outarmed, and they are going to have no air power, and they are going to have the United States as the ally—not the French, British, or the Russians. We are going to be defying all of those.

It is going to be the United States. The same thing will apply at sea. We now have a collective embargo at sea. We are blocking goods from coming into the former Yugoslavia. What is going to happen there if we thumb our nose at the resolution and say we are going it alone, that we are tired of our allies, and we are defying the United Nations and defying the NATO alliance and basically do it ourselves? Are we going to go pull out of the sea embargo? If so, the squeeze on Serbia is over.

So the net result of this is going to be not to strengthen the Bosnians, which we intend and certainly believe the proponents of this amendment intend this, but rather strengthening the other side.

This resolution, if it passes in the form of law and gets signed into law, in my view, would be disastrous because it would be done unilaterally. If we do it collectively and if we do it in a careful way with our allies, if we lift that embargo, that is an entire different matter. I think that is the way to go.

For one thing, if there is a peace accord, even if it does not last, in my view, then we ought to be lifting the embargo then and making sure that the sovereign State of Bosnia can protect itself. For another thing, we ought to be multilaterally advocating that the Bosnian Serbs defy the safe zones. We ought to be saying to our allies for goodness sake they are defying the United Nations resolution. Let us go in together and give the Bosnian Government a chance to defend itself with antitank weapons, with defensive weapons like mortars. That can be done collectively. Doing it collectively can be done, in my opinion, but I do not think it can be done unilaterally, not without severe damage.

Mr. President, the last way that I think we can lift the embargo and do it in good conscience and do it with our allies is if the Bosnian Serbs do not agree to a just settlement. If they do not agree to a just settlement that then, in my view, at some point in the not too distant future we ought to be advocating strongly with our allies and United Nations that we basically collectively lift the embargo.

My point, Mr. President, is I can see the good will and see the absolutely sincerity of the people who are pushing this resolution. A lot of my instincts are with them, because I think the embargo has been counterproductive.

Mr. President, if we do this unilaterally not only will we regret it, the Bosnian Government will regret it because they are going to be outgunned. The implications of lifting this embargo unilaterally is that this becomes America's war. Lifting this unilaterally carries with it a very serious moral obligation to follow through.

If we lift this unilaterally, we had better be prepared for at least a very serious air campaign against Serbia itself. That is the only kind of logical military consistency that can make sense. Even an air campaign against Serbia will not prevent some of these settlements from being overrun.

Mr. President, in an evolutionary way, the embargo is already being lifted because we have recognized Croatia, but it is being done in a very evolving way. Croatia and Bosnia have merged together now. It may be temporary. It may not last. But arms are now getting through. More substantial arms are getting through than they have in the past.

But we have not done it in defiance of the United Nations. We have not done it in a way that breaks up the no-fly zone. We have not done it in a way that breaks the embargo on Serbia. And we have not done it in a way that inflames the nationalist opinion in Russia and puts our allies and the people in Russia that we try to deal with in a very friendly way in a very awkward position so that they are the targets of not only extreme nationalists but also the broad body of public opinion that in my view would demand that the embargo be lifted against Serbia itself if the United States takes this action.

So for all those reasons, Mr. President, I think people ought to think very seriously about what we are doing here. This is not a sense-of-the-Senate resolution. The alternative is the Nunn-Warner-Mitchell-Kassebaum amendment which is the sense-of-the-Senate resolution. But this is law. That is what we are talking about.

Mr. President, I yield such time as the Senator from Virginia may desire.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 5 minutes remaining.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, the Senator from Georgia has what time remaining?

The ACTING PRESIDENT pro tempore. Five minutes.

Mr. WARNER. Five minutes remaining.

Mr. NUNN. The majority leader has a little time also.

Mr. WARNER. Mr. President, I associate myself with the remarks of the Senator from Georgia. I have joined him as a principal cosponsor.

The points that he made I agree with wholeheartedly. A unilateral lifting of the embargo would have far-reaching implications on our ability to continue to enforce sanctions on Iraq.

In all likelihood it would, if not done in conjunction with our allies, deter any reasonable efforts to get the parties to reconcile their differences and to reach some type of a peace accord to which they would all sign.

Lastly, a unilateral lifting would undoubtedly increase the killing if it is genocide, and indeed we all deplore the tragedy of the genocide that is taking place. It would increase.

I recommended to the distinguished chairman of the committee that our committee invite those representatives from nations which are on the ground today and have been for some period of time, contributing their forces to the UNPROFOR efforts.

My recommendations regarding these witnesses originated with my visit to the Foreign Office in Great Britain, where I received extensive, excellent briefings from the professional civil servants who have been following the important contributions, military and diplomatic, for years in this tragic conflict.

Further, I express my great respect and appreciation to Ambassador Robin Renwick, who has represented, with distinction, the views of his Government, Great Britain.

During the hearings on the morning of June 23d, the Armed Services Committee received testimony from the following witnesses: General Martinez Esparaza, Deputy Under Secretary of Defense for Policy, Ministry of Defense, Spain; Jean Claude Mallet, Director of Strategic Policy, Ministry of Defense, France; Rupert Smith, Major General, Director of Strategic Policy, Ministry of Defense, United Kingdom; and Honorable Anders Troldborg, Deputy Minister of Defense, Denmark.

These witnesses described the consequences they foresee if the United States should move unilaterally to lift the arms embargo in Bosnia. I ask unanimous consent that the statements from these witnesses be included in the RECORD.

During the afternoon session, the committee was privileged to hear from Ejup Ganic, Member of the Presidency, the Republic of Bosnia and Herzegovina; and Vice President of the Federation of Bosnia and Herzegovina, as well as a number of distinguished Americans; former Ambassador for Strategic Arms Limitation Talks, Max Kampelman; former Assistant Secretary of Defense for International Security Policy, Richard Perle, and former Assistant Secretary of Public Affairs, Department of State, Hodding Carter. All of these witnesses spoke eloquently regarding the need to lift the embargo to enable the Bosnian Moslems to defend themselves.

I ask unanimous consent that Vice President Ganic's statement also be included in the RECORD. I anticipate that several of my colleagues may want to include in the RECORD the statements

of the other witnesses who appeared in the afternoon session.

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

STATEMENT OF GEN. MARTINEZ ESPARZA, DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY, MINISTRY OF DEFENSE, SPAIN; ACCOMPANIED BY GEN. LUIS FELIU

General ESPARZA. Thank you, Mr. Chairman.

First of all, on behalf of my Minister of Defense, Mr. Garcia Vargas——

Chairman NUNN. If you could pull that mike up just as close as you can, the microphone, and talk directly into it.

General ESPARZA. On behalf of my Minister of Defense, Mr. Garcia Vargas, I would like to thank you, Mr. Chairman, for your kind invitation to come here so we have the opportunity to present our views on this important and delicate subject to you and your colleagues.

Mr. Chairman, I would like to introduce to the committee General Feliu, who was Deputy Commander of UNPROFOR in Bosnia-Herzegovina from July '93 to February '94. I feel that it was a good idea to bring him here, and he will be prepared to answer any questions you may wish to address to him.

Chairman NUNN. General, you left in 1994, February of '94? What was your position? You were Deputy Commander?

General FELIU. I was Deputy Commander in UNPROFOR in Bosnia-Herzegovina.

Chairman NUNN. Good, Thank you. I would want everyone to know that, and you would be willing to answer questions. Thank you.

General ESPARZA. Thank you, sir.

Mr. Chairman, the basic objectives of the United Nations, the European Union, and Spain, in Bosnia, I think are to ensure the delivery of humanitarian assistance, first; then, to protect the declared safe areas; and, lately, to create the conditions which will facilitate a negotiated settlement by supporting the case-fire, dispersing of forces, the reconstruction of cities, and the return to normal life.

What are the present effects of the arms embargo? We think that it helps to keep a combat level intensity far lower than what could be expected if all parties, including the Muslims, had access to all types of weapons. The embargo, therefore, facilitates the control of heavy weapons by UNPROFOR, the supervision of the case-fire, the suppressing of forces, and the establishment of safe areas. In sum, Mr. Chairman, the embargo contributes to the achievement of our objectives.

What would the consequences be of a lifting of the arms embargo on the Muslims? First of all, the Bosnian Serbs would immediately declared UNPROFOR as a hostile force, and they would not feel obligated to respect any previous commitment or arrangements with the United Nations or the contact group. It is difficult indeed to predict the specific actions which the Bosnian Serbs might take against UNPROFOR and humanitarian agencies. Their related force would feel legitimated, and even compelled, to support the Bosnian Serbs in full.

The Russian Federation would find itself in a difficult situation. It would lack the justification to continue pressuring the Bosnian Serbs to accept a negotiated solution. And it would probably favor a lifting of the sanctions on the Serbs.

We are absolutely sure that the Bosnian Serbs would initiate an offensive against the Muslims, primarily in the safe areas, before the Muslims would have time to receive any weapons at all. The battles would worsen, thus interfering with humanitarian aid and the free movement of UNPROFOR.

The Muslims themselves would encounter serious difficulties, even with heavy weapons, in recovering the territory to which they aspire. And the possible territorial gains would be minimum, if any, and would not justify the heavy losses in human lives.

In these conditions, Mr. Chairman, UNPROFOR would find itself immediately forced to abandon the safe areas, to withdraw from Serb territory, and quite probably from all of the Bosnia-Herzegovina. The humanitarian agencies would accompany UNPROFOR in its withdrawal. Public opinion in the European countries contributing with forces to UNPROFOR would understand, and would certainly support this withdrawal.

On the other hand, Mr. Chairman, we think that there would also be consequences for the fragile Croatian-Muslim Federation established with the decisive support of the United States. What would the Croatians' reaction be? Would they be willing to follow the Muslims in their offensive? Would the Muslims continue to accept the conditions of the Federation once they are armed? Would it be possible to uphold the arms embargo on the Croatians in a unified army of the Federation?

On what and how would the embargo be lifted? On tanks and army heavy weapons only? On placing helicopters also? On ammunition and fuel supplies that we have to reach the territory of the Muslims? How would the Muslims be supplied? By land only, or by air and sea, as well? Through which countries? Through Croatia and Serbia? What to do then with the Operation Deny Flight if we supply them by air, that operation that establishes an air exclusion zone, and with the Operation Safeguard on the naval embargo? Would continue these operations to be applicable? Would these operations be applied only to the other parties and not to the Muslims? Would NATO and Western European Union be able to reach the necessary consensus to apply the embargo to only some of the parties?

Mr. Chairman, I think that there are a number of questions that have a difficult answer. But if in addition the United States lifts the embargo unilaterally, I think that you will agree with me that this would mean some movement of Washington away from its European allies. The decision would create probably, Mr. Chairman, divisive tensions with NATO, and I am sure you are award that the U.S. would have to accept full responsibility for the consequences of the situation provoked within Bosnia-Herzegovina by lifting the arms embargo to the Muslims. And if UNPROFOR withdraws from Bosnia, obviously, those European countries which withdraw their forces from Bosnia would not be prepared, I think, to send forces again. And I wonder, would the United States be prepared to send forces in that case?

In summary, Mr. Chairman, the entire negotiating process would collapse, and there would not be a further opportunity to solve the problem by diplomatic means for a long time. The result would be war, interruption of humanitarian assistance, and the detention of the reconstruction works. Several European countries, Mr. Chairman, are making great efforts to reconstruct two emblematic cities, Sarajevo and Mostar, and to restore normal activities in and around those cities. We think that the best way to contribute to the improvement of the situation of the Muslim population and to a solution of the conflict is to preserve in these normalization efforts, building mutual confidence, reactivating economic activity, and showing the population that the achievement of peace will have its rewards.

The Spanish forces in Mostar are witnessing the process and are contributing actively to this process of normalization. There is restoration of water and electricity supplies, the reconstruction of bridges, roads, railways, the resumption of essential public services—telephone communications, postal services, public transportation, hospital care, schools, airport activities—especially in the Muslim side of the city, and that effort is proving to be the best weapon to put an end to the conflict, Mr. Chairman.

But then what are the alternatives? What else can we do? We believe, Mr. Chairman, that the only action left is to exert maximum political pressure by the United States, the Russian Federation, and the European Union, and of course United Nations, to attain the signatures of all the parties to a final agreement.

Thank you, Mr. Chairman.

Chairman NUNN. Thank you very much, General Esparza.

Major General Smith?

If you would pull that microphone very close and talk into it. It is very sensitive.

STATEMENT OF JEAN CLAUDE MALLET, DIRECTOR OF STRATEGIC POLICY, MINISTRY OF DEFENSE, FRANCE

Mr. MALLET. Mr. Chairman, Senators, I am here on behalf and with the personal trust of the French Minister of Defense Francois Leotard, who decided to answer positively to the invitation launched by your, Mr. Chairman, and by your ranking minority leader. I am certain you realize, through this unprecedented gesture, the importance France attaches to your present debate and its potential consequences.

I will give you an in-depth view of the French Government's studies to the issue of lifting of the embargo. It must not be seen or understood that we have just rejected this as a slogan that would not be accepted in France. It has triggered in-depth studies, particularly in the Ministry of Defense.

I have the honor to represent in front of you—

Chairman NUNN. You said particularly the Ministry of Defense?

Mr. MALLET. Particularly, yes.

Chairman NUNN. Okay, thank you.

Mr. MALLET. I have the honor to represent in front of you a country which has devoted a considerable amount of effort—political, financial, and human—in the Bosnian crisis, sometimes at the expense of the lives of its soldiers since we have had to see about 20 deaths—20 deaths exactly—and about 300 casualties since we first sent military observers in July 1991 at the request of the European Union and CSCE, observers, monitors, ground troops, up to 6,000 now, a naval battle group, AWACS, reconnaissance, and combat aircraft, even the French Gendarmerie on the Danube are present in and around former Yugoslavia.

This important involvement stems from at least three categories of motives: First, we feel the future of European security is in many respects at stake again with this crisis in the Balkans; second, humanitarian tragedies have triggered, in particular in the summers of 1992 and 1993, an increased effort; and third, we have thought that we needed to design a containment policy in order to avoid the spill-over of the conflict in neighboring

countries. 67 percent of the UNPROFOR forces are European.

Mr. Chairman, you have asked us to address two questions: Why have we been resisting the Bosnian Government appeals for the lifting of the arms embargo; what prospects do we see today for the peace process? Up to a point, those two questions are very clearly closely connected.

I am convinced that the lifting of the embargo would mean the end of any peace process and prospect for a very long period of time. The lifting of the embargo is nothing but a war-helping and nearly war-making measure. It would ruin, without doubt, any present efforts to build a new momentum towards a peace plan supported, as you have stressed yourself Mr. Chairman, by the United States, Russia, and the European Union powers. I will come back to that later.

The lifting of the embargo—that is my second point—would mean inevitably the withdrawal of UNPROFOR and trigger the resumption of a fierce violence and war throughout Bosnia. In that sense, it would be a tremendous drawback from what has been achieved on the ground in particular since August 1993.

Third, the lifting of the embargo means doubtless increased deeper inevitable involvement of the allies, and among them foremost of the United States of America in a war-like situation. Before dealing with these points, I would like to say a word on the issue of unilateral lifting, which I understand has been a matter of debate here.

With due respect, Mr. Chairman and Senators, I do not think unilateral lifting, from an international point of view, means leadership. But it is a sure recipe for international disorder in the post-Cold War world. Let me just remind you briefly, the text of the Security Council resolution of September 1991, which is today the legal basis of the arms embargo. It reads in its paragraph 6 that the Council has decided on the basis of Chapter VII of the Charter that the member states will immediately enforce a general and complete embargo, and I quote, until the Security Council decides otherwise, end of quotation.

We have, then, together subscribed to a text which imposes on us to come back to the Security Council of which U.S. and France and Great Britain in particular are prominent members, if we wanted to change this piece of international law. Could the United States, as such, and as a permanent member of the Security Council and as a member state of the United Nations, decide solely to place itself above the law it has contributed to create? Could it consider such a clear resolution as a worthless sheet of paper?

This could probably mean the end of the game in the Security Council in the new context, a year before the celebration of the 50th anniversary of the United Nations Charter signature on the 26th of June 1949. It could mean after such a precedent that other members of the Council, permanent or not, could see themselves free not to abide by the resolutions they vote in the highest international body, the body which authorizes or not the use of force and is responsible for peacekeeping. So in that case, in that hypothesis, who is next after U.S.? It would mean, of course, or probably, a tremendous crisis with your European allies and your Russian partner.

Now, if we turn to the lifting of the embargo itself per se, what do we see? We see first, as has been pointed out, a quick, almost immediate decision to withdraw the United Nations forces in this theater, at least in the French Government opinion which I think is shared both by the United Nations and or allies and partners. Some could say now, does the international community, do the Muslims really care about that? Let me dwell a little bit on UNPROFOR.

Our forces are presently accomplishing a series of missions thanks to which the situation has slowly been stabilized since August 1993. I will just give you a few highlights of these missions:

Humanitarian aid has arrived, and since January 1994, for the first time in the history of this conflict, humanitarian needs are matched by humanitarian flows, and these needs have been met since January 1994. I have charts at your disposal on this.

In the meantime, interposition between the warring factions have multiplied. In Central Bosnia, in Sarajevo, in Gorazde, there the blue helmets stand between two camps and avoid the resumption of fighting.

Third, they are guarding heavy weapons storages, and this is another mission to which a lot of personnel have to be devoted. There are, of course, a few violations of this rule, and things can be improved. But there it is. In several places, particularly Sarajevo, heavy weapons have been withdrawn or stored. Do we want them back in the battlefield?

Fourth, monitoring of the ceasefire or cessation of hostilities is, of course, another mission which requires an important number of units.

So, the lifting of the embargo would make all of these missions impossible for UNPROFOR because it means the contrary.

Humanitarian aid delivery means freedom of movement on roads; free access to airports. Roads and airports would be the place through which heavy weapons would have to be delivered. They would then immediately be the targets of war operations in order for one party to secure the deliveries and for the other party to interdict those deliveries. Communication axes, airfields, would be quickly the target of attacks.

Interposition missions would have to be abandoned for two reasons: first, the resumption of large-scale battles in these sensitive places in which they have to be met; second, the loss of the impartial image of UNPROFOR in the eyes of the Serbs. If we accept weapons deliveries for their enemies we take sides. Withdrawal of UNPROFOR from these places would trigger now battles in all places, Sarajevo, Central, Eastern, Northern Bosnia. I have charts to show you where UNPROFOR is now located in interposition missions.

Some object that the Muslims are the best place to judge. But you must be aware of their wishes. Prime Minister Siladzic repeated them to the French Government a few weeks ago. The Bosnian Government wants both, both the lifting of the embargo and the maintenance of UNPROFOR presence. Why? First, of course, because the Bosnian Government would like to see UNPROFOR and the allies side by side with them—and that is natural, we can understand that—but also because they know in spite of all that our presence, our corresponding policy, has been a help since at least a year. Let me give you a few illustrations of what happened in the past 10 months.

Humanitarian aid has been progressively and is now surely a success. I have said that. The creation of the safe areas in June 1993 has in effect stopped the Serb progression and offensives, in particular in the Eastern enclaves. The situation in Sarajevo is tremendously improved, as you have said, Senator, since the ultimatum of last February, and the Serbs are no more in a position to seize the Bosnian capital as they were during last winter.

During autumn and winter, the Muslim army extended its hold in Central Bosnia, and you could see on maps the progress they made between July 1993 and February 1994 to control a wider space in Central Bosnia. So, on the whole, it must be admitted that the presence of UNPROFOR has corresponded to a period during which the situation of the Muslims has improved on several aspects. But the lifting of the embargo, which would trigger new combats and very likely an offensive by the Serbs to anticipate Bosnian moves before the Bosnian army gets stronger, would inevitably be the signal for our withdrawal.

This is not the only consequence. The logic in which we, and foremostly you the United States, would be thrown in is therefore a new buildup of war. I do not see how the United States, having decided or supported the lifting of the embargo, could stay out of the crisis. On the contrary, your country would have to commit itself even more.

Either in effect such a decision is simply a buzz word, a leitmotif, a slogan, you have no intention to be part of the game which is complex and far from here, and this can be understood—but then why interfere with the present efforts on the ground—or it means that you want to help the Muslims and then the United States cannot stop there. You would have to offer air protection, at least for a while, at the scale of the whole battlefield, not only the safe areas as today.

These strikes would accelerate UNPROFOR's dramatic withdrawal. You would have to help directly or indirectly the Bosnians so that they are trained to use heavy weapons, tanks, et cetera, on a large scale; you would have to commit yourself to avoid any extension of the conflict, in particular if the Serbian army, led by Belgrade, felt itself in a position to support the Bosnian Serbs. Large-scale air campaign, military assistance, containment, these obligations lead certainly to an ever-increased involvement of the United States of America and some of its allies, not the other way around.

I hope these explanations are a help for you to understand why we have been so reluctant to consider the option of lifting of the arms embargo. In our view, this measure pertains to the worst-case scenario and should not be envisaged without having explored at length all the other options. I understand the American administration has come to similar conclusions recently. In our view, it is now time to give all its chances to the peace process which has been relaunched for several weeks.

The French Government policy has always been to build up a consensus between the United States, the Europeans, and the Russians, in order to arrive at a balanced and shared view of a peace settlement. Considerable time and political involvement have been devoted in recent weeks to this objective since the ultimatum of Sarajevo and Gorazde. In that perspective, President Clinton's visit in Europe on the 50th birthday of the D-Day and talks in Paris are considered by my Minister and my Government as a success for both countries. We are close to an agreement on a map, a series of measures, incentives, and disincentives accompanying the plan, and a schedule.

This convergence of the United States, European Union, and Russia, is vital if we want

a settlement, if we want peace. If it is put at risk, if the parties think that we are divided, they will exploit this weakness and this at our and your and their expense. On territorial percentages, on the map, on the definition of incentives, we are now closer than ever. If we are united, there is a chance to bring this conflict if not at once to a complete stop at least to a beginning of a settlement. Reiterating the leitmotif of the arms embargo is raising false expectations and is a source of serious misunderstandings and divisions with the Europeans and the Russians.

In 1994, as we are celebrating the liberation of my country by American troops with the help of French resistance and of the free French, I would like to see the United States of America and its European partners side by side in this resolution of what we consider to be a major crisis. If we achieve unity of vision, if we commit ourselves together both politically and, when the time comes, in the field, we can help to bring peace back in the Balkans.

Believe me, lifting the arms embargo is the worst way to get involved and stuck in the present drama.

Thank you.

STATEMENT OF RUPERT SMITH, MAJOR GENERAL, DIRECTOR OF STRATEGIC POLICY, MINISTRY OF DEFENSE, UNITED KINGDOM

General SMITH. Mr. Chairman, thank you for the opportunity to put the military consequences of lifting the arms embargo from the point of view of the United Kingdom. If we were to take Bosnia-Hercegovina alone, we currently provide the commander in Sarajevo and some 3,500 men deployed between the southwest of Bosnia-Hercegovina and to Maglaj in the northwest, and the enclave of Gorazde in the east.

What follows is predicted on the following:

That the United Kingdom's and the United Nations' aims are to achieve a negotiated peace settlement, to ameliorate as far as possible the consequences of the war on the populations, and to contain the conflict.

That the achievements by the military deployments and actions to date are not to be risked as in themselves they are important objectives on the way to achieving an overall solution of peace in the Balkans. And these achievements are:

The conflict has been contained to Bosnia-Hercegovina and Croatia. There is a stable ceasefire between the Muslim and Croat elements within Bosnia-Hercegovina. Negotiations between Muslim and Croat are underway over the territory, but they are likely to be protracted. The humanitarian crises are, to a large extent, resolved, at least for the time being. And UNPROFOR, where it is deployed, has very largely prevented ethnic cleansing or genocide.

There is a fragile cessation of hostilities around Sarajevo, allowing normal life to begin again, and a very fragile cessation of hostilities between the Bosnian Serb Army and the Bosnian Muslim and Croat forces has existed since the 10th of June.

That the United Nations sanctions all military operations in the theater and commands those on the land. The maritime and air operations commanded by NATO are through the dual-key arrangements in support of the United Nations land operations.

That the factions are fighting over the ownership of territory on ground that favors the defense and concealment.

And that Bosnia-Hercegovina in the face of the NATO no-fly zone, the routes all lie through Croatia, and some involve running the NATO WEU blockade in the Adriatic.

The military consequences of lifting the embargo would be that the Croatians would take their cut of the supplies passing through their territory, thus altering the balance of forces in the Krajinas, and risking containment.

The Bosnian Croats may well consider that a qualitative as well as quantitative improvement in the Bosnian Muslim arms will alter the current balance against them, particularly in artillery. And this may threaten the Muslim-Croat ceasefire and the new federation.

The Bosnian Serbs, faced with an imminent alteration in the balance of forces, may well conduct a rapid preemptive attack, threatening the existing ceasefires. The Krajina Serbs may do likewise.

Where these or this attack would fall is speculative, but if we take the eastern enclaves just as an example, some 119,000 people would be put at risk. Where would they go? What price ameliorating the humanitarian situation now?

The Bosnian Serbs, Muslim and Croat, knowing replenishment is in the offing, may intensive their actions immediately, also risking the ceasefire.

And here I must say that I do not think that rearming the Bosnian Government forces will lead to their victory. I can say that it will lead to an upsurge in bloody fighting.

The Bosnian Serbs may seek a preemptive improvement in their technology, particularly against United Nations and NATO countermeasures. And this could risk the drawing in of Serbia in providing these weapon systems.

The United Nations and nongovernmental organization hostages may well be taken, as we have seen before in the circumstances that surrounded the events of Gorazde and Sarajevo earlier this year.

UNPROFOR may come under direct attack. Its isolated detachments and the fact that many of its bases are in range of Bosnian Serb artillery make it particularly vulnerable.

Again, to take those eastern enclaves, 1,000 United Nations troops drawn from the Dutch, the French, Ukrainians, Norwegians, and ourselves would be at risk.

Air power would then be required to halt the Bosnian Serb attacks where it is mandated to be used. And there will be great command and control difficulty in conducting this in concert with UNPROFOR. This will not be a simple operation for NATO.

There will be a heightened probability of fratricidal engagement or friendly fire incidents. There will be a difficulty in acquiring targets that need to be attacked to achieve the objective of halting the Serb attacks. The tendency is likely to be to attack what can be attacked, thus spreading the conflict further.

This mission of halting Serb attacks is likely to involve more resources than are currently deployed for the existing close air support and safe area missions. And the circumstances where air attacks are mandated will not necessarily suit the requirements to defeat a Bosnian Serb offensive.

UNPROFOR is unsuitable, by its composition and equipment, let alone its mandate, for operations to prevent or stop those preemptive attacks by any of the factions. The attacks are most unlikely to be halted in their totality by air power alone. If the attacks persist or if the Bosnian Serbs merely hold their ground in the face of Muslim attacks, we are likely to be shown again that air power cannot hold or take ground—the object for which the factions are fighting.

The United Nations and NATO will be seen as definitely partial, and because UNPROFOR are deployed, employed and equipped for a mission different from that which will exist after the embargo is lifted, they will become vulnerable and elements will be at greatly increased risk.

The mission of the air forces to provide protection and support for UNPROFOR is different from that required for stopping the Serb attacks. It is unlikely that there will be sufficient resources to conduct both of those missions simultaneously successfully.

Who is to provide these extra resources to NATO, the United States?

These consequences will lead to negating the previous achievements, will intensify and prolong the conflict, exacerbate the humanitarian situation, risk spillage, and inevitably draw in more forces and resources. And I suggest that if the United States has lifted the embargo, the moral responsibility for providing those forces will lie with the United States.

Finally, I will touch on the subjects of withdrawing UNPROFOR.

UNPROFOR, or elements of the force, will need to start to withdraw, since it is difficult to see how they could continue their mission with acceptable risk, if at all. The terrain is difficult and limited routes exist on the only way out to Split in Croatia. It would take time to extract the whole force. The time taken to withdraw would be such that if speed is essential, much equipment and infrastructure would have to be abandoned.

Giving notice of lifting the embargo so as to withdraw even into garrisons would involve abandoning the current mission and give the opportunities for the preemptive attacks by all factions on each other and possibly on UNPROFOR. The difficulties of withdrawal would be greatly exacerbated if the Bosnian Croats and Muslims started fighting again, for that would lie across the withdrawal routes, and if, as Mr. Mallet covered, the lines of communication became the object of the Serbs' preemptive attacks.

Throughout this, there would be a need for adequate air cover, and possibly maritime support throughout the withdrawal. And again, this throws into doubt the adequacy of the resources available to cover these separate missions.

In sum, from the military point of view, the proposal to unilaterally lift the arms embargo confounds the United Nations' ability to achieve its aims, directly risks what has already been achieved and makes it difficult or impossible for UNPROFOR to continue to operate in Bosnia-Hercegovina.

Thank you very much, Mr. Chairman.

STATEMENT OF HON. ANDERS TROLDBORG, DEPUTY MINISTER OF DEFENSE, DENMARK

Mr. TROLDBORG. Mr. Chairman, the Danish Minister of Defense Mr. Hans Haekkerup, as asked me first of all to thank you, Mr. Chairman, and your important committee for inviting my country to be heard here today. We see this as a clear recognition of a common responsibility on the two sides of the Atlantic for the development in the Balkans.

The Danish Government is extremely concerned about the situation in the former Yugoslavia. A total of some 1400 men and women from Danish Armed Forces are today serving as UN peacekeepers in Croatia, Bosnia-Hercegovina, and Macedonia. Denmark is a small country with five million people. If you compare this to America it would correspond to a U.S. contribution of some 70,000 soldiers.

In Bosnia-Hercegovina Danish UNPROFOR forces have recently been involved in direct

ground action. As this committee may know, our squadron of main battle tanks has had to answer in a robust way in order to exercise the right of self defense of UN forces.

We think we have long ago passed the point where a fair and just solution could be found. If the Muslim side should regain their former territory it would be necessary to roll back the Bosnian-Serb side, and such a solution cannot be achieved by lifting the arms embargo or by using air power. A rollback of the Bosnian-Serb side would require an enormous number of ground troops, and no country or organization seems prepared to commit that number of troops to that purpose.

We do not see a purely military solution to this conflict. There is no acceptable alternative to a negotiated settlement. Any solution not generally accepted by the parties will inevitably lead to new conflicts. In our view, a unilateral American lifting of the arms embargo would question the vital ability of the Atlantic alliance to act together in the new security environment. In the context of the situation in Bosnia-Hercegovina, we believe that the lifting of the arms embargo would have the effect of pouring gasoline on fire and mean an all-out war. It would also make it more difficult to maintain solidarity among UN members in other embargo cases.

Seen from a military perspective, it must be anticipated that lifting of the arms embargo would immediately result in massive Bosnian-Serb attacks to gain more terrain before the Muslims could obtain the weapons and be trained in their use. This could especially endanger the survival of the enclaves Srebrenica, Zepa, and Gorazde. Furthermore, it may cause the conflict to spill over to neighboring countries. Serbia might involve itself more directly in the conflict, it would force other major actors on the international scene to support the Bosnian-Serb side more actively, and it would most probably also mean the collapse of the peace negotiations. And here, the United States, Russia, and European Union have decided to combine their diplomatic efforts. If the Muslim side gets more weapons, it will be a signal to all parties, and not only to the Serb side, that the outcome of the conflict will be decided on the battlefield and not by negotiations.

The UN personnel presently in Bosnia-Hercegovina is neither organized nor is it equipped to take an active part in such a conflict. It would thus raise the question of the withdrawal of the entire UNPROFOR. We are convinced that many troop-contributing nations would give priority to the safety of their personnel and would feel inclined to withdraw their troops. Furthermore, the UNHCR and the NGO's working in the area would surely have to stop the delivery of humanitarian aid and also withdraw their relief workers. The consequences of such a development need hardly to be spelled out.

As a representative of a nation which attaches the greatest importance to NATO, I must warn against the potential for disruption of our alliance. Such a split, if it were to occur, would be very serious to all of us. As allies, we may no longer face an imminent military threat, but in the face of serious instability on the European Continent we must maintain NATO solidarity.

Thank you, Mr. Chairman.

Chairman NUNN. Thank you, Mr. Troldborg.

Mr. Mallet.

STATEMENT TO THE SENATE ARMED SERVICES COMMITTEE—DR. EJUP GANIC, VICE PRESIDENT, THE REPUBLIC OF BOSNIA AND HERZEGOVINA—JUNE 23, 1994

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE,

On behalf of the Republic of Bosnia and Herzegovina thank you for this opportunity to testify on the issue that is so vital to our future; the arms embargo on our country. I arrived this morning from Sarajevo to be here for the Senate's consideration of legislation of the arms embargo.

Just two days before, Mozart's Requiem was performed by the Sarajevo Philarmonic Orchestra conducted by Mr. Zubin Mehta, in the burnt-out building of the National Library that was almost totally destroyed by the heavy artillery of the Yugoslav army.

It has been three years since the Yugoslav army led by Serbian generals, and under political control of the Belgrade regime, launched aggression on those republics of the former Yugoslavia in which people voted to join the western democracies. Most of the aggression and destruction has been perpetrated against the Bosnian country and people. As a result of the arms embargo imposed on former Yugoslavia, we have over two hundred thousand of our civilians killed in Bosnia and Herzegovina, close to 2 million displaced and about 66% of our territory occupied. Crimes against humanity have been committed by the Yugoslav army and their allies and surrogates. The arms embargo against the legitimate and recognized Government of the Republic of Bosnia and Herzegovina was the policy—in effect the "therapy" that the international community imposed on Bosnia for the last two years to respond to aggression. This therapy created a catastrophe for my country. It has failed simply because the patient is dying. This therapy has to be changed.

The illegal and invalid arms embargo has deprived us of our right of self-defense. This right to self-defense was taken from us, and with it the ability to protect our citizens, and defend the sovereignty and integrity of our country. Belgrade and its well-armed surrogates ignored their pledges, signatures, and promises they made in all negotiations—at the London conference, in Geneva, New York, Brussels, Athens—because they wanted to and knew they could dictate events in the negotiating process by telling us, straight to our face—we have arms, you don't—that is the reality. If you want your homes back, your land back, you have to push us back out.

Bosnia and Herzegovina is a small European country of multiethnic character, which existed as a state in various forms, for close to one thousand years. Before the aggression on Bosnia, we asked the United Nations, most specifically, Mr. Cyrus Vance, Special Representative of the UN Secretary General at that time, to deploy UN troops on the borders of Bosnia and Herzegovina and therefore to prevent aggression from being initiated against this multiethnic country. The request was turned down. I recall that one of Vance's advisers told me: You have to have war first. There will be casualties and then some kind of cease fire, at least temporarily, and then we would come. He was unfortunately right.

About two weeks ago, the world celebrated the D-day. We saw many, now older American veterans, who took part in that heroic battle against fascism. We also saw many European leaders shaking hands and taking pictures with them. These same European leaders we saw during the D-day celebration once again seem unable or unwilling to assume the task of confronting fascism. Fifty years after the defeat of fascism, what is happening in Bosnia today is fascism again, this time of the Belgrade regime. The Belgrade regime planned and executed massive ethnic cleansing with genocide, with brutalities not seen in Europe since the end of World War II. Massive rapes of women and girls, and other forms of terror had been instilled to drive the population out, taking over their private property, destroying historical buildings, industrial infrastructure, cultural and religious monuments, so that the population might never return. This repression and genocide against the non-Serbian population is the program of creating a "Greater Serbia" through the idea of ethnic purity. Unfortunately, fifty years later in Europe, we have fascism again on the rise. I ask if the world is prepared to act and stop the Serbian fascism as was done fifty years ago. At least say no to fascism by letting us defend ourselves.

We are asking you to lift the arms embargo so that we may defend ourselves and secure a durable peace. We have not lost the war. The Serbs tried by all means to destroy our country and finish with us, but they have not succeeded, yet. Our people are talented and educated, and with our bare hands we resist and still hold under our control the major cities and vital industrial areas. We organized our army to defend in every cell of our society. Unfortunately, not more than thirty percent of the soldiers have light weapons.

We are asking you to lift the arms embargo in order to create conditions for peace and for negotiations through balance in weaponry. We had in fact asked you to lift the arms embargo from the first day of aggression. You said that the peace was coming. Now, more than two years later the Serbian troops, loyal to Belgrade regime occupy 66% of the territory, they killed more than two hundred thousand people, and we are asking again, we are begging you to lift the arms embargo because the peace is not possible under the present environment of weapons imbalance. It is NOT too late. Lift the arms embargo with a program to achieve peace. We need arms to survive, not for victory, because of the losses that we had and genocide we went through, we can never talk about victory.

We repeat over and over again: We are not asking for your troops to fight for us on the ground. That is our job and our task. But please, do not combine any more big words with small deeds. God will not forgive you if you do nothing. Doing nothing creates tragedy in Bosnia every day.

For almost twenty-six months, your Administration is in something like Hamlet—like dilemma: to be or not to be. But this Hamlet-like dilemma, and the spirit of hesitation have unfortunately allowed for dead bodies all over, as in Shakespeare's tragedies. Stop this Hamlet's dilemma because there is no more space for dead bodies in Bosnia. The peace that we have been waiting for the last twenty six months is not coming without your action.

The United Nations are responsible for ineffective results. Its resolutions are being ignored. The UN declared "safe areas" have become the most unsafe places in Bosnia and Herzegovina. Remember Gorazde, over one hundred NATO jets were on the disposal of the Secretary General and his Special Representative, Mr. Akashi, to protect this safe areas and give a lesson to the Serbs that the buck stops somewhere. Mr. Akashi, supported by many of the same political leaders who sat before you today, first allowed the Serbian tanks to penetrate the safe area lines established by the UN itself by declaring that there was no real danger to the civilian population because the tasks were too

far from the potential victims. Then, when the Serbian tanks came within a few yards of the Gorazde hospital and other residential areas, the same man claimed that it was technically not possible to confront the tanks because they were too close to the residential areas and the civilian victims. The Serbian generals instructed by the Belgrade regime, did not allow General Michael Rose to go to Gorazde and declared him the voluntary prisoners of their army until they destroyed most of Gorazde. Some UN generals who spoke openly like General Razek and General Morillon, that the peace will not come in Bosnia as long as the situation is handled by those who oppose lifting the arms embargo were immediately sent home.

America is a country of hard-working people. If you cannot help us, then do not prevent the lifting of the arms embargo. We know that Americans are against ethnic cleansing, against genocide, against massive rapes and torture of our people. We know that Americans are and have always been against fascism. Oppose fascism of the Belgrade regime on Bosnia. No consensus is required to oppose fascism.

We count on American democracy, we count on the moralism of American people and their commitment to legality. We are looking to the United States Congress for America's leadership. We hope for the proper action from America. The ethnic cleansing as imposed by Belgrade regime destabilized the world. Only in the stable world, will the United States of America continue to prosper.

Mr. Chairman, distinguished audience.

Every day in Bosnia we pray for peace. We are hard working people, we are a part of the European civilization. We do not need anyone to work for us, we do not need money from anybody. We need a chance to survive.

At one time I was a lucky Bosnian. As an MIT student, many years ago, I learned from my American roommates that the ethnic purity concept was always fascism for American people. Much of Europe, including its most economical advanced Member States, still do not practice or even understand the concept of a multiethic state. While your nation strives to perfect this idea, too many European leaders still avoid it as an undesirable contamination of their culture or history. The leadership of American people, demonstrated today in this room is a hope for all generations in Bosnia for a better future.

Thank you and I am at your disposal for any questions you might have. I just came from Sarajevo after 26 hours of flight, to be here with you today, and I am the one who feels privileged.

Mr. WARNER. Mr. President, I will take a few moments to quote from the statements of several of these witnesses.

First, the representative from Spain, and I quote:

The Russian Federation would find itself in a difficult situation. It would lack the jurisdiction to continue pressuring the Bosnian Serbs to seek the negotiated solution, and it would probably favor the lifting of the sanctions on the Serbs. And therefore, to the extent to which Russia has been a participant in the peace process that would cease with the unilateral lifting.

He continues:

We are absolutely sure the Bosnian Serbs would initiate the offensive against the Muslims primarily in the safe areas before the Muslims would have the time to receive any weapons at all.

The representative from France stated:

The lifting of the embargo means doubtless increase, deeper inevitable involvement of the allies and among them foremost the United States in a warlike situation.

Before dealing with these points, I would like to say a word on the issue of unilateral lifting, which I understand has been a matter of debate here in the United States. With due respect, I do not think unilateral lifting from an international point of view means leadership, but it is a sure recipe for international disorder in the post-cold war world.

Let me just remind you briefly the text of the Security Council resolution of September 1991 which is today the legal basis of the arms embargo. It reads in paragraph 6 that the Council has decided on the basis of Chapter 7 of the Charter that the member states will immediately enforce a general and complete embargo, and I quote, "until the Security Council decides otherwise."

We have then together subscribed to a text which imposes on us to come back to the Security Council of which the U.S., France, and Great Britain particularly are prominent members, if we wanted to change this piece of international law. So the United States as such and as a permanent member of the Security Council and a member state of the United Nations decide solely to place itself above the law, it has contributed to create, could it consider such a clear resolution as the worth of a sheet of paper, the answer being no.

As the chairman said, if this action were taken unilaterally this war would be stamped "Made in the USA." This testimony is unequivocal to the point that these forces would be severely hampered in their withdrawal. The weapons intended for the Bosnian Moslems would be intercepted by the Croatians. They would take a cut of the weapons. We do not know what quantity or what quality of weapons eventually would go to the Moslems.

I want to add also the statement from General Smith who represented Great Britain. He said as follows.

I do not think that rearming the Bosnian Government forces will lead to their victory. I can say that it will lead to an upsurge in the bloody fighting. United Nations and nongovernmental hostages may well be taken, as we have seen before in the circumstances that surrounded the defense of Gorazde and Sarajevo this year. UNPROFOR may come under direct attack.

Consistent from each of the witnesses from the UNPROFOR forces was that this conflict will be enlarged, it will spread and in all likelihood it will become one in which the United States will be drawn into in a very major way.

I want to acknowledge the help on this matter from the Ambassador from Her Majesty's Government, Sir Robin Renwick, who has been exceedingly helpful to this Senator and other Senators in getting a prospective from the United Kingdom.

I urge the Senate to consider the Nunn-Warner amendment as the action this body should take at this critical point in time.

Mr. President, I see the distinguished Senator from Kansas seeking recognition, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The minority leader has 11 minutes and 50 seconds.

Mr. LIEBERMAN. Mr. President, I wonder if the Senator from Georgia would enter into a unanimous consent to extend the time available by 6 minutes equally divided between the Senators.

Mr. NUNN. I have no objection.

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

Mrs. KASSEBAUM. Mr. President, I would ask for a couple minutes and ask my full remarks be made a part of the RECORD.

Mr. NUNN. Mr. President, I yield 3 minutes I have to the Senator from Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Kansas [Mrs. KASSEBAUM] is recognized for 3 minutes.

Mrs. KASSEBAUM. Mr. President, as Congress speaks on this most important and difficult issue, as we have done so many times in the past couple of years, we must do so with great care and deliberation. Not only do our actions matter here but just as importantly our words, and there are two major pieces of legislation before us, as has been pointed out. One is the sense-of-the-Senate resolution, the Nunn-Warner amendment, of which I am a cosponsor, and the amendment of Senator DOLE.

The Republican leader has anguished over this situation in Bosnia and Herzegovina for many years. There is no doubt about the sincerity of those who were supporters of the Dole amendment.

But I think we must analyze carefully the two proposed amendments that are before us and ask ourselves what consequences might be the result of the action of one or the other.

My serious reservations about the Dole amendment are twofold. One—and this has been stated here frequently already on the floor—is that the unilateral action in lifting the embargo will set a dangerous precedent; and, second, that unilaterally lifting the arms embargo would lead to a serious rift between our NATO allies.

I really feel, Mr. President, that at that particular juncture we do Americanize the conflict in Bosnia and Herzegovina. There is no question but that the Bosnian Moslems have been disadvantaged from the beginning. However, I strongly believe that the Nunn-Warner amendment offers a far more constructive approach. Support for the peace process and working for the multilateral lifting of the embargo

represents the most responsible policy at this time.

Mr. President, this is a very important issue before us. We cannot just lightly take a vote on these amendments as something that will not have consequences. We must think carefully about the ramifications of this. They are two very different approaches to an enormously important issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

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

Mr. LEVIN. Mr. President, two points.

First, it has been argued that lifting the embargo would be bad for the Moslems. Letting the Moslems defend themselves, we are told, is going to lead to all kinds of terrible consequences to the Bosnian Moslems and the other Bosnians who are patriots to the Moslem government. We are told that if the embargo is lifted, that means the U.N. personnel are going to be leaving; that is going to be bad for the Moslems. Letting them defend themselves, we are told, is going to have harmful consequences for them.

It seems to me we ought to listen to what is in their interest relative to the lifting of the embargo. Will the removal of the forces be something which is good or bad for the Moslem government? The answer is, they have said, "If allowing us to defend ourselves means that the U.N. peacekeepers must leave, so be it." They have specifically said, "Please, thank you for your help, but let us defend ourselves. United Nations, if you must leave so we can defend ourselves, leave with our blessing, leave with our thanks, but let us defend ourselves. Leave."

It is a fundamental right under the United Nations Charter.

Now the other problem with the Nunn resolution is it eliminates the prospect of a unilateral lifting of the embargo, unlike the Mitchell resolution that we voted on a few months ago which at least had the possibility that we would consider a unilateral lifting by its own terms back in May 1994. The Mitchell amendment said that the President would consult with the Congress relative to the possibility of lifting the embargo unilaterally. That is specifically in the Mitchell amendment.

The pending Nunn amendment precludes the possibility that the embargo will be lifted unilaterally and therefore tells the Serbs, "Have no fear."

The Russians have a veto over what we are going to do under the Nunn amendment, because, under the Nunn amendment, we have to go back to the Security Council to get an embargo lifted, and that means there is a veto over it. And the Serbs are told by the Nunn amendment, "Have no fear. There will not be a lifting of this embargo."

That is the worst signal we can give to the Serbs. It means we are not going to see a negotiated settlement which is fair. It means there is more likely going to be a partition imposed which will not be a permanent, fair solution but a partition which will lead to the deepening and widening of this war.

So I hope that the Nunn amendment is defeated and that the Dole amendment and resolution is adopted.

I yield the floor.

Mr. WARNER. Would the Senator just yield to the Senator from Virginia to point out that Senator NUNN and I have modified the amendment—if the Senator will refer to page 3—to incorporate the language from the original amendment by the distinguished Senator from Maine, the majority leader. Therefore, I think the Senator is mistaken.

Mr. LEVIN. If that amendment, modified late last night, provides right now a unilateral lifting of the embargo, that is a change from all the rhetoric we all hear about.

The PRESIDING OFFICER (Mr. DORGAN). Who yields time?

Mr. LIEBERMAN. Mr. President, I yield 5 minutes to the Senator from Arizona [Mr. MCCAIN].

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, the Senator from Michigan just brought up an excellent point about the incredible intellectual arrogance of deciding for a country what is best for it, especially a country that has had 200,000 people killed, 2 million displaced, and is experiencing an ongoing tragedy. In other words, the sponsors of this amendment know better—know better—what is in the best long-term interests of a people who have had 200,000 people killed and 2 million people displaced.

The Vice President of Bosnia, before the Senate Armed Services Committee, stated it in far more graphic and compelling terms than I ever could, Mr. President. And I quote from his testimony.

> We are asking you to lift the embargo in order to create conditions for peace and for negotiations through balancing weaponry. We had, in fact, asked you to lift the arms embargo from the first day of aggression. You said that peace was coming. Now, more than 2 years later, the Serbian troops loyal to the Belgrade regime occupy 66 percent of the country, they killed more than 200,000 people, and we are asking again, we are begging you, to lift the arms embargo because the peace is not possible under the present environment of weapons imbalance.

Mr. President, please, everyone in this body, pay attention to these words from the Vice President of Bosnia, not someone who sits here comfortably in Washington, DC, not someone who is a grand strategist and thinker, but from one who has seen 200,000 of his countrymen killed, slaughtered in some of the most outrageous crimes of genocide—crimes which are well known to this body.

He said:

> We repeat over and over again, we are not asking for your troops to fight for us on the ground. That is our job and our task. But please do not combine any more big words with small deeds. God will not forgive you if you do nothing. Doing nothing creates tragedy in Bosnia every day.

Mr. President, I would not mind listening to the general from Spain. I am sure the Spanish are well-known for their great military strategy and tactics. But I would much rather listen to the freely elected, democratic leadership of a country that is experiencing virtually unprecedented acts of genocide, rape, and murder.

The Nunn-Warner amendment says,

> If the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Herzegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those areas.

Yesterday's New York Times carries a quote from Brigadier General Ridgeway, the British commander of U.N. Forces in Southwest Bosnia, in which he says. "There is no peace in Bosnia and no cease-fire."

I say to the sponsors of this amendment, General Ridgeway, the British commander of U.N. Forces in Southwest Bosnia, says there is no peace and there is no cease-fire. So part B of the Nunn-Warner amendment should be operative, and we should lift the embargo anyway. The conditions on the ground will not improve if we support a settlement that is unjust and unworkable. It is unjust because we are going to cede half the country to the Bosnian Serbs and provide them with a reward for their naked aggression, and it is unworkable because it is unjust.

Should we ask any nation in the world to give up half their country because they have been the subject of aggression? I say no. The Nunn-Warner amendment—by ratifying the contact partition plan—says yes.

The Nunn-Warner amendment is fundamentally flawed in that it agrees to a peace settlement that ratifies naked aggression.

Mr. President, finally, I would like to say that the idea of it being America's war if we allow these people to defend themselves is spurious. They believe they can defend themselves. They are not asking for our help. Let them try it. For the last 2 years they have experienced the embargo and lost 200,000 of their countrymen, had 2 million displaced, and experienced the horrible things that do not need repeating here on the floor.

Finally, the United Nations is in violation of its own charter. The charter says every Nation has a right to defend

itself. To compare an arms embargo on Bosnia with that of Libya, Iraq, and Iran, which are outlaw nations, bears no relation to reality. If someone chooses to say that if we lift an arms embargo on a country which, by the way, was not even designated in the resolution—Yugoslavia was designated in the resolution—that we will have to lift other embargoes, I would say we would be doing the United Nations a favor by lifting the arms embargo. The United Nations, by imposing an arms embargo on a nation which is innocent in order to prevent it from defending itself, is in violation of its own charter.

I hope the Senate will not send a mixed message today. I hope we will strongly support the Dole-Lieberman amendment and defeat the Nunn-Warner amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I yield 3 minutes to the Senator from Alabama, Mr. SHELBY.

Mr. SHELBY. Mr. President, "An international police force in a society of sovereign states is a contradiction in terms."

Although Prof. Hans Morgenthau made this statement nearly 50 years ago, the quotation could have easily emerged from any of the congressional debates regarding the conflicts in the former Yugoslavia, particularly those relating to discussions on the fate of Bosnia.

When the Senate sent its now infamous May 12 mixed message on lifting the arms embargo against the Republic of Bosnia and Herzegovina, it required the Bosnian people to wait further on the international community—the society of sovereign states—to decide its fate while relying on the inept and inadequate protection of U.N. peacekeepers—an international police force. I was recuperating from surgery on May 12 and therefore did not have a voice in that debate. However, today I am adding my voice to those of my colleagues who have called for a unilateral lifting of the arms embargo against the Republic of Bosnia and Herzegovina and I am pleased to be a cosponsor of the Dole-Lieberman amendment.

Mr. President, there is no need to reiterate the countless atrocities committed by the Serbians against the moslem population of Bosnia. These horror stories have been recounted and replayed time and again in the news media and within this Chamber. Nor do we need to discuss the overwhelming arms advantage of the Serbian forces. This fact is well-known. The question we must ponder is whether we will continue to deny the Bosnian Moslems the right and means to defend themselves against their tormentors.

When the Senate accepted the Mitchell amendment on May 12, it required the Bosnians to wait once more on the international community to decide its fate and protect its people. That amendment required the President to seek a multilateral lifting of the arms embargo.

Even if the President had made an intensive effort to have NATO and the U.N. Security Council endorse a lifting of the embargo, which he has not, I remain convinced that such efforts would have been fruitless. Because of their very composition, international organizations will rarely reach consensus or act decisively without strong leadership from one or more member nations.

For over 2 years, the Bosnian Moslems have suffered while NATO and the United Nations have reversed themselves, made idle threats, and failed to come up with a coherent policy on Bosnia that would end the conflict. Our multinational organizations have failed to resolve the simplest of problems in this situation. Therefore, I am absolutely certain that they will never agree on a contentious question like lifting the arms embargo.

World leadership often requires unilaterial action. The United States cannot continue to defer its leadership role to fractious and increasingly ineffective international organizations. Sovereign nations will rarely reach a consensus without strong-willed leadership. For years the United States has provided that leadership, in many cases acting unilaterally or with the support of a limited number of nations. The lifting of the arms embargo against Bosnia is exactly the type of situation where we must and should act unilaterally in a leadership role.

Mr. President, make no mistake about it, I do not see an immediate, pressing national security interest in Bosnia. I cannot find a compelling reason to commit U.S. Forces to a centuries old, local ethnic conflict. However, I refuse to accept the argument that we should be complicit in thwarting the ability of the Bosnian people to defend themselves.

The international community has shown itself incapable of defending the Bosnians. And although casualties are now over 200,000, many members of the international community, particularly within Europe, maintain that lifting the arms embargo will worsen the conflict. I cannot imagine how this conflict could worsen for the Bosnian people. Can we in good conscience, Mr. President, avoid taking this one step that might bring some balance to this horrible one-sided conflict while simultaneously issuing another vacuous internationalist promise to the Bosnians that the international community will protect them? Such promises are old and hollow. Mr. President, the Moslem population of Bosnia must be allowed to defend itself. Article 51 of the U.N. Charter states this right to national self-defense clearly as a matter of international law.

Throughout my tenure in the House and now the Senate, through both Democratic and Republican administrations, I have always been reluctant for the Congress to dictate foreign policy to the President. With respect to the arms embargo, however, there is both a moral and commonsense imperative to lift this embargo and to do it with or without the approval of the various international organizations. If this leadership will not come from the White House, then a reluctant Congress must lead. The United Nations and NATO have shown themselves incapable of protecting the Bosnian Moslems. We cannot expect these people to wait any longer on these collective bodies to reach a consensus or to take decisive action. I urge my colleagues to join me in support of the Dole-Lieberman amendment.

The PRESIDING OFFICER. Who yields time? There are 2 minutes and 50 seconds remaining.

Mr. LIEBERMAN. Mr. President, I yield myself that time to address, very briefly, the exchange between the Senator from Michigan and the Senator from Virginia about the fact that the Nunn-Warner amendment was modified last night to put back in some of the language that was in the earlier Mitchell amendment.

That language does create a situation where the President—after following a series of steps before the United Nations, if they fail, and the Serbs break the peace—can then come and consult with Congress. Those are very tentative words that are part of a sense of the Congress, not an act of Congress such as the amendment that I am cosponsoring with the Senator from Kansas.

As the Senator from Michigan has said, even looking at this language which slightly opens the door to unilateral lifting of the arms embargo in the Nunn-Warner amendment, matching that with what has been said on the floor by the proponents of the amendment this morning and before, it seems to me the Senate has only one choice. If you want to lift the arms embargo the only effective choice is to vote for the Dole-Lieberman amendment. The other simply does not do it.

Second, there has been discussion about the impact of lifting this embargo on other embargoes, such as the ones against Iraq and Libya. I would say in one sentence, we have to be able to distinguish between embargoes that punish aggressors and embargoes that punish victims, such as the embargo of arms sales and transfers to the Bosnians. The latter is an immoral embargo.

Let us listen, as my colleagues have said, to the words of the duly elected leadership of Bosnia—not decide what is best for them—as Mr. Ganic, told the Armed Services Committee last week:

We repeat, over and over again, we are not asking for your troops to fight for us on the

ground. That is our job and our task. We are begging you to lift the arms embargo. But please do not combine any more big words with small deeds.

Mr. President, only one of these two amendments before the Senate combines big words with big deeds and that is the one that allows and orders the unilateral lifting of the arms embargo.

Finally, I ask unanimous consent to have printed in the RECORD two letters; one from the former Secretary of State George Shultz supporting the Dole-Lieberman amendment, and a similar letter from Ambassador Max Kampelman. I urge my colleagues to support the amendment and I yield any time remaining.

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

JUNE 30, 1994.

DEAR SENATORS: I urge you to vote today for the Dole-Lieberman amendment to end the Bosnian arms embargo and against the Nunn-Warner amendment.

The issue is clear: American leadership is needed to create a sustainable and just peace in Bosnia. The Dole-Lieberman amendment calls upon the President to end the arms embargo against the Bosnian government. Passage of this amendment would strengthen the President's hand, both with our allies and the aggressors, in obtaining a lasting settlement at the negotiating table.

At first, our allies will protest, but they will follow American will and leadership. More than 100 UN-member nations are already on record in favor of restoring Bosnia's inherent right to self-defense. By the same token, rogue nations will not seek to violate valid UN embargoes because the resolutions legally enacted against the aggressor regimes in power in Iraq, Haiti, Libya, and Serbia are not at all analogous to an invalid, illegal embargo imposed against the victimized nation of Bosnia.

In addition to ensuring the maintenance of this invalid embargo, the Nunn-Warner amendment would preserve the status-quo of failed American and European policies in Bosnia. Indeed, this amendment actually endorses the Bosnian carve-up plan prepared by the latest international "Contact Group" (the United States, West European powers, and Russia, at whose request the group was formed). It should give all of us pause that, by the President's own admission, if this type of plan is accepted, the United States will introduce tens of thousands of U.S. ground troops as peacekeepers in Bosnia. The Serbs would see our troops as peacemakers. The Bosnian Army and people would see them as apartheid police sent to keep Bosnians in their newly proscribed "homeland." It is difficult to imagine a more dangerous scenario.

Three years of genocide and flaunting of international law demonstrate that it is wishful thinking on the part of the Administration to think that the Serbs will comply with this plan, even if they actually sign it.

In any case, however, this plan to reward Serbian aggression and ethnically divide a country with one thousand years of multiethnic history is fatally flawed and will not work.

I urge you to cast your votes today in support of the rule of law our values as a nation and against genocide and brutal aggression. I urge you to defeat Nunn-Warner and vote in favor of Dole-Lieberman.

Sincerely,

GEORGE SHULTZ.

Washington, DC, June 30, 1994.

Hon. ROBERT J. DOLE,
Hon. JOSEPH I. LIEBERMAN,
U.S.Senate,
Washington, DC.

DEAR SENATORS: It is my understanding that the President as well as his associates and members of the Cabinet have been personally and extensively involved in persuading the Senate to vote against the proposal submitted by you to end the arms embargo against Bosnia-Herzegovina. it is not easy for any of us to resist the urgings of our President, and I am reluctant to do so, but I regret to say it appears he has once against been misled by his advisors and moved in a direction which is contrary to American interests, values and prospects for peace and stability in Europe.

The urgings include a belief that a peace agreement is imminent in the Balkans. We have heard this for three years, a period during which our lack of resolve has permitted hundreds of thousands of people to be victims of unlawful aggression and transformed more than 1 million human beings into refugees. We, obviously, all hope that peace will come to the area, but the current peace talks and the present position of our government in preparing for those talks will result in rewarding the Serbian aggressor at the expense of the Bosnian victim. It is true we do not wish the Serbians to enjoy the total fruits of their aggression, but we are preparing to legitimize a result which will permit them to keep approximately 50% of the territory they have immorally, illegally and brutality seized. Such a "peace" cannot be a lasting or stabilizing one. It is certainly not a fair one.

American foreign policy must be committed to the principles of the UN Charter and the Helsinki Final Act, which declare all military aggression by one state against another to be contrary to the rules of responsible international behavior and thus illegal. Our current policy runs in the opposite direction, in spite of our rhetoric.

The only way to achieve a lasting and equitable peace is to establish a level field so that Bosnia (in federation with Croatia) can defend itself, restore its dignity and sit down as an equal partner with the Serbian aggressor in an effort to resolve the issues between them. It would be most unfortunate for the U.S. Senate to lose its opportunity today to assert its determination to restore balance in the area and add meaning to the principle of non-aggression, on which European stability and our security depend.

You are aware that in this statement, I speak not only for myself, but also for the Action Council for Peace in the Balkans. Our Steering Committee includes liberals and conservatives, Democrats and Republicans. Among its members are: Morton Abramowitz, Fouad Ajami, Richard Allen, William Brock, Zbigniew Brzezinski, Frank Carlucci, Hodding Carter, Walter Cronkite, David Dinkins, Frank Fahrenkopf, Geraldine Ferraro, Henry Louis Gates, Leslie Gelb, Barbara Jordan, Max Kampelman, Lane Kirkland, Jeane Kirkpatrick, John Lehman, Alfred Moses, Edmund Muskie, Aryeh Neier, Paul Nitze, John O'Sullivan, Martin Peretz, Richard Perle, Norman Podhoretz, Eugene Rostow, Donald Rumsfeld, Carl Sagan, Albert Shanker, George Shultz, Henry Siegman, John Silber, Helmut Sonnenfeldt, Susan Sontag, George Soros, Paul Volcker, John Whitehead, Elie Wiesel, Albert Wohlstetter, Elmo Zumwalt. Our roster also includes a number of Members of the Senate and the House of Representatives. The list continues to grow.

Sincerely,

MAX M. KAMPELMAN.

Mr. PELL. Mr. President, as I said during debate on the arms embargo last week, we have been down this road several times before. We have debated and voted previously, and in my view, we need not and should not take up this issue again, particularly as the President heads to the Group of Seven summit next week where he and his colleagues are expected, among other things, to endorse a plan to end the Bosnia conflict.

If we adopt the Dole amendment, the outcome would be disastrous. Since the House of Representatives has already passed a similar amendment to the Defense Department authorization bill, we would be forcing the President to take very damaging action. There would be no turning back, no margin of error. And it would be the Congress that bore the ultimate responsibility for implementing a new, ill-conceived policy.

During the Reagan and Bush administrations, several of my Republican colleagues frequently made the excellent point that our President deserved our support during times of major diplomatic discussions and initiatives. That principle applies to the current President as it did to the previous ones. At times of delicate international negotiations, any President deserves bipartisan backing. The national interest should be above partisan squabbling.

In Naples, President Clinton will meet not only with the other G-7 leaders, but with Russian President Yeltsin. Obviously, their agenda is not limited to Bosnia, but rather includes a wide range of pressing international economic and political issues.

The points for and against lifting the arms embargo unilaterally have already been made. I would simply say at this juncture, urging unilateral action would be a reckless step that would undermine U.S. credibility and interests. I would urge my colleagues to oppose the Dole amendment.

Mr. KERRY. Mr. President, once again we are engaged in a debate over the question of unilaterally lifting the United States arms embargo against Bosnia. Proponents of that approach argue, as they have in the past, that the only real issue here is whether or not the United States is going to support the right of Bosnians to self-defense.

I submit that this is not the issue. No one questions the right of the Bosnians to self-defense. The issue is whether or not the United States should adopt a unilateral course of action that abandons our neutrality, divides us from our allies, and holds out the real possibility of expanding and perpetuating the war—a war that has already raged for more than 2 years.

Senators should not delude themselves. The consequences of adopting this amendment are serious and far

reaching. If we lift the United States arms embargo unilaterally, as this amendment directs the President to do in response to a request for assistance from the Government of Bosnia, we will no longer be a neutral party. We will have taken sides.

The Bosnian Moslems will regard us as their patron and protector. They, in turn, will be seen as our client by the Bosnian Serbs and their supporters in Belgrade and Moscow. If we unilaterally lift the arms embargo and provide arms to the Bosnian Moslems, the Russians, as they have already indicated, will respond by arming their traditional historic allies, the Serbs. Other nations will be encouraged to violate the United Nations-imposed arms embargo on Bosnia. The result will be more weapons, more war, more killing, more deaths.

The prospects for a diplomatic solution—which have been more promising since the Russians joined the contact group—will be more remote. Moreover, the United Nations peacekeeping operation in Bosnia will come to a halt. Our NATO allies have made it absolutely clear that they are not in favor of lifting the arms embargo at this time. We should respect their judgment. After all, they are the ones with peacekeepers on the ground, not the United States.

Let me remind my colleagues that our allies have over 16,000 troops in the former Yugoslavia. France has over 5,500 and Britain more than 3,400. Canada and the Netherlands each have more than 2,000. Spain has nearly 1,500 on the ground and the Belgium has more than 1,000. The United States, as I said, has none.

If we lift the embargo unilaterally, the threat to these peacekeepers could increase dramatically. In the face of that possibility, the odds are high that our allies will withdraw their forces. Withdrawal would be catastrophic for the international humanitarian relief effort in towns like Sarajevo, Gorazde, Srebrenica and Zepa where Bosnian civilians are surrounded by Serb forces. We would wind up in the contradictory position of trying to help the Bosnian Moslems defend themselves while at the same time contributing to the demise of the international effort that is helping them to survive. Many would point the finger at us and say now it is our responsibility to protect and feed threatened civilians. How many in this body are prepared to assume that role? Few, if any, I suspect.

Proponents of lifting the arms embargo unilaterally argue that a stable peace can be established only if the Bosnian Moslems negotiate from a position of strength on the ground. This argument is based on the assumption that the Bosnian Moslems will be more victorious with more weapons at hand. That may be true. Certainly the Serbs are more powerful and better equipped at present. However, I question whether weapons alone will tip the balance.

Over the last 25 months, the Bosnian Serbs have proven their determination to fight it out, even in the face of extreme odds. I am not at all convinced that they will retreat if confronted with a better equipped Bosnian Moslem force. And if they don't, the fighting will be more intense and prolonged.

Mr. President, I understand the desire of Members of this body to do something to level the playing field in this conflict. I also understand the frustration that many have over the failure to resolve the conflict at the negotiating table. But breaking from our allies and following a course of action that threatens to expand the war and undermine the international community's collective effort to resolve this problem is not the answer.

Mr. BRADLEY. Mr. President, I rise in support of the Dole-Lieberman amendment to lift the arms embargo against the Republic of Bosnia and Herzegovina. Given the House's approval of a similar amendment to this bill, this promises to be the decisive Senate vote on Bosnia. I would therefore like to explain my thinking in some detail.

Our overriding goal in Bosnia must be to end the fighting. There have been opportunities over the past 4 years to pursue more ambitious goals, such as preventing the outbreak of violence in what was Yugoslavia, rolling back ethnic cleansing, or restoring Bosnia's territorial integrity. But these fell by the wayside as the United States and our European allies failed to take decisive action and the conflict continued, leaving us in June 1994 with only one feasible goal, ending the fighting.

The fighting will end only when the Serbs stop their aggression. That will only happen when they have all the land they want, or when they meet the reality or threat of sufficient countervailing force to make further gains too costly. I can see only two sources of such countervailing force, Western militaries or the Bosnian Government's own military. However, it is clear that neither the United States nor our NATO allies will deploy sufficient military force to stop the Serbs. Thus, we have no reasonable alternative to removing impediments to the Bosnian Government's efforts to field sufficient force itself.

The federation agreement between the Bosnian Government and the Bosnian Croats was an important step in this direction. It changed the dynamic of the situation, not only by ending government/Croat fighting, but also by putting Serb gains in the Croatian Krajina at risk. The use and threat of NATO force through limited air strikes has also helped somewhat. But, in the final analysis, the Bosnian Government will not be able to field sufficient countervailing force until the arms embargo against it is lifted.

Last month, the Senate voted to lift the embargo. While the details of our votes may have been muddled, the message was clear. The clock was ticking, and if the administration did not incorporate lifting the embargo into its strategy, Congress would act. However, the administration has not pushed to get the embargo lifted in the United Nation Now, time is up. The embargo must go. Congress must take the initiative and act to lift the embargo unilaterally.

This is not a cost-free step. After 4 years of missteps in the Balkans, there are no cost-free steps. The status quo certainly is not cost free. The only question is whether the costs of lifting the embargo unilaterally outweigh the benefits.

Opponents of this amendment have asserted that the costs do in fact outweigh the gains. I disagree. Let me explain why by looking at the most important objections raised by opponents of this amendment.

First, there is the argument that lifting the embargo unilaterally would destroy the peace process. It is true that the contact group countries have agreed on a proposal to partition Bosnia, with 51 percent of the land going to the government/Croatian federation and 49 percent to the Bosnian Serbs. As a carrot to entice the Serbs to accept this result, the group has held out the prospect of a lifting of sanctions against Serbia proper.

The problem, of course, is that the Bosnian Serbs have no incentive to agree. They already hold over 70 percent of the land, outgun their opponents, face no real threat of countervailing force, and have not been stopped by sanctions against Serbia. I would argue that, far from undercutting the contact group plan, action to permit the Bosnian Government to defend itself would provide the Serbs an important incentive to accept it. Either the Serbs give back 20 percent of the land today, or face the prospect of the Bosnian Government perhaps taking back even more by force in the future.

A related objection is that we would damage the peace process by destroying the contact group itself. Let's be realistic here. The Europeans, Americans, and Russians are all participating in the group because of their realization that continued fighting is not in their interests. That calculation of national interest should not change because of the prospect of a better balance of firepower between the warring parties. In any event, the goal is to end the fighting, not to give others a veto over American foreign policy.

Second, some argue that lifting the embargo would put UNPROFOR troops at risk. This is a call for the troop contributing countries to make. If they judge the risk too great, they should withdraw their forces.

These brave troops are doing wonderful humanitarian work on an immediate basis, but at the risk of becoming obstacles to decisive action to end the fighting. The fighting is the greater humanitarian problem, because it is the immediate cause of the suffering. We cannot allow UNPROFOR perversely to lead to continued suffering.

A third objection is that we would be taking sides. Let's look at the facts. We have slapped an embargo on Serbia, which we enforce with warships. NATO aircraft have shot down Bosnian Serb planes and bombed Bosnian Serb positions. UNPROFOR has clashed with Bosnian Serb fighters.

The point is not whether we take sides, but whether we get sucked into the conflict militarily. If we do not allow the Bosnian Government to defend itself, we will face increased pressures to intervene with our troops.

The fourth, and most troubling, objection is that unilateral action by Congress would undercut the ability of the United Nations to implement and enforce sanctions. I will not go into the question of whether an embargo applied against Yugoslavia legally applies to the Republic of Bosnia-Herzegovina. The point is that the United Nation resolution has become an excuse for inaction in the face of genocide. That simply is not acceptable.

Opponents of this amendment argue that it would undercut actual and potential United Nation sanctions against such international outlaws as Iraq and North Korea. I do not agree. Let's remember what the United Nations is and is not. The United Nations is a forum for coordination and legitimization of national policies. It is not a sovereign supranational entity that forces member nations to take actions they believe to be against their national interests.

For example, United Nation sanctions will remain on Iraq until it is no longer in the interests of the international community to keep them. When a critical mass decides that Iraq has fulfilled its responsibilities, the sanctions will be lifted. A country might point to the unilateral lifting of the Bosnia arms embargo by the United States as a cover for agitating to have the Iraq sanctions lifted, but it would only be a cover. Its decision would be based on its underlying interests. Unilateral United States action on Bosnia would not change these underlying interests, if the argue for keeping the embargo, it will be kept. If they argue against the embargo, they are unlikely to continue to abide by it regardless of what the United States does unilaterally.

Similarly, China will not enforce sanctions against North Korea to please the United Nations. If China agrees to and implements sanctions, it will do so only—I repeat, only—if China's leadership believes that sanctions are in China's interests.

Mr. President, I have gone on at some length because our vote on this measure is in fact a vote on a certain vision of America's role in the world. We have interests, including moral interests, in the world. We have responsibilities. And we have instruments for securing our interests and bearing our responsibilities.

We have an interest in stability in the Balkans. We have a responsibility to end the genocide. And we have the instrument in lifting the arms embargo on the Bosnian Government. Multilaterally if possible, by ourselves if we must, but the embargo must be lifted.

Mr. MCCONNELL. Mr. President, this week we took note of an important anniversary—June 25, 1950. Forty-four years ago this week, Kim Il-song invaded South Korea. In a lightning strike the North reached the end of the Korean Peninsula beginning a war which cost the United States over 55,000 lives.

Now as we consider this amendment on Bosnia, I can't help but look back and think what would the world look like today if we denied the South the right of self-defense—what if we had decided to cede the territory to Russian, Chinese, and North Korean aggression?

Well, if President Clinton had been in office I think that decision might have been made. I think it is possible that the perimeter of American security interests defined by Secretary of State Acheson excluding Korea would have been allowed to stand. In the years between the surrender of forces south of the 38th parallel at the close of World War II and 1950, from Washington's perspective, responsibility for Korea's sovereignty and future was turned over to the United Nations. At the time, the chairman of the Senate Foreign Relations Committee endorsed the widely held view that Korea held no political, economic, or strategic interest unique to the United States—Korea was a United Nation issue.

The parallels to events in Bosnia today are eerie. How quickly we have dismissed responsibility and leadership for the crisis in Bosnia, discarding the matter to the United Nations.

Today, an independent nation, Bosnia, is under siege. Day in and day out women and children, the young and old suffer. But the crime in their suffering, the tragedy is they have been denied the right to defend themselves.

In an attempt to stop the war an arms embargo was imposed on the former Yugoslavia. Since that U.N. embargo was imposed, Yugoslavia has disintegrated and five independent nations have emerged.

Unfortunately, the embargo remains in place to the great disadvantage and destruction of Bosnia.

Serbia, well-armed and with historic aggressive ambitions, has pounded Sarajevo, devastated Goradze, and torn Tuzla apart.

And U.N. bureaucrats battle NATO commanders over when, where, and what the bombing targets should be. Unfortunately, the victors in this battle are Boutros Ghali, Special Envoy Akashi, and General Rose who seem to have gained control over the fate and lives of American soldiers and airmen.

Confusion in the chain of command, the chaos in the agenda was particularly evident during the siege of Goradze. As NATO commanders were pressing air strikes to defend Goradze the U.N. Special Envoy stopped the aircraft mid-mission. Apparently, Secretary Christopher was so frustrated he called to protest this bureaucratic meddling. Secretary General Boutros Ghali would not take his call.

So we've reached a bureaucratic standoff as Bosnia dies.

I think Senators DOLE and LIEBERMAN are right. The United States must exercise leadership. We can't rewrite Bosnia's sorry history—nor our tragic role in contributing to this genocide.

But, we can turn a page, we can change Bosnia's future. We can lift the embargo and save what's left of Bosnia.

Mr. DODD. Mr. President, I rise to say a few words about the events taking place in the former Yugoslavia and the legislation that we are considering at the present time.

I'd like to begin by commending the distinguished minority leader, Senator DOLE, as well as my colleagues from Connecticut, Senator LIEBERMAN, for insisting that this matter be brought to the attention of the Senate. Their efforts have made it certain that the issue of Bosnia and the plight of the Bosnian people are given the treatment and the consideration they deserve.

Mr. President, the amendment that has been proposed by Senator DOLE and Senator LIEBERMAN raises important and difficult questions that warrant the careful consideration of every Member of this body. In all candor, I must say that I find myself in agreement with much of what this legislation seeks to do.

Like the sponsors of this amendment, I have watched as the Bosnian Moslems have been forced from their homes and subjected to murder, rape and unspeakable horrors. Like the sponsors of this amendment, I have watched as the Bosnian Moslems have become the victims of a cruel and deliberate policy of aggression and ethnic genocide.

Like the sponsors of this amendment, I am frustrated by the apparent inability of the international community to bring an end to the war and bring an end to suffering of the Bosnian people. And like the sponsors of this amendment, I am certainly convinced that the arms embargo on the Bosnian Moslems has only worsened and prolonged this dreadful conflict—and that the

time has come for the embargo to be lifted.

To be candid, Mr. President, it is easy to see the appeal of the amendment by the distinguished minority leader. After all, this amendment merely gives effect to a sentiment that many of us have certainly felt: Just lift the embargo, do it right now, and don't worry about what the rest of the world thinks.

Mr. President, I wish I could endorse the solution that is proposed in this amendment. Regrettably, however, I cannot. Despite the very best intentions of its proponents and its supporters in this Chamber, the policy this amendment proposes would be a dangerous course for this Nation, and a dangerous precedent for the future of multilateral cooperation.

One year from now, Mr. President, in the year 1995, we will celebrate the 50th anniversary of the United Nations Charter. Happily, that anniversary comes about at a time when the age-old dream of that charter is finally within our grasp. The Soviet Empire is gone. The cold war is over. A collection of countries that was once hopelessly divided along political and ideological lines is now starting to think and act like a community of nations.

We are finally nearing the day when nations will come together to meet their common challenges, when multilateral action will be a reality and no longer a far-flung dream. Already we have gained a glimpse of the possibilities. Thirty-two nations came together to turn back Saddam Hussein. A majority of 15 members of the Security Council agreed to impose multilateral sanctions on Iraq, on Libya, on Haiti.

The United Nations and its many related agencies have provided humanitarian relief in Rwanda and Sudan, have monitored elections from Cambodia to El Salvador, and have dispatched peacekeeping troops to all corners of the world.

None of this has been perfect or painless or has come without cost. Certainly there have been setbacks. Certainly there have been disappointments. Certainly we all would have liked to see the United Nations move more quickly and more effectively in a number of places, not least of which in the former Yugoslavia. On that there can be no doubt or disagreement.

But I also think most of us would agree that the potential for international cooperation and coordination is far greater today than it has been in many, many years. We should think very long and hard before taking any action that could undo that very noble and very meaningful promise.

That brings us, Mr. President, to the issue of the former Yugoslavia. Three years ago, in September 1991, the U.N. Security Council voted unanimously to impose an arms embargo on Yugoslavia—including, of course, what was then the Yugoslav Republic of Bosnia-Herzegovina. The United States voted for this resolution and pledged to abide by its terms.

Now we are being told by the sponsors of this resolution that because we no longer agree with this arms embargo, all we need to do is to ignore it. We are being told that we can simply wash our hands of our commitment to the United Nations and walk away from a policy that we helped to develop and we helped to put into place. We are being told we can do this without consulting with our allies or with our many other partners in the international community.

Just imagine for a second, Mr. President, the kind of Pandora's Box this would open. What if Turkey, or Jordan, were to decide that the U.N. arms embargo against Iraq was no longer in their interest? Would that give them the unilateral right to ignore the arms embargo?

What if Canada, or Venezuela, were to decide that they no longer felt themselves bound by the U.N. trade embargo against Haiti? Would it be acceptable for them to ignore that embargo as well?

What will we do when the British, or the French, decide to pull out their peacekeeping forces from Bosnia? What will we say when Russia decides to ignore the arms embargo on Serbia? How will we respond when China refuses to go along with sanctions on North Korea, if sanctions ever prove to be needed? What possible standing would we have to tell these countries otherwise?

There are some in this Chamber who have argued that the U.N. arms embargo is illegal, that it violates Bosnia's right of self defense under article 51 of the United Nation Charter. I have heard compelling arguments made on both sides of that question. I do not presume to have a definitive answer.

What I do know is this: Simply because we may think the arms embargo is illegal, that does not make the arms embargo illegal. Nor does it give us the right to ignore the embargo, any more than any of us would have the right to ignore a domestic law if we thought it was unconstitutional. Making ourselves the judge and jury of the United Nations serves nobody's interests, Mr. President. Not those of the United Nations. Not those of the international community. And certainly not ours.

Today in the former Yugoslavia, there is an active effort under way to bring the warring parties to the peace table and bring about a negotiated end to the conflict. There is a peace proposal that is on the table at this very moment, one that has gained the endorsement of all the major international powers.

It is a process that is fraught with difficulty and in the end it might very well fail, just as so many efforts in Bosnia have failed in the past. But I think it is worth giving a chance, Mr. President. And I am certain it is better than walking away from everything the international community has accomplished in the former Yugoslavia, not to mention the rest of the world.

Walk away from NATO and the United Nations now, and we walk away from 14,000 troops keeping the peace in Croatia and a multilateral force that is standing guard along the border of Macedonia. Walk away now, and we walk away from the only source of dialogue between the warring factions, a dialogue that has helped to prevent a wider war and even more bloodshed. Walk away now, and we walk away from an airlift of humanitarian assistance that has kept people alive in besieged areas of Bosnia for 2 years, longer even than the famous Berlin airlift of 1948.

If you think that things cannot get worse in the former Yugoslavia, imagine what will happen when the peacekeeping troops are gone and the humanitarian assistance flights are stopped. Imagine what will happen when the Serbian forces are given access to more weaponry and ammunition from Russia. Imagine what will happen when the only lines of communication between the warring factions are severed. The result will only be more chaos, more bloodshed, and more loss of innocent life.

Mr. President, I do not mean to suggest that the international community has done everything it can in the former Yugoslavia. Clearly there is more that the U.N. and other international organizations can and should be doing to bring a halt to the aggression by Serbian forces. But make no mistake, Mr. President—lifting the embargo unilaterally will not fix what is wrong with the international effort. It will simply destroy that international effort altogether. And that is not in anyone's interest, least of all the people of Bosnia.

Mr. President, fortunately there is an alternative to the Dole amendment, and that is contained in the amendment put forward by the distinguished chairman of the Armed Services Committee, Senator NUNN, along with Senator WARNER. Their proposal calls on the United States to work with the members of NATO and the United Nations to preserve "an economically, politically, and militarily viable Bosnian state."

The amendment also makes clear that if the Bosnian Serbs do not constructively respond to peace negotiations, the President is urged to immediately lend his backing in the United Nation. Security Council to a resolution that would lift the arms embargo against Bosnia. If the Security Council fails to pass such a resolution, the President is urged to consult with the Congress with 5 days regarding unilateral termination of the embargo.

Mr. President, regardless of what anyone in this Chamber thinks of the proposal that is presently before us, there can be no disagreement over one fact: What is happening in Bosnia today is an unthinkable tragedy. Thousands of innocent civilians have been killed and countless more have been tortured, raped, or brutally uprooted from their homes.

The aggression and the genocide in Bosnia must be stopped. No human being with a conscience or a heart could possibly think otherwise.

But the question before us this morning is not whether we approve of genocide or even whether we approve of all the actions that have been taken in Bosnia by the United Nations and by our partners in the international community. The question before us is whether we can do more to help Bosnia by working in cooperation with the international community, or by going it alone.

Yes, Mr. President, let us stand up against genocide and ethnic cleansing. Let us stand up against aggression and the victimization of innocent civilians. Let us lift the embargo against the Bosnian people if that should prove necessary and let them defend themselves.

But let us not take an action here in this Chamber that would destroy everything the international community has done to protect innocent lives and to keep the conflict in Bosnia from spreading even further. And let us not take an action that would seriously undermine the credibility of NATO and the United Nations, not to mention our own credibility as a supporter of those important institutions.

Let there be no doubt, Mr. President: Lifting the embargo unilaterally would certainly do both of these things. That would not be in the interest of the United States. That would not be in the interest of the international community. And that would surely not be in the interest of the people of Bosnia.

For these reasons, Mr. President, I urge the adoption of the Nunn-Warner amendment.

AMENDMENT NO. 2142

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order amendment No. 1851 and amendment No. 1852 are set aside and the Senate will resume consideration of amendment No. 2142 of the Senator from Michigan, regarding funding for the B-2 bomber. There are 44 minutes remaining, 32 minutes under the control of the Senator from Michigan and 12 minutes under the control of the Senator from Georgia.

Who yields time? The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.

Mr. LEVIN. Mr. President, the amendment which I have offered on behalf of a large bipartisan group, including Senators GLENN, MCCAIN, COHEN, LEAHY, and others, would strike the $150 million which the committee added on for a B-2 industrial base program, so-called, an amount not requested by the administration, for which there is no militarily validated purpose. It would use that money instead to restore a part of the base cleanup fund which we borrowed for the California earthquake emergency.

After that earthquake there was an emergency and we said we had to move immediately. What we did is we moved $500 million from the base cleanup fund into that emergency effort. What this amendment would do would be to say that we are not going to keep the B-2 road open. That was closed 2 years ago by this Congress. It was closed last year by this Congress. We capped the program at 20 B-2 bombers.

Three different Secretaries of Defense have said we should cap the B-2 bomber program at 20, two Presidents have said we should cap the B-2 program at 20. This amendment of mine leaves that program capped and does not open the road to more B-2 bombers. It says we resolved that question, now let us not reopen it, add money to that B-2 industrial base program, when we need that money so badly elsewhere. And one of the places we need it, where we have made a commitment to the people of this country to restore the money, is that base cleanup fund.

We have told people where there are bases that are closing, we will move promptly to provide for the reuse of those bases and we will provide promptly for the cleanup. What we have done, effectively, is borrow $500 million from that fund.

Yes, the 1995 budget request of the administration is fully funded. But the 1994 funds are the ones that were borrowed. And the 1995 request came to us before we used the $500 million from this fund for the California earthquake.

The administration specifically supports my efforts to restore these funds and specifically opposes the use of $150 million for the so-called B-2 industrial base fund.

We have letters from Secretary of Defense, Bill Perry, the father of stealth, who has said we cannot afford more bombers, and we do not need more B-2 bombers. And this is what Secretary Perry wrote:

> One of the most difficult questions we have thus far faced in our strategic planning about our defense industrial base is the one about Stealth bomber production capacity.

And in his letter he said:

> Given my deep personal convictions about the military importance of stealth for nearly 2 decades, you can well imagine why I have wanted to make sure we get this one right, and I believe that we have.

And then he goes on in this letter to describe why he does not support adding $150 million to the B-2 line.

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. LEVIN. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair would advise Members of the Senate that the Senator from Michigan has 27 minutes 50 seconds remaining and the Senator from Georgia has 12 minutes remaining.

Mr. NUNN. Mr. President, I would yield 3 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE] is recognized for 3 minutes.

Mr. INOUYE. Mr. President, I rise this morning to oppose the amendment just offered by the Senator from Michigan. As the Senator indicated, his amendment would delete $150 million which the bill authorizes for the express purpose of maintaining the tools and facilities on the last American line for bomber production.

A key element of the U.S. industrial base for the production of modern bomber aircraft would be lost were the amendment to be adopted.

Mr. President, I would like to say that I have no quarrel with the Senator from Michigan on the need to fund base closure activities. The bill before the Senate does just that. If we examine the bill before the Senate, we find that the bill already includes $2.676 billion for base closure activities. That is the President's request, and this bill fully funds that request. On the other hand, if the amendment is adopted, our Nation's industrial base for bombers will be lost forever because the amendment eliminates any funds to preserve the capacity to produce any more bombers.

Our Nation's foremost expert on bomber and stealth technology recently testified before the Defense Appropriations Subcommittee, and this is what he said:

> We don't have anything in our program to sustain a bomber industrial base. That is a weakness of this program that we're presenting to you and you may rightly challenge and criticize that assumption.

He went further to say:

> The most logical way of maintaining a bomber industrial base is to continue to build more B-2's. That's not only because that's the best, the most cost-effective bomber we can describe to you right now but because we could make a very good use of the extra B-2's if we had them.

That is the testimony of the Secretary of Defense. Let us give the Department of Defense an opportunity to study and analyze the bomber force before we make this fateful decision.

The testimony of the Secretary of Defense is that there is a weakness in the budget presented to the Congress, that it fails to protect the bomber industrial base. And, it is the Secretary who says the best way to sustain the industrial base is to build more B-2 bombers, because DOD could make

very good use of extra B-2's, if we had them.

Mr. President, I am a strong B-2 supporter and my colleagues know that. I recognize that the B-2 is the best bomber ever produced and, though it is expensive, I believe we should purchase more. The country learned many lessons from Desert Storm; one of the most significant lessons learned is that stealth works. The success of the F-117 in that war demonstrated to the entire world the advantages of stealth technology in military aircraft. The B-2 is the next technological leap; it is the stealth bomber.

The B-2 bomber is a marvel of American technology. It has the capability to take off from bases in the United States and fly anywhere in the world, penetrate virtually any airspace, deliver a devastating blow, and return to the United States without stopping. In this era, when the United States is deploying fewer troops overseas at fewer locations, the global reach of the B-2 is essential to deterrence and to war fighting.

Mr. President, the B-2 is essential. No other weapon can do the job. With mid-air refueling, the B-1B and B-52 can fly long ranges, but they cannot penetrate heavily defended airspace. Even the F-117 does not have the capability of the B-2 in that arena.

Mr. President, as we debate this issue, I would ask my colleagues to bear in mind that the American public is increasingly reluctant to support U.S. interests abroad, if that means intervention and the possible loss of American life. If is self-evident that the best way to protect those who must go into harm's way is to provide them the best equipment to reduce casualties and deaths. "Improved survivability" is the term employed by the experts; in my generation it was known as returning home alive.

Many of my colleagues are probably not aware that the Rand Corp. has been examining the war fighting effectiveness of the bomber force structure. Among its conclusions, Rand notes that a fleet of 38 B-2 bombers and 40 B-52's would be as effective as a fleet of 20 B-2's, 40 B-52's, and 60 B-1 bombers. That means that 18 additional B-2's could do the job of 60 B-1's. Millions of dollars could be saved through reduced military personnel and operations and maintenance costs; hundreds of lives would no longer be put at risk.

I am convinced the results of a comprehensive cost and operational effectiveness analysis will show that, in the long run, it would be more cost effective to purchase more B-2 bombers than to continue to fix and upgrade the existing conventional bombers and maintain the fighter escorts and electronic warfare capability which is required to support conventional bombers.

Mr. President, I do not make my argument on costs alone. The bottom up review concluded that 100 bombers are required to handle one MRC. It also assumed a force structure of 184 bombers. However, the Air Force plans to retain only 107 total bombers in its inventory, not more than 80 of which are to be ready for combat. Exactly how this force structure will fulfill the requirements for fighting two nearly simultaneous major regional contingencies has not been answered to my satisfaction by any DOD official.

Considering the uncertainties of force structure and cost effectiveness, I believe all my colleagues should agree it makes great sense to maintain the capacity to build additional B-2 bombers.

Mr. President, this amendment asks the wrong questions and provides the wrong answers. We know that, if the amendment is adopted, the last bomber production line in the United States will be terminated—a key element of the defense industrial base will be irretrievably lost. What we don't know is how much alternative force structures cost and how do these costs compare to the acquisition and operation of more B-2 bombers.

On both of these counts, I urge my colleagues to defeat the Levin amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 5 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for 5 minutes.

Mr. COHEN. Mr. President, I have enormous respect for the Senator from Georgia and the Senator from Hawaii, but I must say that even conceding this is a wonderful flying machine, the question is: "Can we afford it?" Now we are talking about maintaining an industrial base fund, not just for 1 year but for next year, the year after that, and ad infinitum until we decide we need more B-2 bombers. So it is not simply $150 million this year. We have to calculate well into the future.

Now, according to the manufacturer of the aircraft, they could probably construct another 20 B-2's for an estimated $12 billion. However, the Air Force and the Pentagon's Office of Strategic Systems indicates it would probably cost $19 billion, and I would submit that is probably an underestimate as well.

But assuming we are willing to pay another $19 billion, the next question is what about the need?

Now, the Senator from Michigan [Mr. LEVIN], has already quoted extensively from the words of Secretary Perry and Deputy Secretary Deutch. I do not know if he has quoted from the Secretary of the Air Force, but Sheila Widnall says she is not impressed with the idea of preserving a bomber industrial base and she would not trade anything in her budget to get more B-2's.

In an interview in Aerospace Daily this week she said:

"I think one can make industrial base arguments for almost every system we're building. But * * * I think the aerospace industry has never relied on the argument of the industrial base" to remain fresh and at the leading edge of technology.

Although the Air Force "obviously * * * would love to have more B-2's * * * they're very expensive, and in terms of the limited budget we do not have" the resources to buy more than those already planned. "I don't see how we could do it," Widnall said. "We would have to give up something that we consider to be a higher priority."

Well, what is the higher priority? The Air Force says there is no higher priority than what they have in the budget. Some advocates say, well, let us just retire the B-1 bomber fleet. One writer suggests let us retire all the B-52's, all of our ICBM's, a carrier battle group or, alternatively, a mechanized army division in order to sustain more B-2 productions.

Well, if we eliminate the B-1's and B-52's, that undercuts the argument we do not have enough bombers. Giving up another mechanized division would weaken the already questionable ability under the Bottom-Up Review to fight nearly two simultaneously regional contingencies. So these arguments do not seem to hold much water in terms of whether it is worth the costs when the need has not been identified by those who are in charge of the programs.

I would like to go just one step further and question what the mission is. We have had from the very beginning a question about what the B-2 bomber was going to be used for. Initially, the B-2 was going to be a nuclear bomber hunting down mobile ICBM's in the Soviet Union. And when the Air Force was forced to back away from that claim, it was justified on the grounds that it was the only means to attack deeply buried Soviet command and control bunkers. And when that was shown to be inaccurate, it was justified as the only way to penetrate Soviet air defenses even though we have invested billions in stealthy air cruise missiles.

When the Soviet Union dissolved, it was justified as an ideal conventional bomber for regional wars. You might think the B-2 is a bit overqualified for some of the Third World countries' but do not worry, it turns out that the B-2 is not quite as stealthy as originally planned.

But now we are told by Mr. George Donahue, Rand's Vice President of Project Air Force:

B-2's by themselves probably don't bring enough firepower to stop the kind of armored invasions we have talked about. * * * What we want to do is use the B-2's to make initial attacks, suppress defenses, and then help the B-1's penetrate. * * * The B-2's help the B-1's find targets, help them locate defenses and avoid them, and then the B-1's come in, drop their bombs and get out safely. . . The B-2's in this role are helping to manage the

battle. In fact, they are performing roles rather similar to what JSTARS and AWACS do, say, later in the war.

If this is to be the role of the B-2—supporting the B-1, which would conduct the real bombing missions—then before another dime is committeed to the program, B-2 advocates have the obligation to explain why using the B-2 in this role would be more cost-effective than alternative options for supporting the B-1's operations.

Before approving the committee's position, we should have in hand trade-off analyses showing that the B-2 is better suited and cheaper than using JSTARS, AWACS, electronic warfare aircraft, SEAD—or suppression of enemy air defense—aircraft, overhead assets, and the means to support the B-2.

What we are seeing is yet another page in the constantly shifting arguments for the B-2 bomber, now the B-2 support aircraft.

Some B-2 advocates point out that the B-2 has taken on many new roles during its long lifetime. But that was after it was deployed. Having successfully performed the mission for which it was designed, it was repeatedly modified to conduct new roles.

In the case of the B-2, we have seen missions assigned and abandoned repeatedly before the B-2 has entered the force. Unlike the B-2, the constantly changing justification of the B-2 is not a result of its flexibility and capability but because each succeeding justification turned out to be unpersuasive.

BRAC RESTORATION

The other half of this amendment is that it would shift $150 million toward meeting the enormous costs of environmental cleanup of our defense facilities around the Nation, and specifically for the cleanup of those bases affected by the 1993 base closure round.

Our ability to clean up closing bases so that the property can be released to the local communities for reuse is being hampered by our decision in February to rescind more than $500 million in BRAC funds in order to pay for the Los Angeles earthquake emergency supplemental. This was nearly half of this year's cleanup funding for the third BRAC round.

DOD officials have testified that the funding shortfall in the BRAC cleanup account "will delay the closure of some bases" and that funds "will need to be restored to keep the BRAC process on schedule and to realize full savings from the infrastructure reductions."

The Deputy Secretary of Defense, John Deutch, wrote the sponsors of the amendment 2 weeks ago to support the restoration of the rescinded BRAC funds "to speed economic recovery of closure communities."

The Federal Government must fulfill its responsibility to clean up the potentially hazardous wastes at many of our bases. It is incumbent upon DOD and all Federal agencies to meet the cleanup standards that the private sector is forced to comply with. The Department of Defense must have the funds to restore these sites.

We must ensure that all defense facilities are good neighbors and that they do not contaminate ground water or fisheries, or expose communities to hazardous toxic wastes. We cannot, in the process of defending our country, permanently pollute our communities.

Economic recovery from base closure is difficult enough without the burden of potentially hazardous waste. The Federal Government cannot allow reuse efforts to be frustrated by the presence of environmental hazards.

Ninety-three defense installations are currently on the Superfund National Priorities List, and 14 more have been proposed for addition to the list. Two bases in my home State of Maine are on the list, and a third has been proposed for addition. There are armed services Superfund sites in over 40 States, and every State has installations that are affected by the Defense Environmental Cleanup Program. Some of the wastes at these sites are unique to military activities, while others are similar to wastes generated by industrial and commercial sectors.

The DOD facilities on the National Priorities List include bases that have been closed, some that are in the closure process, and many that are currently active. While this amendment will only directly affect the funding for bases closed in the 1993 BRAC process, increasing funding for one cleanup account may help to maintain current funding levels for the cleanup of currently active installations and bases closed in other BRAC rounds.

In summary, Mr. President, the Department of Defense opposes the unrequested $150 million added for the B-2 and supports the restoration of funds for BRAC cleanup.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized for 5 minutes.

Mr. BUMPERS. I thank the distinguished Senator.

Mr. President, nobody in this body should be deluded about what this debate is about. This debate is about buying 20 more B-2 bombers, which we do not need. The offer of 20 more B-2 bombers at a cost of $19 billion or slightly less than $1 billion each, whereas the original 20 are going to cost $12 billion, is a titillating offer.

But we should also think, as we should think about every weapons system, do we need them? If they were going to sell those planes to us for $500 million each, would it be a good investment? The answer is no. We voted in 1992 and 1993 to cap the number of B-2 bombers at 20. If we put $150 million in, as the committee has suggested, to keep the bomber line on standby, you are going to be asked every year, as far as the eye can see, for $150 million each year to keep that line open.

We had B-52's. The chart of the Senator from Georgia is a very interesting chart. I am not quarreling with it. But there is one thing it does not show on the chart; that is, we have 94 B-52H's—yes, the old workhorse B-52—94 of them. They talk about how many people are at risk in the B-2 because it is so stealthy. Nobody in the old workhorse B-52 is at risk. It is a standoff bomber that fires cruise missiles. The cruise missile is pilotless, and it is accurate.

The other thing that I think perplexes me more than almost anything else is that we can never kill anything around here, no matter how outmoded the original purpose for building it might have been.

I can remember, No. 1, when we started out on the B-2. I remember Bill Perry coming to my office. He was in the Defense Department under Jimmy Carter. He came to my office and described the B-2 for me. I was so excited I could hardly breathe at the thought of this top-secret bomber. It was going to cost between $300 million and $400 million. Do you remember the outrage in this country when it was discovered the thing was going to cost $500 million? There is hardly a whimper today when it is costing $2 billion, four times as much. That is what the announcement was back when everybody in the country was standing on their head because it was going to cost $500 million.

Second, on the mission, the B-2, just like the liquid metal reactor, started because the Soviet Union was our bitter enemy. We wanted a B-2 bomber that could penetrate the defenses of the Soviet Union. Now it is not a strategic bomber. For $2 billion you are getting a conventional bomber. We do not talk about bombing the Soviet Union anymore. Oh, we still have all these nuclear weapons and cruise missiles, and so on. But it is now a conventional bomber at $2 billion a whack.

Mr. President, why do we want to spend $150 million, not just this year? But make no mistake about it, we are embarking on a $150 million expenditure to keep that line on standby until someday somebody is going to make the argument here: Yes, we do need to buy another 20 B-2 bombers. Then we are going to be committing ourselves to a company which says they will sell us another 20 for $900 million each, or $950 million each. That is the same company that promised to sell us the original 100 for between $300 million and $400 million.

Again, Lucy Brown is holding the ball for Charlie Brown to kick and pulling the ball out from under him just before he gets to it. It just happens time and time again.

We voted to cap the B-2 at 20. We ought to stick with that.

Mr. President, I yield the floor.

I yield such time as I may have remaining back to the distinguished floor manager.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I will just take a couple of minutes of my time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, the Senator from Arkansas is right that the B-52's can indeed be used as standoff bombers. That is what we are going to have to use them for unless we get some more B-2's. The difficulty and the problem with the Senator's presentation is he acts as if the standoff weapons do not cost anything.

Mr. President, the standoff weapons, when you have to use them without having B-2's go in first, you are going to have to use them in such quantities that they are going to cost more than the B-2's would cost, if you add them up. If you look at the Air Force assumptions, 100 nonstealthy bombers, an average sortie rate per bomber of .7 per day, that is 70 bomber sorties per day, 20 weapons per bomber sortie, each standoff weapon that the Senator gives as his answer, averages about $1 to $1½ million if you count 20 of them on that basis. That is compared to what it would cost if you can fly directly over and use the JDAM* weapon of 40,000.

So you standoff and shoot from a distance with a B-52. That costs you about $1½ million apiece. We do not have them yet. That is what we do in this development. We used the whole inventory we had of Tomahawk missiles in the Persian war. We used them at the beginning.

If you multiply this out, just simple math, for each day we use standoff weapons in a war, it will cost us about $2.2 billion. It takes us 1 week to achieve air superiority. You have spent $15.7 billion. But that is not in the headlines, and nobody really has quantified all of this.

So what the Senator is arguing is correct. We can use standoff weapons on the B-52 and on B-1 because they cannot fly in over the target. The problem is those cost a fortune, and we are going to have to use them sparingly. It is not an argument against standoff weapons. We need them. But if we do not have the B-2 going in and clearing the way with the hard targets, we are going to spend more money on the standoff weapons the Senator from Arkansas wants than we would spend to build an adequate number of B-2's, and it is going to go on and on.

Mr. President, I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, will the Senator from Michigan yield 1 minute?

Mr. LEVIN. Yes.

Mr. BUMPERS. Mr. President, let me respond to the Senator from Georgia in this way by saying, No. 1, the Senator is still anticipating a nuclear war with the Soviet Union. I am not. But I am not naive enough to say that we should not prepare for all eventualities. What I am saying is the threat that we have known all of these years is gone. Our bombers are not even on alert.

No. 2, if we were going to discard the B-52's and eliminate what he considers to be the staggering costs of operating those, that would be one thing. But we are not. You buy additional B-2's, and all you are doing is piling that cost on top of the cost that we are going to have anyway. The Strategic Air Command says the B-52 is good until the year 2030. That is 36 years from now. We are not going to throw a bomber like that away. We are going to continue to maintain them, and all we are going to do by buying 20 more is just put more costs on top of cost.

Mr. NUNN. Mr. President, I think we are talking about past each other. The Senator could not listen to the earlier debate. I understand that, with the hour that it was. But we have been talking all the time about the conventional role of the B-2—conventional, not nuclear. The Senator's remarks about Russia and the Soviet Union have nothing to do basically with this debate.

The other point the Senator made, I do not know where he gets the point about throwing away the B-52's. The B-2 is necessary to make the B-52 extend the life that long because the B-52 cannot fly over the target until somebody has cleared the way. That other has to be a standoff weapon or it has to be a stealthy bomber.

So this is complementary to the B-52, not in lieu of the B-52. We want to keep those in inventory. I have reservations myself about the B-1. We are trying to test that out.

But the Senator's point on the B-52 is totally opposite of the point that has been made here. The B-52 is going to be enhanced by having the B-2's because it can then fly over the targets and use smart weapons that cost $40,000 each instead of $1.5 million each.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Senator from Michigan.

I listened to the debate here last night. I am delighted to hear the Senator from Georgia has some reservations about the B-1. I wish he had those same reservations when we had the debate on the B-1, because many of us raised questions about the amount of money we were spending on what appeared to be a "flying Edsel." The Air Force lobbied hard for the B-1 and they found themselves with a bomber they wish they did not have. They are spending billions of dollars to maintain, to crew, to equip, and incidentally, to fix all the flaws in it. If the B-1 was a "flying Edsel," the B-2 is a "flying Fort Knox."

It seems to be a case where we have forgotten that the cold war is over. It has ended. The Berlin Wall is down, and Russia wants to become part of the NATO alliance. But, incredibly, we are still figuring out how we are going to build a B-2 bomber that can get under Russia's defenses and bomb Moscow, if necessary. As I said earlier, I hope they do not bomb Moscow on the same day we are delivering the foreign aid that was voted for by this Chamber, because the message would be, unfortunately, mixed.

In a town famous for euphemisms, the bomber industrial base we speak of is the weakest disguise yet for what is simply a $150 million life support system for the B-2 bomber. It is time to pull the plug on the B-2, because the bomber industrial base is just another coined phrase to keep the vault door open to the B-2 at the U.S. Treasury. The "flying Fort Knox" wants a key to Fort Knox.

Last year, when I brought up an amendment to cap the B-2 at 20 planes, everybody from the distinguished Senator from Georgia, and others, said, "Well, let us not have this debate. We will put this divisiveness behind us because we are going to cap it at 20." The Air Force solemnly promised, "We are going to cap this sucker at 20, do not worry about it." But, now, as many of us suggested at that time, the Senate is voting to give a $150 million skeleton key to keep the B-2 alive. Even though we voted to cap it at 20 planes, even though the Air Force promised to cap it at 20, they figured that was last year and by now everybody will have forgotten the issue.

This is nothing more than a downpayment on spending billions of dollars on planes that the Department of Defense does not want to buy in the first place.

We are always going back home on weekends, and I am sure everybody back home on the 4th of July will say that we are here to make the tough decisions. Well, we can make a tough decision for the taxpayers of America or an easy decision for the lobbyists of a couple of mega-corporations. I think we ought to do it for the taxpayers of America. We should not vote today to retain our present fleet of bombers and exercise an option to spend billions

more to supplement a commodity that is already overstocked. Let us see some truth in budgeting before we spend $150 million. Let us read the fine print.

Northrop tells us each additional plane will cost only $600 million. Such a bargain. The planes cost $600 million, but that reportedly does not include the tools needed for routine maintenance and the operating manuals to explain the operation and repair of this complex machinery. We are talking about a $1 billion airplane.

The cold war is over. Most Americans are adjusting to this reality. It would be nice if the U.S. Senate did the same. Let us end the era of work programs for defense contractors. Passing a defense budget that reflects a post-cold war defense policy would go a long way toward restoring the credibility of Washington and of our Government. We have an opportunity to do that by cutting programs rather than keeping them on a life support system.

Mr. President, to summarize, sometimes it seems that the world changes just about everywhere except within the walls of this Chamber. When the cold war was heated, Senators promoting costly weapons systems would express concern over the penurious budget submitted by the Pentagon.

Surely, they would argue, that the Defense Department was being too cautious, underestimating the funds necessary to ward off the growing might of the Soviet bloc.

The cold war has ended, the Berlin Wall is down and Russia wants to become a part of the NATO alliance. But, incredibly, we now argue whether the Pentagon should stop building expensive weapons like the B-2 that were intended for use against the evil empire.

In a town that is famous for euphemisms, the bomber industrial base is the weakest disguise yet for what is simply a $150 million life support system for the B-2 bomber.

Mr. President, it is time to pull the plug and let the B-2 expire. The bomber industrial base is just another coined phrase to keep the vault door open to the B-2 at the U.S. Treasury.

Proponents of the bomber industrial base argue that to save millions already invested in this flying Fort Knox—we should invest $150 million more. That's an argument that might be raised in bankruptcy court—but it has no place here.

The fact is that this special provision will be nothing more than a downpayment on spending billions of dollars on planes that the Department of Defense does not want to buy in the first place.

For months, the Northrop Corp. has been assuring Members of Congress and committee staff that the B-2 production line is withering away.

Supporters of the B-2 argue that the Air Force has a policy of folly. Air Force officials intend to drastically reduce our bomber force as the last B-2 rolls off the assembly line. The Air Force plans to cut the U.S. bomber force to 107 aircraft by the end of fiscal year 1995.

So, what is the solution proposed by the Armed Services Committee? The Air Force has been instructed not to mothball a single B-1 or B-52, and the committee added $150 million from the till to finance the B-2 recovery.

The American people send us here to make tough decisions—but I suggest this is an easy one—bordering on the obvious.

We should not vote today to retain our present fleet of bombers and exercise an option to spend billions more to supplement a commodity that is already overstocked.

Proponents of the bomber industrial base candidly admit that they are proposing a downpayment on 20 additional bombers. If we insist on exceeding the 107 bombers that satisfy Air Force strength requirements what is wrong with the bombers we already have? Is it not more of a waste to build new B-2's when we have spent billions on the B-1 program and upgraded our fleet of B-52's.

The $150 million bomber industrial base proposal won't even yield us a valid cost estimate on what the extra 20 B-2 bombers will cost.

Northrop tells us that each additional plane will cost only—only $600 million! They make it sound like a bargain! Tell that to the taxpayers of this Nation—and be sure to include Northrop's track record on past cost estimates.

Let us see some truth in budgeting before we spend $150 million. Let us read the fine print to the taxpayers. The planes cost $600 million but that reportedly does not include the tools needed for routine maintenance and the operating manuals to explain the operation and repair of this complex machinery.

The Senate should make decisions on when to spend millions of dollars based on independent estimates, not contractor estimates.

Finally, Mr. President, I want to raise a question about the issue of industrial base. Nobody questions that our country needs to protect our ability to build sophisticated weapon systems as the defense budget declines. We have a responsibility to preserve important defense technology.

I am not certain that "bomber industrial base" however meets this criteria. Is our interest in preserving knowledge or protecting defense industry shareholders?

I would strongly support an initiative to assist the aerospace industry. We must maintain our commercial and military edge—but we can not be giving $150 million handouts to corporations while waiting for them to meet their revenue expectations.

The cold war is over. I think most Americans are adjusting to this reality. It is time for the U.S. Senate to do the same, and end the era of work programs for defense contractors.

Passing a defense budget that reflects a post cold war defense policy would go a long way to restoring the credibility of our Government in Washington. We have an opportunity to do that by cutting off programs rather than keeping them on a life support system.

The PRESIDING OFFICER. The Chair advises the Senate that the Senator from Michigan has 11 minutes, and the Senator from Georgia has 5 minutes 45 seconds.

Who yields time?

Mr. GLENN. Mr. President, may I have 3 minutes.

Mr. LEVIN. I yield 3 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I regret that I have to oppose some of our committee's views on this particular item and support the Senator from Michigan, because I basically support the B-2 bomber. I supported its development, and support the aerodynamic development of the flying wing that we have never been able to really use successfully in this country. That has been developed here. The stealth characteristics go along with it. Aerodynamic characteristics. The more we learn about that, it allows us to lift more into the air with less airframe weight involved. It has those advantages.

Mr. President, I must support the proposal by the Senator from Michigan because just for the expense of this airplane, as the distinguished Senator from Vermont just said, by the time you build the hangars for it—it requires special hangars—by the time you do all the things that have to be required for this, it comes out to probably $1 billion per airplane. As much as I would like to have the B-2, we just cannot afford it. It is a matter of cost. That is the reason I started switching my votes from support to opposition to the B-2 almost 3 years ago.

The Stealth does buy us time in military strategy, because it will be a while before radar designs catch up with the stealth characteristics, where the airplane can be seen again. And that can be done. It is expensive to do that, but the stealthy design is against current day radars, and it cannot guarantee that same kind of stealthy characteristic into the indefinite future.

There is the talk about $150 million to "keep the line warm." Well, line warm for what? We have B-52's and we have the B-1's that the Air Force says is the backbone of the bomber fleet now. I know we have the charts here that show how many conventional aircraft the Stealth bomber could replace. But the point you have to remember is that we already have those airplanes. It is not as though we were trying to decide today to buy B-2's, or B-52's, or B-1's; we already have the B-52's and

B-1's. They are a given. We have them now, at no expense. Whether the Stealth will replace 20, 30, or 40 of those, you still come up with retiring good aircraft—you still replace good aircraft with a B-2 that is going to cost us probably—when you talk about hangars and support—at least a billion dollars per airplane.

What does the Pentagon think about this? And what does the Defense Department want to do on this? Well, here is Mr. Perry, our Secretary of Defense. He said earlier this year:

We should recognize now that any additional money added to sustain the B-2 line would be only the tip of the budget wedge. The large amounts required either to buy more B-2's or to sustain the B-2 production line, without producing more planes, would have to be taken from more pressing military priorities.

Mr. President, that summarizes the whole argument. The Secretary of Defense says if they do not want to keep the line open, it is the tip of the budget wedge. We would be keeping a line open to spend money for a potential of production that we do not see in the future. As much as I admire the lift capacity and the stealthy characteristics, I think right now it is something we cannot afford. I say that as one who supported the B-2 from inception, up to where I felt it got flat too expensive to buy. We have aircraft to do the conventional bombing roles, and if we were buying new aircraft, we could replace them with B-2's. We are not. We have them in surplus and are laying them up, sending them into storage right now, even though they are still good aircraft.

So much as I did support the B-2 in earlier days, I must say now that I have to vote with the Senator from Michigan and support his views on this.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has consumed the additional 2 minutes.

Who yields time?

The Senator from Michigan controls 5 minutes 50 seconds, and the Senator from Georgia controls 5 minutes 10 seconds.

Mr. NUNN. Mr. President I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona, [Mr. MCCAIN], is recognized for 3 minutes.

Mr. MCCAIN. Thank you, Mr. President.

I rise in support of the amendment of the Senator from Michigan, [Mr. LEVIN], and I also hope the colleagues would heed the words of Senator GLENN who probably has more knowledge of this kind of business and practical experience than certainly any Member of this body or many living Americans.

Mr. President, we are asking again to maintain an industrial base. I have had representative after representative come to my office and sit down with me and say we need to maintain the bomber industrial base, we need to maintain the fighter industrial base, we need to maintain the missile industrial base. Whatever it is, that industrial base needs to be maintained.

I would love to maintain all those industrial bases. The harsh reality we are facing is that the defense budget has been cut between 35 and 40 percent and the cold war is over.

As we all know, a couple years ago a very extensive Bottom-Up Review was conducted by the best minds that we could gather inside and outside the defense establishment of this country, led by former Secretary Les Aspin and General Colin Powell. Their conclusions were that we needed no more than 20 B-2 aircraft.

Recently the Department of Defense has again gone back and reviewed the bomber requirements, and they state the Department has continuously examined the role of the B-2 in every aspect from a war-fighting perspective within the context of ongoing analysis of the bomber force and no requirement has emerged from this analysis to change the recommendation in the Bottom-Up Review for 20 B-2 aircraft.

We are cutting weapons systems and procurement that were recommended in the Bottom-Up Review. Now we are making a $150 million down payment on what could turn out to be a $12 billion expenditure.

Mr. President, there is also the question that perhaps Senator GLENN can address better than I can. But a bomber is an airplane. We did not need to maintain a bomber industrial base for the Northrop Corp., which builds the B-2. The last time they built a bomber was 40 years ago. Boeing has not built a bomber in over 30 years.

Mr. President, a bomber is an airplane. As long as we have aircraft modernization, construction, and advancements made, then we will be able to build bombers.

Mr. President, if this were 4 years ago, no one would be a more vociferous and stronger supporter of the B-2. The cold war is over. We now have different priorities. Those priorities are articulated, I think, very well, generally speaking, in the Bottom-Up Review. We should support it. We should support the Pentagon and make the tough decision, which is to finally let the bomber force grow cold.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair will advise the time is being charged against both sides.

The Senator from Georgia.

Mr. NUNN. Mr. President, I want to yield most of the remaining time to the Senator from Nebraska. I do want to take just a moment though.

Two times during this debate, people have said that I basically said a year ago that this debate was over. I want to read exactly what I said, Mr. President.

This was September 10, 1993, the CONGRESSIONAL RECORD, and I wish to make it very clear what I said. I said:

Mr. President, it is no secret that I do not believe that limiting the B-2 to 20 was the wise decision. I have said that before. I will say it again. But if we are going to have more than 20 B-2's, it would have to only be done after very thorough deliberation and debate. In my view it should only be done if there are tradeoffs of the largest savings that the B-2 renders us as opposed to the alternative means of delivering long-range strike power.

Which is what we have been debating.

But the Senator has an amendment which is now the official position of this administration. It was the official position of the previous administration. It is not my own view, but if we are going have a different view on it, it should be fully debated and at that stage we would deal with this matter as we would have to deal with it. So I do not want the Senator to think that I agree with the substantive position. But I do not think there is any difference between this amendment and what the administration's position is at this point in time.

That was the dialog with Senator LEAHY.

Senator LEAHY responded:

Mr. President, the Senator from Georgia and I are in total agreement on the point that if we are going to go further, if there is reason for it for national security, it should be debated at that point. We are in agreement on that.

I wanted to clarify the RECORD on what I said, I hope, all along in this matter.

I yield the remainder of my time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska, [Mr. EXON], is recognized for 3 minutes 20 seconds.

Mr. EXON. I thank the Chair and I thank the leader of the committee.

I hope we can focus on the reasons that the Armed Services Committee took the action that it did. Basically, we provided $150 million to keep the option open to buy more B-2's in the future. I have not committed this Senator to stay that course.

I think it is perfectly legitimate for the argument to go on about this as a down payment on the future. But I have not made that decision myself as of yet. The $150 million that is thrown around indicates it is a waste of money. The fact of the matter, as I said many times on the floor on this debate, the actual number is $75 million, because half of the $150 million will go for parts that we would otherwise have to buy in the future anyway to build the 20 bombers already authorized.

So we are talking about $75 million as an insurance policy to give us a year to try to straighten out what I think is a totally confused policy with regard to bombers by the Air Force.

To back up that point, I want to quote briefly from an article called

"Inside the Air Force," which I believe came out this morning. Among other things, it demonstrates the total disarray with regard to the Clinton administration and the Pentagon with regard to what they think are the proper mix of forces, and that is what we are talking about with regard to the B-2.

In this report it simply says that the ongoing national posture review, which is under the direction of the Secretary of Defense, which is expected to be completed this fall, is an option under which the Air Force would build 40 B-2's, an option. It goes on to say that the Defense Department did not request funds for the controversial bomber on the Senate floor, but the Air Force and the DOD leaders have privately made it known that they welcome additional B-2 funding, but they are not willing to expend political capital by formally requesting the funds.

Mr. President, I simply say that this Senator, the chairman of the subcommittee of jurisdiction, is simply saying because beyond any questionable doubt the closed hearings we held where we called the Department of Defense people in clearly indicated to those who were there and those who listened that only 100 bombers to fight a two-front war probably is not enough.

The questions that we asked were not answered by the people who were supposed to be in the know.

I simply say that this Senator recommended the expenditure of $75 million as an insurance policy, if you will, to give us a year to try to straighten out what I feel is a faulty total bomber and total mix force as presently presented to us by the Department of Defense and the administration.

I yield the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan who has 2 minute 20 seconds.

Mr. LEVIN. I yield that time to myself.

Mr. President, in direct response to the suggestion of my good friend from Nebraska [Senator EXON], this is what Secretary Perry said:

> I carefully considered your suggestion that we should add money to support the B-2 production line beyond what would be needed to complete the 20 authorized planes. For several reasons, I still believe our decision not to do so is still the right one. We should recognize now that any additional money to sustain the B-2 line would only be the tip of a budget wedge.

That is what we are voting on here. It is not just $150 million, although that is a pretty large sum of money for anything except the defense budget. We are voting on a funding wedge that will lead us into the future of untold billions of dollars.

Two votes in the Congress said cap it at 20; three Secretaries of Defense said cap it at 20; two Presidents said cap the B-2 at 20.

My good friend, Senator NUNN, as part of the debate in 1992 said: "Let us conclude the B-2 program at 20 as requested and put this divisive issue finally behind us."

Senator EXON said: "Let us give it a decent burial as far as new procurement is concerned by cuts at 20."

Senator THURMOND said: "Let us complete the B-2 bomber at 20."

It is time to make a final commitment and cease this annual debate.

The $150 million added by the Armed Services Committee reopens this debate again. It does what the Air Force does not want. The Chief of Staff of the Air Force, General McPeak, says:

> We are not asking for more B-2's. Quite frankly, the problem is the price, the cost. It is very expensive. So on the forward financial planning assumptions we are making, we do not see the headroom to drive more B-2's in there.

Like that Energizer bunny, this B-2 just keeps going and going and going. Let us keep our commitment to cap it at 20.

Mr. DOLE. Mr. President, I rise in opposition to the Levin amendment to terminate vital funding necessary to preserve our B-2 bomber industrial base, and foreclose forever the option to continue production of the most advanced aircraft in the history of aviation. As has been pointed out, this debate is about our national security industrial base. Some want to trivialize what this means by calling it a "jobs program." No doubt about it, millions of Americans have or will lose their jobs as President Clinton's massive defense cuts take a greater and greater toll. But in my view, the issue is a matter of preserving options in a very dangerous and unstable world. The broader question is whether America will choose to remain strong, or whether we will head down the old path of dismantling our defense and thus our ability to lead.

Since the end of the cold war, America has discovered that new threats and greater instability have replaced the classic East-West confrontation that existed over the past 40 years. Clearly, the world remains a dangerous place, and new challenges to peace and American security emerge nearly every day.

The world is far more complex than it was just a few years ago. In my view, America cannot afford to foreclose our options. The Levin amendment does just that.

America has invested heavily in the B-2 bomber to make it the most technologically sophisticated and most flexible weapon system the world has ever seen. This achievement is a credit to American ingenuity and American commitment to strength. Thousands of people have dedicated their genius and skill to design and build the B-2. No doubt about it, we must preserve this national resource. We simply must retain the ability to produce the B-2.

Too many of my colleagues forget that when you slash away at the defense budget, you are slashing away at people, communities, and entire industries which must ultimately respond to the next challenge that will come. The people of California know the impact of these cuts very well. The loss in economic terms has been astronomical, but the erosion in our national security cannot be as easily quantified—until it is too late.

I have long supported the B-2 bomber program, and I will continue to support it because I believe that America needs this aircraft. I urge my colleagues to join me in opposing the Levin amendment. This is not the time to foreclose on our ability to keep America strong.

THE B-2: 1995 DOD AUTHORIZATION

Mr. BOND. Mr. President, I rise today in support of the fiscal year 1995 Defense authorization bill and the provision of $150 million to preserve for another year the only bomber industrial capacity we have in this country, the B-2 industrial base. Next year the Nuclear Posture Review, the independent Roles and Missions Commission report, the report mandated by this bill, on bomber force structure tradeoffs, and operational readiness tests on the B-1B will have been completed. These reports will give the Department of Defense, the administration, and the Armed Services Committee a clearer picture of the demands and needs to our bomber industrial base. To allow our B-2 bomber industrial base to deteriorate before these findings are presented would be, in my opinion, irresponsible.

The Bottom-Up Review concluded that, under the most likely to scenarios, threats to U.S. interests and national security will be regional, short-warning scenarios in which long-range bombers and carrier-based tactical aircraft would be the most critical U.S. forces available early in a conflict. As the centerpiece of U.S. attack capability, the Bottom-Up Review called for a force structure of 184 bombers. In addition, the Air Force "Bomber Roadmap" of June 1992 identified a requirement of 184 total bombers, armed with precision conventional munitions, to deal with a single major regional contingency.

Mr. President, despite the Bottom-Up Reviews determination that it takes 100 bombers to fight one major regional contingency [MRC] the United States should retain the capability to deal with not one but two nearly simultaneously major regional contingencies, the DOD budget request funds only 100 bombers during fiscal year 1995, and only 80 thereafter. These funding proposals are unacceptable to achieve the goals of the Bottom-Up Review. Four recent independent studies have all found that the planned DOD force structure of 80 to 100 nonstealthy bombers with only 20 B-2's is inadequate to deal with two major regional contingencies.

It appears as if our hollow foreign policy is now going to be backed up by a hollow military capability.

Mr. President, not only would our current military capability be threatened by this year's DOD budget request, but the future capability of U.S. offensive operations will be severely damaged.

The production base for bombers in this country is rapidly disappearing. On Tuesday, March 1, 1994, the Secretary of Defense, Dr. Perry testified before the Senate Appropriations Committee and I quote:

We don't have anything in our program to sustain a bomber industrial base. This is a weakness of this program that we are presenting to you.

Dr. Perry went on to say,

The most logical way of maintaining a bomber industrial base was to continue to build more B-2s. That's not only because that is the best, most effective bomber we can describe to you right now, but because we could make a very good use of the extra B-2s if we had them.

Many in Congress remember Dr. Perry when he was the Deputy Secretary of Defense for Research and Engineering in the late 1970's.

Others remember him as being the father of stealth technology. No doubt he was largely instrumental in the development of the B-2 Stealth bomber. To be sure, Dr. Perry recognizes the value of the unique contribution the B-2 bomber makes to the defense of our country. And he has said so, time and again.

Mr. President, in his Senate confirmation hearing before the Senate Armed Services Committee, Dr. Perry also said the B-2 bomber would be his and I quote "platform of choice" for the delivery of precision conventional munitions in a regional defense strategy. He also stated that the current inventory of 20 B-2's is "too thin" to meet the regional defense mission requirements of the Defense Department.

This is why, Mr. President, preserving the B-2 industrial base is so important to our national security structure and the readiness of our Armed Forces today and in the future.

Unfortunately, Congress, as evidenced by past actions, has proven incapable of planing ahead, of keeping military capability and readiness posture during peace time at a sufficient and responsible level. After both World War II and the Korean war, U.S. Armed Forces were critically hindered in the Korean and Vietnam wars that followed, because our industrial base had not only deteriorated but was completely gone for certain weapons.

To underscore this important point, the Chairman of the Joint Chiefs of Staff, General John M. Shalikashvili, testified in February of this year—

I think all of us would have difficulty explaining how we measure the readiness of our industrial base, which is crucial to our ability to sustain ourselves in prolonged major operations. This has been a problem throughout this century; and we have been shocked time and again to discover that when we most need to mobilize, vital areas are paralyzed or have atrophied so far that we have to rebuild from a dead start.

Mr. President, it is incredible to me that the Department of Defense and this administration are willing to allow our bomber industrial base to deteriorate at the same time that they are seeking sanctions on North Korea and facing the real possibility of a future conflict on the Korean Peninsula.

Since the cold war has ended, defense spending has gone down, and it should have. However, the United States must be able to maintain readiness and offensive capability if it wants to continue to influence world affairs. In fact, it is arguable that defense spending has already been cut to a point where the ability of the United States to project credible strength is of serious concern.

Mr. President, the post-cold-war reality is such that the constraints that used to face dictatorships and aggressive nations are no longer in place. The North Koreas, the Iraqs and Irans, and the warlords and military regimes of this world, are no longer under the direct control of the Soviet Union. As a result, hotspots are emerging all over the world and the United States is going to need a far reaching, quick strike ability to respond and protect our national security interests.

The Center for Security Policy recently released a statement detailing why the B-2 bomber is essential to U.S. power projection in the post-cold-war era. The following facts, taken from this statement, in my mind, all illustrate the importance of Stealth bombers as a rapid response, low cost-of-life approach to protecting and projecting our national security interests.

First, the contraction of our forward-based defenses only increases the value of long-range manned bombers. The fact that the United States is increasingly becoming a home-based force with relatively small overseas deployments and forward bases compounds these realities.

Second, the need to minimize the number of U.S. service personnel put in harm's way in the course of such operations is growing.

Third, in the post-cold-war world, a premium will be placed on those military systems with considerable inherent flexibility and those with an ability to respond to emerging dangers quickly. It seems probable that strategic warning in the future will often be ambiguous and in any event less available than heretofore. As a result, significant U.S. power projection capability must be ready to go at a moment's notice.

Fourth, the experience of Desert Storm demonstrated the high value of precision-guided munitions and "stealthy" weapons-delivery systems. In fact, no Stealth aircraft were lost during the gulf war due to the advantages of surprise, capability, and mobility.

And last: Experience with building and maintaining the gulf war coalition suggests that effective multilateral solutions to international problems may only be available to the extent that the United States is in a position credibly to act unilaterally against threats to its interests and stability. And that coalition warfare in the future is likely to place an even greater emphasis on the United States, unique ability to contribute power projection and precision strike capabilities.

Mr. President, the B-2 bomber meets every one of these five new realities of the post-cold-war world. The B-2 has none of the shortcomings of the B-1 or B-52. It is the world's most capable bomber. It can go anywhere in the world without air support. Launching from bases within the United States, the B-2 can reach anywhere in the world.

Most importantly, it can enter enemy territory and perform its mission without the need for support aircraft. The use of stealth technology, as proven in Desert Storm, will allow the B-2 to reach the enemy's most valued targets without detection.

If America's vital interests dictate a quick and effective show of force or projection of power, the B-2 is the U.S. military's most responsive weapon system. No ship, tank, or aircraft can match the immediate projection of conventional power and presence.

Mr. President, without the $150 million to preserve a portion of the bomber industrial base for this coming year, our future ability to develop Stealth bombers may be jeopardized.

The production of Stealth bombers is an exacting task, one that requires a work force with special skills. Once skilled work forces have been dissipated, it will take many years to requalify a manufacturing capability and cost significant amounts.

This $150 million appropriation would sustain key long-lead parts suppliers, halt the dismantlement of critical tooling, preserve a production capability for spare parts within the lower-tier vendor structure, and retain critical elements of the work force supplier. If Congress were to not appropriate these funds today and then decide next year to buy additional B-2's, this year's $150 million investment will cost $600 to $800 million next year.

To conclude, Mr. President, Gen. John Loh, Commander, Air Combat Command, testified the current bomber force could not support even one major regional contingency until 1999. A Rand Corp. study supports General Loh's assessment that U.S. heavy bombers lack the size, capability, and modernization to secure U.S. interests through the year 2000. To quote General Loh:

The bomber industrial base provides the Nation with a unique capability, and I believe it should be preserved.

The general stated, and I quote again:

I believe it is unique because when you look at aircraft like the B-2 with its very large composite structures, with its materials that are used in it, the manufacturing processes, the material processes that are used to measure its radar cross section for large aircraft, that these are unique to that class of aircraft, to large bomber aircraft.

These same technologies are not resident if you were to try to use a large commercial transport technology. So I believe that the industrial base that produced the aircraft like the B-2, represents a significant national resource that will wither away over the next couple of years if it is not retained.

The B-2 can allow the United States to reduce defense spending and still project power credibly, effectively, and quickly. Let us learn from past mistakes and not vote to erode further our bomber industrial base. Let us not get caught off guard again and then be forced to spend more money than would have been necessary, if we had prudently kept the industrial base going.

Mr. President, I commend Senator NUNN for including this provision in his bill. I urge my Senate colleagues to support Senator NUNN's Defense authorization bill as provided.

Mr. DORGAN. Mr. President, I am voting today for sufficient funds to keep open for 1 year the production line for the B-2 bomber.

It is important to note these funds will not actually build any additional bombers. It will be used to build about $75 million worth of spares that will be needed for the current bomber fleet. The other $75 million will keep the production line open until the Pentagon and Congress determine whether they want to make any additional bombers.

My vote to keep the production line open is not a signal that I would vote next year to build additional bombers. That decision is one I will make after evaluating the various studies underway about the bomber force.

I have voted in the past to limit the production of B-2 bombers to 20. I have not changed my view at this point, but I am persuaded by Senator NUNN and others that this is the only chance to use the production line to produce some spares during these coming months and to keep the production line open for the potential of additional production if it is determined in the coming year that that would be a wise course.

I am willing to support retention of that potential, but I am not yet persuaded that we need to purchase additional B-2 bombers.

Mr. President, Senator CONRAD and I would like to engage in a colloquy with the distinguished chairman of the Armed Services Committee, Senator NUNN, and the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUYE, on the matter of U.S. strategic forces. We first wish to commend Chairman NUNN for his able leadership in bringing to the Senate a responsible Defense authorization bill which provides key support for B-52 bombers and Minuteman III missiles as important elements of our Nation's strategic defense.

Mr. NUNN. I thank my colleagues and would be pleased to engage in a colloquy.

Mr. INOUYE. I, too, would be happy to discuss important defense issues with my colleagues.

Mr. DORGAN. May I first ask Chairman NUNN if he shares our view that a robust and balanced strategic triad consisting of heavy bombers, intercontinental ballistic missiles, and submarine launched ballistic missiles is still needed for our national defense?

Mr. NUNN. My colleagues and I do indeed share the view that a balanced triad best serves our strategic deterrence needs. Knowing of my colleagues' particular interest in the B-52 bomber force, I would say that the B-52's still provide the most visible leg of our national resolve. They remain survivable when placed on nuclear alert status, and they afford conventional warfighting flexibility as they presently carry a wider range of conventional and nuclear munitions than any of our other bombers.

Mr. CONRAD. I am pleased to hear this. Would my colleagues from Georgia and Hawaii then agree that it is prudent to make investments in B-52 modernization?

Mr. NUNN. I would generally concur that we should provide adequate funding to modernize the capability of B-52's, particularly with conventional air-launched cruise missiles, which are also included in the committee bill.

Mr. INOUYE. I agree that the Nation needs to preserve our existing bomber force structure and intend to provide the necessary appropriations to retain the existing B-52 fleet. I will also endeavor to keep as many of those aircraft in full active status as possible. We must maintain significant numbers of B-52's if we want to maintain current capabilities and preserve our option to improve on those capabilities in a cost-effective manner over the next decade.

Mr. DORGAN. Then the chairmen share our view that the administration's budget request creates a bomber gap in our ability to respond to two major regional contingencies, as outlined in the Bottom-Up Review?

Mr. NUNN. Yes. Recognizing that there are a number of analyses still in progress, my best judgment today is that we will need to retain a heavy bomber force of some 184 aircraft, including 94 B-52's currently in the inventory, to meet these requirements.

Mr. INOUYE. I, too, believe we need to increase our bomber force beyond that recommended by the administration.

Mr. CONRAD. Would the chairmen then conclude that we need to retain at least two B-52 bases for the foreseeable future in order to support a force of this size?

Mr. NUNN. I would concur with that assessment. I would further state it is prudent defense planning not to locate all B-52 assets at a single base.

Mr. INOUYE. The Senators from North Dakota raise an excellent point. We will need two bases to house a B-52 force of the size I believe should be retained.

Mr. DORGAN. There is some concern that providing funding for procurement of additional B-52 bombers could crowd out the money for operating a robust force of B-52's.

Mr. NUNN. Let me assure my colleagues that the resources for B-52's and B-2's, respectively, help us to achieve important military objectives. The procurement of additional B-2 bombers should not be seen as competing for funding for operating, maintaining, and modernizing a substantial B-52 force.

It is important to note that the bombers do not compete, but instead complement each other in combat operations. Stealthy B-2's are needed to economically and assuredly suppress enemy air defenses so that B-52 bombers can attack targets with relatively inexpensive short-range precision munitions. There is a synergistic relationship: B-2's provide the defense suppression for subsequent strikes by B-52's without the support of tactical theater fighters or the use of expensive, standoff, precision weapons.

Mr. INOUYE. My colleague from Georgia has stated it very well. In effect, a limited number of B-2's extend the life of more numerous B-52's by first taking out hard targets and suppressing enemy air defenses. The B-2 force also saves money by reducing the numbers of standoff munitions needed in cases where the B-52 would face inordinate risks from energy attacks.

The key point is that we will increasingly depend on military forces based in the United States to defend our national interests around the world. The ability to project power globally depends to a great measure on maintaining a robust heavy bomber force of B-52's and B-2's.

May I conclude by saying that I understand that strategic forces have a strong impact on my colleagues' home State of North Dakota. However, this is much bigger than a parochial matter—this is a matter of national security. I compliment Senators CONRAD and DORGAN for their efforts on behalf of our Nation's defense.

Mr. NUNN. I, too, want to congratulate my colleagues from North Dakota for making a spirited and cogent case for the retention of a balanced triad

which includes substantial forces of both B-52 bombers and Minuteman III missiles.

Mr. DORGAN. I thank the chairmen for their remarks and for their outstanding leadership on national defense issues.

Mr. CONRAD. I greatly appreciate the insights of the distinguished chairmen and thank them for their courtesies.

AMENDMENT NO. 2143

The PRESIDING OFFICER. Under the previous order, amendment No. 2142 is laid aside and the Senate will now resume consideration of amendment No. 2143 offered by the Senator from Virginia [Mr. WARNER], regarding cost-of-living adjustments for the military. Debate is limited on this to 20 minutes, divided equally between the Senators from Virginia and West Virginia.

Who yields time?

Mr. WARNER addressed the Chair.

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

Mr. WARNER. Mr. President, the Senator from Virginia, as I understand it, has 10 minutes under his control. I see the distinguished chairman of the Appropriations Committee is here. The Senator from Virginia had an opportunity to speak last night. I will speak again this morning, but in deference to our distinguished senior colleague, I would presume he would want to go first.

Mr. President, I am mistaken.

I should then proceed with reference to the COLA amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I will take but a minute or two. I see my distinguished colleague from Ohio, Mr. GLENN, and I understand that there are other Senators who wish to speak. We are going to be very tight on the time allocation.

Mr. President, I now ask unanimous consent that Senator BURNS of Montana be added as a cosponsor of the COLA amendment.

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

Mr. WARNER. Mr. President, make no mistake the Warner-Sarbanes COLA equity amendment is about keeping promises to our servicemembers. It is not about programs, or possible precedence.

The Warner-Sarbanes amendment would authorize, subject to appropriations, for fiscal year 1995 the sum of $376 million to the Department of Defense Military Retirement Fund. It is identical to the amendment proposed by Representative MORAN which was included in the House version of the DOD authorization bill.

I emphasize, this is a 1-year fix that will allow the administration and Congress an opportunity to resolve this inequity. The Office of Management and Budget and the Budget Committee both have indicated their willingness to work to resolve this matter.

Mr. President, the Department of Defense authorization bill authorizes $263 billion, the Warner-Sarbanes COLA equity amendment authorizes $376 million, 0.14 percent of the total DOD budget. As a 16-year member of the Armed Services Committee, I am confident that there are offsets to be found in nonreadiness discretionary accounts.

Mr. President, although Chairman NUNN opposes our amendment, I note that the chairman of the Subcommittee on Force Requirements and Personnel, Senator SHELBY, supports the Warner-Sarbanes amendment. Additionally, the chairman and ranking member of the Military Readiness and Defense Infrastructure Subcommittee, Senators GLENN and MCCAIN, support the Warner-Sarbanes amendment.

Mr. President, I am sure my colleagues will agree that these key members of the Senate Armed Services Committee would not support Warner-Sarbanes if readiness was the bill payer.

In summary, everyone—DOD, OMB, the Budget Committee and the Armed Services Committee—agree that there is an inequity between military and civilian COLA's and this inequity presents a morale problem within the active duty and retired military community.

Mr. President, I urge my colleagues to fix this Defense problem with Defense funds. The Warner-Sarbanes amendment is the only Defense fix.

Mr. President, the issue here is not about programs. It is not about precedents. It is about people.

I spoke earlier today with one of the chiefs of the armed services, who last night, along with the other chiefs, signed a letter. I assume that that letter may be a salute and a march off, but it does not come from the hearts of the chiefs. They know this COLA amendment is most necessary—the sum of $376 million compared to the $263 billion-plus of the overall budget is a modest sum—and sends a very clear, loud message to all men and women wearing the uniform today; that is, it puts in question their future retirement should they elect to be career. And that is unfair.

Year after year, the military retirees are the ones who are singled out to bear the greater brunt of the cuts as we try and struggle with the deficit reduction measures.

Mr. President, at this time I yield to the Senator from Ohio.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator has 6 minutes remaining.

Mr. WARNER. I yield 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 3 minutes.

Mr. GLENN. Thank you, Mr. President. I appreciate the yielding of time from my distinguished colleague from Virginia.

As chairman of the Committee on Governmental Affairs and a member of the Senate Committee on Armed Services, I have long supported equity between the retirement systems of military and Federal civilian retirees.

However, in the process of marking up S. 2182, the Department of Defense Authorization Act, the Armed Services Committee voted to recommend that a committee amendment be offered during floor consideration of this act that would equalize COLA dates for military and civil service retirees by moving the dates for military retiree COLA's forward and the dates for civil service COLA's back in each fiscal year from 1995 through 1998.

Adoption of such a proposal, would completely rewrite last year's budget reconciliation bill by—in effect—increasing instructions to the Governmental Affairs Committee and decreasing instructions to the Senate Armed Services Committee.

Now that is unprecedented. In effect, we are robbing one retirement system to pay for another retirement system, and that is simply wrong. To propose increasing military retiree COLA's at the expense of civilian retiree COLA's—deliberately changing budget reconciliation instructions already acted on and across committee lines—is not equitable.

Last year, the Committee on Governmental Affairs, produced savings by delaying civilian retiree COLA's by 3 months. We also eliminated the lump sum retirement benefit for civilian retirees for a savings of $8.614 billion over 5 years. This lump sum benefit was a repayment of employees' own contributions to their retirement system. Our Federal civilian retirement systems are quite different from military retirement in that employees contribute a portion of their salary for their benefits. They are also different in terms of age and years of service requirements.

I am sure the argument is going to be made here that we cannot afford to do this because of our budgeting processes here, because of what money is in what funds, and we do not want to set any precedent what we put into entitlement from other funds, and so on.

I agree with that. But try to explain that to some of these retirees who have paid into the fund and are now going to be dealt with unfairly. It is just not fair to them.

I support the recommendation by Senators WARNER and SARBANES. The Federal and military communities are unanimous in their opposition to the Armed Services Committee's proposal or any alternative that would provide

COLA's to one group of retirees at the expense of another. This is why military, Federal employee, and postal associations and unions are supporting the Warner-Sarbanes amendment.

I have a "Dear Colleague" letter that Senator ROTH and I put on all the desks last night. An attachment to that is a list of some 30 or more different groups that support the Warner-Sarbanes proposal.

The Warner-Sarbanes amendment would rectify the COLA disparity between the two systems in 1995 by shifting the COLA for military retirees to April through a reduction in the nonreadiness accounts in the defense budget. This will equalize COLA treatment of both military and civilian retirees. As you may know, the Warner-Sarbanes amendment was included in the House-passed DOD reauthorization bill.

For many years, Social Security, the Civil Service, and the military retirement systems have used the same adjustments for inflation. Last year's budget reconciliation bill changed COLA's for Federal civilian retirees in one way and military in another. That is what we have been trying to avoid. Social Security was left untouched. I have consistently supported equitable COLA treatment between the three systems, and I favor raising the COLA for military retirees. However, I do not believe that the proposal being recommended by the distinguished chairman of the Armed Services Committee is the appropriate solution to COLA equity. In the interest of restoring equity and fairness, I urge the Senate to support the Warner-Sarbanes amendment.

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

Mr. WARNER. Mr. President, we must run a very tight time schedule.

I thank my distinguished colleague from Ohio.

Mr. President, how many minutes do we have remaining?

The PRESIDING OFFICER. The Senator controls 2 minutes 28 seconds.

Mr. WARNER. I wish to allow the Senator from Maryland, and the Senator from South Carolina, and indeed the Senator from Texas, to speak, and I want to allocate the time as judiciously as I can.

The Senator from Maryland is the principal cosponsor. He was here until 1 in the morning

If the Senator could take a minute.

Mr. SARBANES. Mr. President, I say to the Senator that I will try to do it in less than a minute, because we do want the benefit of the comments of our colleagues.

Mr. President, I very strongly support this amendment. We have to bring the military retirees forward to April 1.

In the total complex of the money allocated for the Defense budget, it is reasonable to do this. This is related to the Defense function. It is not outside the Defense function, because it has an important impact on the morale of people now in Defense and an important impact on people thinking about getting into Defense, if you are not going to cover the retirement situation and provide these COLA's. We have done it consistently. We should continue to do it.

I very much hope Members will vote for the amendment pending before the Senate.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Maryland. He has been along on this amendment from the very first day. I now yield to the Senator from Texas 30 seconds.

Mrs. HUTCHISON. Mr. President, I appreciate so much the senior Senator from Virginia giving me this time. I understand that it is bad precedent to use discretionary money for this kind of entitlement. But sometimes you have to go outside the boundaries of what is absolutely rational and say we have to be fair. We must be fair. Our military retirees have put their lives on the line. We cannot let them down.

The PRESIDING OFFICER. The 30 seconds of the Senator has expired.

Mr. WARNER. I yield the remainder of my time to the distinguished ranking member of the Armed Services Committee, the Senator from South Carolina.

Mr. THURMOND. Mr. President. The amendment Senator WARNER and I offer is a reasonable method to correct an inequity in the effective dates of the annual cost-of-living adjustments between Federal civilian retirees and military retirees.

As a general rule, I do not support pay raises or COLA's for anyone until the budget is balanced. As long as we are faced with a large budget deficit, I do not think anyone should expect a pay raise. However, I do not want the military to be forced to carry the burden alone. As long as others are receiving annual increases, we must give the military similar increases.

Last year, when we had to determine how to adjust the cost of living allowances for military retirees as part of the budget reconciliation, we talked about the inequity between COLA adjustment for civilians and military retirees. When the budget reconciliation got to the floor we were not able to correct the difference between the civilian and military retirement adjustment dates.

This year, both military and civilian retirees received their annual cost of living adjustments on April 1. Unless we act, next year civilian retirees will receive a COLA adjustment on April 1, and military retirees will not receive their increase until October 1. Not only will we have let the military retirees down, but we will not have been fair to them. The House has addressed this matter in their bill in the same manner we advocate here.

I know some Members may not endorse the concept of paying an entitlement from discretionary funds, but that is the only source available to this committee. We will not have a budget reconciliation this year, so we have no other option within the jurisdiction of the Armed Services Committee. The initiative only addresses one year. Perhaps, next year, we can find a solution in a budget reconciliation act, if one is necessary. Until that opportunity presents itself, I support keeping the military retirement COLA adjustments equitable with civilians.

I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

THE MANDATORY MONSTER

Mr. BYRD. Mr. President, last year, in reconciliation instructions from the Budget Committee, the Armed Services Committee was directed to save $2.4 billion in mandatory spending over the 5 years, from fiscal year 1994 to 1998. The Budget Committee assumed that the Armed Services Committee could reduce cost-of-living adjustments for retirees under 62 to achieve these savings. The Armed Services Committee rejected this approach and instead recommended delaying COLA's for all military retirees. Ultimately the Congress agreed to the recommendation of the Armed Services Committee. Under the provisions of the 1993 Omnibus Budget Reconciliation Act, the COLA which would have been paid to military retirees on January 1 will be delayed until October 1. The savings from this delay amount to $376 million in budget authority and outlays during fiscal year 1995.

The amendment offered by the distinguished Senator from Virginia [Mr. WARNER] and the distinguished Senator from Maryland [Mr. SARBANES] seeks to undo this reconciliation provision. The proponents no longer believe it is right to delay cost-of-living adjustments for military retirees. I agree with the proponents. I do not want to delay retiree benefits, but how do they propose we pay for not doing so? The amendment leaves it up to the Appropriations Committee, which I chair, to decide whether and how the increased benefit should be funded. The proponents would have the Department of Defense Appropriations Bill cut other programs to pay for the increased benefit, but they do not say which programs. Let us be clear about this point, the proponents want to cut defense—a move most military retirees would oppose.

Let me say that again. The proponents want to cut defense, a move

that most military retirees would oppose if they understood what is going on here.

And most Senators are not listening when we come in here at night and debate a matter—I was supposed to start my part in the debate last night at 10:30 or 11 o'clock. Does that make sense? Who is listening at 10:30 or 11, other than perhaps somebody on the west coast and they have had their attention drawn to other matters in recent days. And then I was told: You can wait until tomorrow morning. You will have 10 minutes.

It reminds me of the days when I was in the House of Representatives. On one occasion, I was promised 10 minutes by the manager of a bill but by the time it came to my turn, I had 30 seconds left. Well, nobody is listening. But at least, for the RECORD, the proponents would have the Department of Defense appropriations bill cut other programs to pay for the increased benefit. But they do not say which program. They want to cut defense, a move that most military retirees would oppose, to pay for military COLA's.

It is hard for me to believe this can be right. How many times have we been told that we cannot cut defense any further? How many times, my friends, the proponents of this amendment—how many times have they said you cannot cut defense further? How many times have we heard the same colleagues decry the growth in entitlement spending? Here we are, with discretionary spending, which includes nondefense and defense, over the next 5 years we are going to operate under a freeze. We are going to be operating virtually under a freeze with an increase of only $6 billion in discretionary spending over the period, whereas mandatory spending will increase over that same period by $824 billion.

Yet, the proponents of this amendment are saying do not take it out of mandatory. That will only be growing $824 billion over the next 5 years. Take it out of discretionary, which includes defense. That is operating under a freeze.

It does not make sense. We do not have the money. Whatever cuts are made will be painful. The committee could choose to recommend additional military personnel cuts to fund the increase—a reduction of this magnitude, namely $376 million, would require releasing another 21,000 military from the force next year.

The proponents write, in their letter, that they would not take the cuts out of "readiness" funds. They do not say where the money should come from. Or which programs should be out. That decision is to be made by the Appropriations Committee. They do not say. They say it will not be taken out of "readiness" accounts. The amendment does not say that. It reminds me of the messenger's words in Shakespeare's King Henry VI:

One would have lingering wars with little cost;
Another would fly swift, but wanteth wings;
A third thinks, without expense at all,
By guileful fair words peace may be obtain'd.

Mr. President, the committee might choose to eliminate funding for the CVN–76 aircraft carrier. This would save $2.4 billion in budget authority, but would only save $168 million in outlays. This is less than one-half of the outlays required to pay for the military retirement COLA increase. The Department of Defense Appropriation Bill would have to cut not only the carrier, but two of the three Navy DDG–51 class destroyers as well, in order to generate $376 million in outlay savings.

The 1990 Budget Enforcement Act gave us a tool to control entitlements called PAYGO. That legislation said entitlement increases could only be funded if offsets were found in other mandatory spending, or if revenues were increased. This amendment seeks to circumvent the only tool we have to control entitlements. I must say to my colleagues that I am all for supporting military retirees COLA's, but this is not the right way to do it. This is a slippery slope, and if we choose to go down this path, we are letting entitlement spending off the hook. We will have emasculated the provisions of PAYGO and we will be putting deficit reduction at risk.

The amendment by the Senators from Virginia and Maryland is a well-meaning amendment and it is a seductive amendment. It promises only fairness to our well-deserving military retirees, by eliminating "disparity between effective dates for military and civilian retiree cost-of-living adjustments for 1995." Who can fault the logic? I cannot. Are civilian retirees somehow more deserving of an earlier increase in their retirement pay due to cost-of-living expenses than military retirees? Of course not. But like many well-meaning, logical, seductive proposals that come before this body, here is one with pernicious—pernicious results.

The sponsors of the amendment, the distinguished Senators from Virginia and Maryland, are attempting to force the use of discretionary funds, which are under the jurisdiction of the Appropriations Committee and which are extremely constrained, to pay for a roll back in the 1995 delay in military COLAs from October 1, to April 1.

But that is not the only problem with this amendment. It is not just that our discretionary budget has been bled white, while the march of the full range of our nation's entitlement programs is climbing steeply into the stratosphere over the next five years. It is not just that $376 million will be stripped from the discretionary budget to pay for the amendment. It is the precedent that this amendment sets by changing mandatory requirements into discretionary responsibilities and encouraging Senators to attempt to authorize further new entitlement programs in the same manner in other authorization bills. The technique is simple—authorize a new entitlement program in an authorization bill, subject to appropriations. This is a blatant circumvention of the Budget Enforcement Act restriction on legislating new or increased entitlements without providing offsets to cover the costs. It is a blatant attempt to ease the restrictions agreed upon in last year's reconciliation act.

Furthermore, are my colleagues aware that this amendment is good for only one year, and that the COLA inequity which it attempts to address continues through 1998; three additional years? If this precedent is allowed to stand, and the COLA adjustments such as the one proposed by the sponsors of this amendment are made again in the three additional out-years and paid for out of our discretionary accounts, they will total $2.4 billion. This is nearly half the growth for all discretionary spending, defense and non-defense, over the next five years. This seems foolish on its face, Mr. President.

I must repeat that I am all for supporting military retiree COLA's, but this is not the way to do it. This is a bad deal for the retirees and for the budget and we would be well advised to find another way.

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

Mr. BYRD. Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from the Joint Chiefs of Staff in opposition to this amendment. The letter is signed by the Chairman of the Joint Chiefs and Vice Chairman and General Gordon R. Sullivan, Admiral Jeremy M. Boorda, General Merrill A. McPeak, and General C.E. Mundy, Jr., all opposed to this amendment.

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

THE JOINT CHIEFS OF STAFF,
Washington, DC.

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

DEAR MR. CHAIRMAN: We are writing in regard to the proposed Cost of Living amendment to the Defense Authorization Bill. The inequality between military and civilian cost of living adjustments (COLA) presents a moral problem within the active duty and retired military populations. We urge reconsideration of this imbalance.

However, in seeking this correction we are also concerned about the loss of readiness attendant with a cut in O&M funds. Reductions

in this account would have significant impact. We urge resolution of the COLA inequity which is not at the expense of the President's proposed defense programs.

Sincerely,

John M. Shalikashvili Chairman of the Joint Chiefs of Staff; Gordon R. Sullivan, General, USA; Chief of Staff, U.S. Army; Merrill A. McPeak General, USAF Chief of Staff, U.S. Air Force; W.A. Owens, Vice Chairman of the Joint Chiefs of Staff; Jeremy M. Boorda Admiral, USN Chief of Naval Operations; C.E. Mundy, Jr., General, USMC, Commandant of the Marine Corps.

Mr. BYRD. I also ask unanimous consent that there be printed in the RECORD a letter from Leon Panetta, former Director of the Office of Management and Budget, addressed to Mr. NUNN, dated June 29, in opposition to the amendment.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, June 29, 1994.

Hon. SAM NUNN,

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

DEAR MR. CHAIRMAN: As you know, the defense authorization bill passed by the House on June 9 contained a provision that would adjust the affective date for cost-of-living adjustments (COLAs) for military retirees to the same date as for civilian retirees. We understand that your committee considered this issue during your markup of the authorization bill, and that Senator Warner intends to offer a similar amendment on the floor of the Senate during consideration of your bill. I am writing to let you know that the Administration does not support the Warner amendment.

We fully recognize the inequity—created by congressional action last year—of the current situation where cost-of-living adjustments for military retirees lag similar adjustments for civilian employees. The Warner amendment is unacceptable, however, for two reasons. First, the amendment would create a loophole in the basic process insuring discipline in reducing deficits. Current budget guidelines require increases in so-called mandatory spending to be offset by cuts in comparable mandatory accounts. The Warner amendment would create a dangerous precedent by financing increases in entitlements through cuts in discretionary programs. In effect, the Warner amendment undermines the basic "pay as you go" precept for mandatory spending. If enacted, this amendment would open wide the defense budget and other discretionary funds to finance politically-popular entitlement programs.

Second, as you know well, the President has insisted that the defense budget not be out further. The Warner amendment, no matter how well intentioned would reduce resources currently budgeted for high priority defense programs. Moreover, since the Warner amendment would involve $375 million in outlays, this would necessitate offsetting cuts of $500 million in readiness-related O&M funding, or as much as $2 billion in procurement if readiness funding is to be insulated from the effects of the amendment. The President cannot support cuts in his defense program of that magnitude, no matter how deserving the cause.

For these two reasons, I request your support in defeating the Warner amendment.

Sincerely,

LEON PANETTA,
Director.

Mr. NUNN. Mr. President, I am concerned that the Senate may be inclined to adopt the Warner amendment without thinking through the consequences of such an action. I would like to pose a few questions to the distinguished chairman of the Appropriations Committee, who is unmatched in his knowledge of the rules of the Senate and his concern for the integrity of those rules and the integrity of the Senate.

I have been advised that the House Budget Committee has determined that there is no Budget Act point of order against the Warner amendment, which was included in the House bill, and that the Senate Budget Committee has come to the same conclusion. I have also been informed that the Congressional Budget Office shares this view. Is that the Senator's understanding?

Mr. BYRD. Mr. President, the Senator is correct in his understanding about the amendment included in H.R. 4301, the House-passed Defense authorization bill. Both the House Budget Committee and the Congressional Budget Office examined the amendment, and the House Budget Committee determined that there would be no Budget Act point of order in the House. The chairman of the Senate Budget Committee has not officially stated his committee's position on the amendment and the Senate has not yet acted on the amendment. However, it does not appear that a point of order under the Congressional Budget Act of 1974 would lie against the amendment in the Senate.

The amendment of the Senator would leave it up to the discretion of the appropriations process whether a cost of living adjustment or COLA would be paid to military retirees 6 months earlier than mandated under current law. Because the amendment itself does not actually increase the entitlement, it would circumvent the pay-as-you-go requirement on mandatory spending included in the 1990 Budget Enforcement Act.

Mr. NUNN. Of course one reason there is no point of order against the Warner amendment is that there is no COLA in the Warner amendment. This amendment, and the identical provision in the House bill, promises a COLA but does not provide one. It says there will be a COLA in April instead of October if the Appropriations Committee can find the money.

But I also understand that if the DOD appropriations bill actually followed through on the actions contemplated by this amendment, that there would also be no point of order against that appropriations measure with regard to this particular provision. In other words, it is not merely the first stage of the process that has no point of order; the whole process would escape a point of order. Does the Senator from West Virginia share that understanding also?

Mr. BYRD. The Appropriations Committee would be well within the rules to appropriate funds to pay the increased COLA. If the authorization bill passes the Senate with such an amendment, there would be no point of order under the Budget Act against a DOD appropriation bill that funds such a COLA adjustment, as long as the bill is otherwise within its 602(b) allocation.

Mr. NUNN. Since the Warner amendment does not actually commit the Government to paying an earlier COLA, maybe some people feel it is no different than fully funding Head Start in an authorizing bill, knowing the money is not really there to back it up.

Does the chairman of the Appropriations Committee believe this amendment is simply a harmless expression of support for military retirees?

Mr. BYRD. No, I do not. In fact, I want to make clear to the chairman of the Armed Services Committee that this is not the same as authorizing funds for a discretionary program and leaving it up to the discretion of the appropriations process to determine whether the funding level for the program should be approved. This amendment authorizes what has up to this point been an entitlement program, one that must be paid, but now it would be left up to the Appropriations Committee to determine whether the enhanced benefit should be paid.

I think all Senators should be aware that if this amendment is adopted, it means other Defense programs will have to go unfunded or be cut to pay for this increase. More important, if the Senate adopts this approach, this will only be the beginning.

Mr. NUNN. The Senator has touched on the crucial issue here. It is my understanding that because there is no point of order against this amendment, it is basically possible to use this procedure to get around the pay-as-you-go process and fund any entitlement, under the discretionary caps, not as a mandatory program, but by cutting discretionary spending.

For example, you could offer amendments to fund the first year of a new health care entitlement by cutting the space station. Or the next time a President refuses to extend unemployment benefits without a mandatory offset, you could go find a discretionary offset instead, maybe by claiming the savings from cutting still more Federal employees.

I ask the Senator from West Virginia, does he agree that this principle goes much farther than whether you ought to be able to cut the Defense

budget to fund one particular entitlement program that has some relationship to defense. Does not this procedure put any discretionary program at risk from any mandatory program?

Mr. BYRD. The Senator is correct. If this approach is supported by the Senate, then other entitlements could also be made subject to appropriations. This opens the door for any entitlement program to be made discretionary and to be allowed to compete with other discretionary programs within the ceiling on discretionary funds. I should say to those on the other side of this issue, who are concerned about cuts in defense, that this approach is a guarantee that there will be additional cuts in defense, a guarantee.

Mr. NUNN. It seems to me that the procedures of the Warner amendment could get us into trouble, and increase voter cynicism, by making it easy to promise what you may not be able to deliver.

For example, under this procedure you can, as the House bill does, promise a group something—in this case, COLA equity. You may not have actually found the cuts to pay for it, as is the case with the Warner amendment. But you can put this type of language in an authorizing bill, promising benefits you may not have the money to pay for, and get the word out to your group that you have a way to take care of them, and get their hopes up and get them to call and write in support of your language.

But you are really leaving it up to someone else to pay for it. And if the Appropriations Committee cannot find the money, then all those people who had their hopes up will blame the Appropriations Committee for not funding entitlement benefits that are not their responsibility to fund in the first place.

I ask the chairman of the Appropriations Committee if he is concerned about that prospect.

Mr. BYRD. I share the Senator's concern. Congress is criticized, dare I say vilified in the daily press, for failing to make tough spending choices. While I disagree with the accusations in the media, I agree that adoption of this amendment is the "business as usual" approach for which the Congress is so often attacked. The amendment would promise to pay a benefit, but fail to allocate funds for that purpose. It leaves it up to somebody else; namely, the Appropriations Committee, to do the dirty work of making other cuts to fund this increase.

Mr. NUNN. I would also like to ask the Senator from West Virginia if he shares my concern that this procedure could end up haunting us by allowing people to get their foot in the door on all sorts of mandatory benefits by using floor amendments to appropriations bills to fund these new benefits, for example, more generous prescription drug coverage. These new benefits could be funded just for 1 year, like the COLA is in the Warner amendment.

We all know what would happen. A program that is in reality an entitlement would be started up for 1 year as a discretionary program. Once the program is in place, people will still feel entitled to this new benefit—what do they care whether we call it discretionary or mandatory? So you will be able to start up a new entitlement program on an appropriations bill. But unlike the pay as you go process, you will not need 5 years' worth of offsets. You will only need to offset the first year of your temporary entitlement.

But the pressure will be on all of us to keep funding this new program. I ask the Senator from West Virginia, can he envision all the requests he will be getting to find the money to keep funding new discretionary entitlement programs, in addition to all the requests he already gets to fund the current discretionary programs?

Mr. BYRD. I fear that the Senator is absolutely correct. A new benefit program would be authorized as a discretionary program and the pressure could build for the Congress to cut other worthwhile programs to cover the new benefit.

The Senator well knows that the Appropriations Committee gets literally thousands of requests every year for discretionary funds. Many if not most of the requests the committee receives are for increases above the current level. The Senator is also aware that the amounts allocated in the 5-year spending plan have already put the squeeze on discretionary spending. As the Senator may recall, mandatory programs under the fiscal year 1995 budget resolution are projected to grow by a total of $824 billion over the 1994–99 period. During this period, the cumulative increase just for military and civilian retirement programs will be $47 billion of that amount. During that same period, the budget resolution permits a scant $6 billion cumulative increase in all discretionary outlays. That means the Congress will not have even enough money to continue to operate the Government at its current level during the next 5 years.

It is already very challenging for the committee to meet the needs of the country, to make the necessary investment in our children and our country's infrastructure. If the Congress is to redesignate entitlements as discretionary programs this could cripple the Appropriations Committee's ability to fund the needed discretionary programs.

Mr. NUNN. Finally, I am concerned that starting a new budget procedure that allows direct spending programs currently under the jurisdiction of authorizing committees to be funded in appropriations bills could harm both the authorizing committees and the Appropriations Committee.

I would be interested to hear the observations of the Senator from West Virginia on this point.

Mr. BYRD. The chairman of the Armed Services Committee makes a very good point. The authorizing committees should not look at this approach as a panacea for its budgetary troubles, because it will radically alter the status quo on entitlements. If the Appropriations Committee is called upon to determine which entitlements are ultimately funded, the authorizing committee can be sure that it will be the priorities of the members of the Appropriations Committee that have precedence, and not those of the authorizing committees.

The Senator from Virginia [Mr. WARNER] has 11 seconds.

Mr. WARNER. Mr. President, in that brief 11 seconds, this message. There are three categories of individuals primarily that receive COLA treatment from the Federal system.

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

Mr. WARNER. Civil service was not cut. Civilians got 9 months, military 3 months. That is not equitable. This amendment is for 1 year to correct that out, and it is the responsibility of the Congress.

I ask unanimous consent to put in the RECORD a list of those organizations which oppose the amendment by the distinguished chairman.

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

FEDERAL CIVILIAN AND MILITARY ORGANIZATIONS THAT OPPOSE THE NUNN COLA EQUITY SUBSTITUTE TO THE DEFENSE AUTHORIZATION BILL

The Retired Officers Association.
Non Commissioned Officers Association.
Air Force Sergeants Association.
National Association for Uniformed Services.
The Retired Enlisted Association.
Enlisted Association of the National Guard Association of the U.S.
Marine Corps Reserve Officers Association.
National Military Family Association.
Commissioned Officers Association.
Marine Corps League.
CWO and WO Association, U.S. Coast Guard.
Jewish War Veterans of the U.S.
United Armed Forces Association.
Naval Enlisted Reserve Association.
Navy League of the U.S.
The Military Chaplains Association.
U.S. Army Warrant Officers Association.
U.S. Coast Guard CPO Association.
National Guard Association of the U.S.
Naval Reserve Association.
Reserve Officers Association.
Air Force Association.
Association of Military Surgeons.
Fleet Reserve Association.
Association of the U.S. Army.
American Federation of Government Employees.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Foreign Service Association.
American Psychiatric Association.
American Postal Workers Union.

Federally Employed Women.
Federal Managers Association.
Fund for Assuring an Independent Retirement.
Graphic Communications International Union.
International Association of Fire Fighters.
International Federation of Professional and Technical Engineers.
International Union of Operating Engineers.
Laborers' International Union of North America.
Military Sea Transport Union.
National Association of Air Traffic Specialists.
National Association of ASCS County Office Employees.
National Association of Federal Veterinarians.
National Association of Government Employees.
National Labor Relations Board Union.
National League of Postmasters of the United States.
National Postal Mail Handlers Union.
National Association of Letter Carriers.
National Association of Postal Supervisors.
National Association of Postmasters of the United States.
National Association of Retired Federal Employees.
National Federation of Federal Employees.
National Rural Letter Carriers Association.
National Treasury Employees Union.
Organization of Professional Employees of the Department of Agriculture.
Overseas Education Association.
Patent Office Professional Association.
Public Employee Department AFL–CIO.
Senior Executives Association.
Service Employees International Union.

Mr. MACK. Mr. President, my vote on the Warner amendment was about simple fairness. America's military retirees must never be treated as second-class citizens. Rather than holding back military retirees' COLA's for 6 months after civilian retirees have received theirs, Senator WARNER's amendment treats everybody equally.

By the same token, it hardly makes sense to penalize civilian Federal retirees for our desire to treat military retirees equitably. Thus, the Warner amendment was the best, and fairest, solution to this problem.

I remain concerned about funding this COLA advancement out of DOD's operations and maintenance funds. Unfortunately, O&M has become the traditional source for funding new programs and initiatives, even though deep O&M cuts, especially in this time of huge and ill-conceived slashes to the overall Defense budget, can directly impact the readiness of out fighting forces. I sincerely hope another source can be found in conference.

Mr. PRYOR. Mr. President, I rise to support the amendment offered by the Senator from Virginia [Mr. WARNER] and the Senator from Maryland [Mr. SARBANES]. As chairman of the Subcommittee on Federal Services, Post Office and Civil Service, I must oppose any attempt to unfairly place the burden of equalizing the military retiree COLA's on the backs of Federal retirees. At the same time, I have a strong desire to see that justice is done to our Nation's military retirees.

Mr. President, I have received countless letters and phone calls from my constituents, as well as Federal and military retiree groups. Both groups feel that military retirees have been treated unfairly and that something must be done to bring military retiree COLA's in line with Federal retirees.

Mr. President, the Warner-Sarbanes amendment accomplishes just that. The Warner-Sarbanes amendment attains equity between the two COLA's by taking discretionary funds from the Department of Defense and transferring them to entitlement accounts. Although this may not be a perfect solution, it is the best that presents itself today. I am also happy that Senators WARNER and SARBANES are looking forward and trying to solve this problem in the long term. I look forward to working with my colleagues in this effort and I urge my colleagues to support this amendment.

Ms. MIKULSKI. Mr. President, I am here today to voice my strong support for restoring equal and fair treatment to military and civilian retirees. I rise in support of the Warner-Sarbanes amendment, which will correct the inequity between civilian and military retiree cost-of-living adjustments.

As a result of last year's budget reconciliation law, retiree COLA's have been delayed from January 1 to April 1. But starting next year, military retiree COLA's will be further delayed until October 1. This added delay of military COLA's is divisive and unfair to those who have loyally served our country. We have an opportunity today to fix this inequity; to right this wrong, through the Warner-Sarbanes COLA equity amendment.

The amendment will shift the cost-of-living adjustment for military retirees from October 1 to April 1, bringing it in line with the civilian retiree cost-of-living adjustment. It will restore equal treatment to military and civilian retirees, without robbing one group to pay the other.

By contrast, the other COLA amendment would steal from the pockets of Federal retirees in order to fill the pockets of military retirees. It would set the COLA date at July 1, partially restoring the military retiree COLA but further delaying the civilian COLA. I do not believe this to be equity. Rather, the Nunn amendment would create divisiveness, pitting retirees in competition with each other for their benefits.

Mr. President, I respect and greatly admire those that have dedicated their lives and careers to serving our great country. Retirees who have served their fellow Americans on the battlefield and in our communities through public service all deserve the benefits they have been promised. I believe that all of these men and women should be rewarded fairly and equally. It is not fair or right to punish service to one's country. Nor is it right to reward one type of service at the expense of another.

Mr. President, the Warner-Sarbanes amendment restores equal COLA treatment to all these dedicated retirees. It is not a matter of taking from one group to give to another. It is a matter of simple fairness and equality. That is why I cosponsored the Warner-Sarbanes COLA equity legislation, and why I urge my colleagues to join me in supporting the COLA equity amendment right now.

Mr. MOYNIHAN. Mr. President, I unequivocally support regular cost-of-living adjustments, or COLA's, to Federal retirees and I oppose efforts to delay, cut, or eliminate them. Those who have worked hard in service to our country deserve to receive full COLA's. Therefore, the amendment offered by Senators WARNER and SARBANES is appealing. Nonetheless, I feel that providing COLA's is an issue which deserves a more permanent solution. I applaud the Senators who have offered this proposal to address the situation, however, I agree with the president pro tempore that funding such programs using discretionary funds is an unfortunate precedent. Fully funding COLA's is important and we should be able to solve these funding issues up front and in a proper manner, without having to search for stopgap measures each year.

Mr. BROWN. Mr. President, I am pleased to be a cosponsor of the Warner amendment to end the current disparity in cost-of-living adjustment payment dates for military and civil service retirees.

Since 1969, military and civil service retirees have been treated the same, receiving COLA's of identical percentages on identical dates. However, as the result of legislation passed last year, which I opposed, starting in 1995 military retirees will be required to wait longer for their annual COLA adjustment.

Under current law, civil service retirees' COLA's will be adjusted April 1, 1995, while military retirees will have to wait until the following October 1 for theirs.

Unequal treatment of military and civilian retiree COLA's is unfair and sends the wrong message to members of our Armed Forces. Restoring equality is fair and helps ensure that good people will stay in the service.

The Warner amendment restores COLA equity between the two groups by moving military retirees' 1995 COLA adjustment date from October 1 to April 1, the same as civil service retirees.

The Warner amendment also requires, in effect, that its $376 million

cost for 1995 be paid for by making reductions elsewhere in the $270 billion defense budget. This ensures there will be no overall increase in Federal spending or the budget deficit as a result of the amendment.

Enactment of the Warner amendment will take care of the COLA disparity for 1995. However, because of the parameters of the DOD bill, the amendment cannot address the unequal treatment military retirees' COLA's also will receive in 1996–1998 under existing law. As a cosponsor of the original Warner bill, S. 1805, which would end the COLA disparity for all these years, I will work through the budget process next year to address the remaining years.

The PRESIDING OFFICER. All time having expired, the Republican leader is recognized for 5 minutes.

AMENDMENT NO. 1851

Mr. DOLE. Mr. President, I know that a number of my colleagues want to start voting right at 10:30 or shortly thereafter because of other obligations so I will try to condense my statement.

Since last January, the Senate and the House have voted on several amendments or bills which urged or required the President to unilaterally lift the arms embargo on Bosnia and Herzegovina. Since then the administration has neither moved to unilaterally lift the embargo, nor pushed our allies or the U.N. Security Council to move to lift the embargo. Even though that was a pledge that we had last time we had the vote: Oh, we are going to get the United Nations to do something. Nothing has happened.

In fact, since January the administration has moved further from the views of the Congress and closer to the position of some of our NATO allies, namely, the British and French, and now supports the ethnic partition of Bosnia. Under the so-called contact group proposal—and I have a map of that right here. Imagine sending American troops over. This is going to be Bosnia, according to the contact group, the blue part. I guess they are going to have little roads into those areas. Do you want to send 40,000 Americans over there, a few thousand there, a few thousand here, a few thousand here, a few thousand here, a few thousand here? That is the contact group proposal. Bosnia would be left with 51 percent and 49 percent would be awarded to the aggressor Serbs, that is, if they withdraw from the 70 percent of Bosnia they now occupy. And that is a big if.

I want to draw attention, as I said, to the map here. It was published earlier this week by the New York Times and shows basically what the deal would be like. The Bosnian Government would get 51 percent of Bosnia in several pieces—as I pointed out 1, 2, 3, 4, 5 pieces. Presumably, these pieces would be joined by a road or air corridor here or there. As everyone can see by this map, Bosnia would become an island nation surrounded by Serbian-controlled land. And to enforce this partition settlement, the administration is going to ask the Congress to send as many as 25,000 troops because this plan cannot be implemented without United States ground troops.

Mr. President, this map alone reveals why the contact group proposal is unworkable, unjust, and impermanent. It is a proposed settlement the Nunn-Warner amendment endorses.

I cannot believe we would endorse a settlement like this, but that is precisely what the Nunn-Warner amendment does.

Now, the Nunn-Warner amendment was modified last night to include vague language calling on the President to propose or support a U.N. Security Council resolution terminating the arms embargo if—another big if—the Serbs do not "respond constructively." I do not know what "respond constructively" means, Mr. President, but I do know that last year when the Bosnians signed the Vance/Owen peace plan and the Serbs did not, the United States did not go to the United Nation Security Council to seek a lifting of the arms embargo. In fact, since the Clinton administration took office, it has not proposed a resolution in the Security Council to lift the arms embargo on Bosnia. Even though they talk about doing that—if you just vote one more time, we will go to the U.N. and ask them to lift the arms embargo—they have not done it in the past nor are they going to do it in the future.

So let us be clear. Unlike the last time, this debate is not about the unilateral versus the multilateral lifting of the arms embargo. The administration does not even support the multilateral lifting of the arms embargo anymore. This time the debate is about whether to support Bosnia's right to self-defense or to support the ethnic partition of Bosnia and the deployment of United States troops to enforce it.

So it seems to me we are not trying to tell our allies what to do. I think the real question is how dare we tell the Bosnians what to do. They are people, too, and they are doing all the suffering in Bosnia. If you have been there, you have seen it. The Bosnians not only have the most troops on the ground but they also have women and children who are being killed because their forces do not have sufficient weapons.

The Washington Post reported yesterday that Vice President GORE scolded the visiting Bosnian vice president for his efforts to lobby United States Congress to lift the United States arms embargo on Bosnia. Did Vice President GORE also complain to the British, the French, Danish and Spanish for sending representatives to tesify before the Senate Armed Services Committee against lifting the arms embargo? Are we to assume now that the Europeans, the United Nations and the United States have the right to tell the Bosnians what to do? We are not trying to tell anybody what to do. We appreciate our allies, the British, the French. We also appreciate the Bosnians, and they are the ones who are suffering every day and every day and every day.

We are not dying, so we can all stand here and say, oh, well, we do not want to do this. We do not want to upset our allies. They are not dying. We are not dying. The Bosnians are dying. And while we regret the soldiers serving in the U.N. protection forces have been killed, they always have the option of leaving. The Bosnians do not—Bosnia and Herzegovina is their country.

Yesterday, I received a letter from Lady Thatcher. She begins,

> I am writing these lines to say how strongly I support the proposal that the United States should lift its embargo against Bosnia.

She concludes by saying that,

> As on so many occasions, it falls to the United States to give the leadership required to uphold that fundamental right which precedes the U.N. Charter—the right to self-defense.

I ask unanimous consent that the entire letter be printed in the RECORD.

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

MARGARET, THE LADY THATCHER,
HOUSE OF LORDS,.
London, 29th June 1994.

DEAR SENATOR DOLE: I am writing these lines to say how strongly I support the proposal that the United States should lift its arms embargo against Bosnia.

Right from the beginning of Serbia's war of aggression—first against Solvenia, then Croatia and now Bosnia—the embargo has worked in the interests of the aggressor. It has thus prolonged the war. The Serbs inherited the great majority of the armaments of the old Jugoslav National Army, one of the most powerful in Europe. The victims, by contrast, were deprived of the means to defend themselves. There will be no end to war in Bosnia until the aggressor is convinced that the balance of advantage has swung against him. With the Washington Agreement between the Bosnians and the Croats some of the conditions for that have been created. One thing more, however, is needed: the arms embargo against Bosnia must be lifted.

There is no moral or practical justification for the UN embargo. Even its legality is questionable. As on so many occasions, it falls to the United States to give the leadership required to uphold that fundamental right which precedes the U.N. Charter—the right to self-defense.

Kind regards.

Yours sincerely,

MARGARET THATCHER.

Mr. DOLE. As Prime Minister, Margaret Thatcher was a true leader and a staunch supporter of NATO. She is right. This debate is about leadership—American leadership to support the very principles and values we hold so dear.

The bottom line is that the arms embargo is immoral and illegal. And so, our choice is clear: support the Bosnians' fundamental right to self-defense and lift the embargo—or support sending thousands of United States troops to partition Bosnia. History will judge our actions here today.

Mr. President, I placed the Thatcher letter on every desk, along with a letter from George Schultz, former Secretary of State, who also supports lifting the arms embargo. I hope these letters will be carefully read by my colleagues.

The PRESIDING OFFICER. The minority leader's 5 minutes have expired.

Mr. DOLE. I thank the Chair.

The PRESIDING OFFICER. The majority leader is recognized for 5 minutes.

Mr. MITCHELL. Mr. President, there are many ironies in the debate now underway. A little more than a month ago the Senate debated and voted on this very subject. One may ask, why are we debating it again so soon? Does it have anything to do with the events in Bosnia and the former Yugoslavia themselves? The answer is no. The Defense Department bill happens to be on the floor of the Senate and so because of that event, completely unrelated to the realities on the ground where the fighting has and is occurring, we are debating this amendment—the same debate we had a month ago, the same vote we had a month ago. That is not the way to make policy.

Second, I wish to read to my colleagues from a copy of an analysis of the effect of the unilateral lifting of the arms embargo by the United States by the American Ambassador to NATO, the person who is most responsible for our dealing with our NATO allies.

Support for NATO is broad and deep in the Senate. Many of those who are for this amendment say they are for NATO but in fact support for this amendment will seriously undermine our relationship with our NATO allies.

Second, we focus a lot of attention here on foreign policy—Bosnia, Haiti, and other places. The most important relationships are between the United States, its principal allies in Western Europe, and Asia, and with Russia. This will seriously undermine our relations with Russia. Third, if we now unilaterally lift this arms embargo, we give a green light to all of those who want to get out of the sanctions against Iraq. And the Turks have made it clear they will do so, the sanctions against Libya, the sanctions against Cuba, the sanctions against Haiti and possibly the sanctions, if needed, against North Korea. The very people voting for this amendment who want to unilaterally lift sanctions in Bosnia would be against others doing the same thing with other sanctions. But in this case, we cannot say one thing and do another. Other people will watch what we do, and follow.

The American Ambassador to NATO said that, if this resolution passes, there would be an immediate and severe increase in tensions with our NATO allies now contributing troops in Bosnia. The chances of effective cooperation with the United Kingdom, France, and Russia in pursuit of a peaceful settlement will be reduced dramatically. There will be a severe blow to U.S. leadership in NATO. Our ability to exercise effective leadership in NATO and former Yugoslavia would vanish. We could not assure agreement to provide air support for the Bosnians if the Serbs launch a major offensive.

Let this be a marker. If this resolution passes and the embargo is lifted, the war will inevitably widen. There will be many more deaths, much more ethnic cleansing, and then it will be an American war and we will be back here with requests to send Americans over there to do something about it. That is something we have been completely unwilling to do.

Here we are in the U.S. Senate with some Members of this Senate making statements that are insulting and demeaning to our NATO allies when, in fact, it is they who are shouldering the burden in the former Yugoslavia. Right at this moment, there are nearly 15,000 of our allies' troops in that region, and nearly 10,000 British and French alone. They have suffered nearly 1,000 wounded, and 50 killed. There are no Americans. Yet, here we are preaching to them telling them how wrong and weak-kneed they are when in fact they are willing to do that which we have been unwilling to do. There is not a single Member of this Senate who would vote to send a single American combat ground troop to former Bosnia; not one, including those who will vote for this resolution, who will make tougher and brave-sounding speeches, and insult the very people who have their men and women on the line.

The PRESIDING OFFICER. The majority leader's 5 minutes have expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full text of a statement contained in a letter from the U.S. Permanent Representative on the North Atlantic Council to Senator NUNN with the enclosure be printed in the RECORD.

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

U.S. PERMANENT REPRESENTATIVE
ON THE NORTH ATLANTIC COUNCIL,
July 1, 1994.

Hon. SAM NUNN.
U.S. Senate, Washington, DC.

DEAR SAM: In response to your request, I am enclosing my analysis of some of the effects of our position at NATO—and on developments regarding Bosnia—if the United States were to undertake a unilateral lifting of the arms embargo in Bosnia-Hercegovina.

I salute you for your leadership on this issue.

With best regards,
Sincerely,

BOB HUNTER.

NEGATIVE CONSEQUENCES OF UNILATERAL LIFTING OF ARMS EMBARGO BY THE UNITED STATES

An immediate and severe increase in tensions with NATO allies now contributing troops to UNPROFOR in Bosnia.

Chances of effective cooperation with the United Kingdom, France, and Russia in pursuit of a peaceful settlement will be reduced dramatically.

A severe blow to U.S. leadership of NATO, including erosion of support for key U.S. initiatives, such as partnership for peace.

Our ability to exercise effective leadership in NATO on former Yugoslavia—and thus the likelihood of any effective NATO action on enforcement of UN decisions or on eventual implementation—would vanish. We could not assure agreement to provide air support for the Bosnians if the Serbs launched a major offensive.

Likely withdrawal of UNPROFOR within 1-3 months. The decision to withdraw could be taken almost immediately by the United Kingdom, France, Spain and Russia, and it is likely that the UNSC would elect not to continue the operation with remaining—mostly Islamic—troop contributors.

A destabilizing effect on our relations with Russia. Yeltsin would come under intense and probably irresistible pressure to make large, overt arms shipments to Serbia.

Over 3-6 months, a noticeable erosion in enforcement of economic sanctions against Serbia.

In the short and medium term, deterioration in the Bosnian Government's military and political position. The BIH forces will suffer some reverses if the Serbs, as is likely, launch offensives against Sarajevo, Tuzla, Bihac, and eastern enclaves. This time, however, they will have less and less international support.

An increase in Serbian harassment, hostage-taking, and other measures directed against Western, and especially American, civilians.

Likely severe worsening of conditions for the civilian population; a greatly diminishing flow of humanitarian aid, more ethnic cleansing, more flows of refugees.

A probable need for the United States to go it alone in providing military support to the Bosnian Government.

Mr. MITCHELL. Mr. President, I want to take 1 minute of my leader time to conclude.

This is a fateful time in the Balkans. The contact group made up of the United States, our European allies, and Russia is trying to bring about a peaceful settlement. The adoption of this resolution will undermine and terminate that effort. There will then inevitably be a wider war, and it will be an American war. The British and French have made it clear that, if this passes, they are going to pull their forces out. We will not send anybody there to replace them. In that vacuum will come more death, more destruction, more violence, and a much greater demand for American participation. We do not want that on our hands. We should not. We should vote for the Nunn-Warner resolution. It is a sensible policy for the United States, and for peace in the region.

Mr. President, I thank my colleagues.

I yield the floor.

VOTE ON AMENDMENT NO. 2142

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Levin amendment.

Mr. MITCHELL. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MITCHELL. 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 Levin amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—45

Baucus	Harkin	Moseley-Braun
Biden	Hatfield	Moynihan
Boxer	Hollings	Murray
Bradley	Jeffords	Packwood
Brown	Kennedy	Pell
Bryan	Kerry	Pryor
Bumpers	Kohl	Reid
Byrd	Lautenberg	Riegle
Chafee	Leahy	Rockefeller
Cohen	Levin	Roth
Daschle	Mathews	Sarbanes
DeConcini	McCain	Sasser
Feingold	Metzenbaum	Simon
Glenn	Mikulski	Wellstone
Graham	Mitchell	Wofford

NAYS—55

Akaka	Durenberger	Lott
Bennett	Exon	Lugar
Bingaman	Faircloth	Mack
Bond	Feinstein	McConnell
Boren	Ford	Murkowski
Breaux	Gorton	Nickles
Burns	Gramm	Nunn
Campbell	Grassley	Pressler
Coats	Gregg	Robb
Cochran	Hatch	Shelby
Conrad	Heflin	Simpson
Coverdell	Helms	Smith
Craig	Hutchison	Specter
D'Amato	Inouye	Stevens
Danforth	Johnston	Thurmond
Dodd	Kassebaum	Wallop
Dole	Kempthorne	Warner
Domenici	Kerrey	
Dorgan	Lieberman	

So, the amendment (No. 2142) was rejected.

Mr. THURMOND. 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.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, the vote which was just completed was conducted under the regular 15-minute schedule.

Several Senators have other commitments. To accommodate them, I am going to now ask unanimous consent that the succeeding votes in this sequence of votes be for 10 minutes.

I encourage all Senators to remain on the floor and make certain that the clerk notes their vote so that no Senator leaves thinking he or she voted when in fact the vote had not been recorded. That way we can get through this in a way to expedite the proceedings and accommodate the largest number of Senators.

However, Senators should know that further votes will occur on this bill. We are going to complete action on this bill before we recess. Any Senator who leaves during the sequence of votes runs the risk of missing other votes as they are necessary to complete action on this bill.

Senator NUNN advises me that he knows of at least 2 votes.

Mr. President, I now ask unanimous consent that the remaining votes of this sequence be for 10 minutes.

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

VOTE ON AMENDMENT NO. 1852

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the Nunn Bosnia amendment. This is a 10-minute vote.

The yeas and nays are requested.

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 Georgia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

[Rollcall Vote No. 180 Leg.]

YEAS—52

Akaka	Faircloth	Mikulski
Baucus	Feinstein	Mitchell
Bingaman	Ford	Murray
Boren	Glenn	Nunn
Breaux	Graham	Pell
Bryan	Harkin	Pryor
Bumpers	Hatfield	Reid
Burns	Heflin	Riegle
Byrd	Hollings	Robb
Campbell	Inouye	Rockefeller
Chafee	Johnston	Sarbanes
Cohen	Kassebaum	Sasser
Conrad	Kennedy	Simon
Danforth	Kerrey	Warner
Daschle	Kerry	Wellstone
Dodd	Leahy	Wofford
Dorgan	Mathews	
Exon	Metzenbaum	

NAYS—48

Bennett	Gorton	McCain
Biden	Gramm	McConnell
Bond	Grassley	Moseley-Braun
Boxer	Gregg	Moynihan
Bradley	Hatch	Murkowski
Brown	Helms	Nickles
Coats	Hutchison	Packwood
Cochran	Jeffords	Pressler
Coverdell	Kempthorne	Roth
Craig	Kohl	Shelby
D'Amato	Lautenberg	Simpson
DeConcini	Levin	Smith
Dole	Lieberman	Specter
Domenici	Lott	Stevens
Durenberger	Lugar	Thurmond
Feingold	Mack	Wallop

So the amendment (No. 1852) was agreed to.

Mr. WARNER. Mr. 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.

VOTE ON AMENDMENT NO. 1851

The VICE PRESIDENT. Under the previous order, the Senate will now proceed to vote on the Dole Bosnia amendment.

Mr. MITCHELL. 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 VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 181 Leg.]

YEAS—50

Bennett	Feingold	McConnell
Biden	Gorton	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Hatch	Nickles
Brown	Helms	Packwood
Coats	Hutchison	Pressler
Cochran	Jeffords	Robb
Cohen	Kempthorne	Roth
Coverdell	Kohl	Shelby
Craig	Lautenberg	Simpson
D'Amato	Levin	Smith
DeConcini	Lieberman	Specter
Dole	Lott	Stevens
Domenici	Lugar	Thurmond
Durenberger	Mack	Wallop
Faircloth	McCain	

NAYS—50

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Bingaman	Glenn	Mitchell
Boren	Graham	Murray
Breaux	Gregg	Nunn
Bryan	Harkin	Pell
Bumpers	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Hollings	Riegle
Campbell	Inouye	Rockefeller
Chafee	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
Danforth	Kennedy	Simon
Daschle	Kerrey	Warner
Dodd	Kerry	Wellstone
Dorgan	Leahy	Wofford
Exon	Mathews	

So the amendment (No. 1851) was rejected.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2143

The VICE PRESIDENT. Under the previous order, the Senate will now proceed to vote on the Warner COLA amendment. The yeas and nays have not been ordered. All those in favor will say——

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 88, nays 12, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—88

Akaka	Feingold	Mathews
Baucus	Feinstein	McCain
Bennett	Ford	McConnell
Biden	Glenn	Metzenbaum
Bingaman	Gorton	Mikulski
Bond	Graham	Mitchell
Boxer	Gramm	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Campbell	Hollings	Reid
Chafee	Hutchison	Riegle
Cochran	Jeffords	Robb
Cohen	Johnston	Roth
Conrad	Kassebaum	Sarbanes
Coverdell	Kempthorne	Sasser
Craig	Kennedy	Shelby
D'Amato	Kerrey	Simpson
Daschle	Kerry	Smith
DeConcini	Kohl	Specter
Dodd	Lautenberg	Thurmond
Dole	Leahy	Wallop
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durenberger	Lott	Wofford
Exon	Lugar	
Faircloth	Mack	

NAYS—12

Boren	Hatfield	Nunn
Byrd	Inouye	Rockefeller
Coats	Moseley-Braun	Simon
Danforth	Moynihan	Stevens

So the amendment (No. 2143) was agreed to.

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

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

The motion to lay on the table was agreed to.

(Later the following occurred.)

CHANGE OF VOTE—AMENDMENT NO. 2143

Mr. DECONCINI. Mr. President, on rollcall vote No. 182, I voted "no." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will not in any way change the outcome of the vote.

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

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

Mr. NUNN. Madam President, I ask unanimous consent that I be able to speak for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NUNN. Madam President, there was another amendment at the desk, and had this amendment been defeated, that was an amendment that would have been offered. That amendment would have accomplished the equity between military and civilians by having both sacrifice some.

The amendment which the Senate overwhelmingly endorsed basically takes the money out of the defense budget. The Senate has spoken on this subject. My good friend from Hawaii will now have to try to find the money in the Appropriations Committee. If there is money to pay for this, we will have to pay for it. We have simply indicated that sentiment. The sentiment of the Senate is very clear, so I will not offer the amendment that would have treated this matter in a different way. It would be inconsistent with this amendment. I think this result shows very clearly that it would not pass. So I will not offer that amendment. That will allow us to go, I suppose, to the next rollcall vote.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I would like to be recognized for 1 minute. I voted against this amendment that has just been adopted because I believe it would require the Appropriations Committee to reduce the end strength of our military. It is unfortunate, and I think we must put the Senate on notice that we will find some way to accommodate equity in these COLA's, without requiring a reduction in the already very fragile military defense force that we have today.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I ask unanimous consent to speak for 1 minute on the amendment that was just agreed to.

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

Mr. COATS. Mr. President, I want to associate myself with the remarks of the Senator from Alaska, and other, that have been made here. This was an extraordinarily difficult decision for me, because I so strongly believe that we need to support those who have served in uniform.

By the same token, we were presented here with a choice that requires a very tough decision. I join the Senator from Alaska, and others, in trying to find a way to bring equity between Federal civilian retirees and military retirees, but not at the expense of digging into those active forces now that are being strained almost beyond their ability to perform their task and provide for our national security. I do not want to dip into discretionary funds that go to readiness and active duty.

I regret that we had this tough vote a few moments ago, but hope we can find a satisfactory resolution. I appreciate the intent of the Senator from Virginia. I think it is something that we all support. We know that we have to fund this, and it is a tough decision to make now rather than later.

LEGISLATIVE BRANCH APPROPRIATIONS ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the conference report accompanying H.R. 4454, which the clerk will report.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 28, 1994.)

Mr. REID. Mr. President, I am pleased to recommend to the Senate the conference report on H.R. 4454, making appropriations for the legislative branch for fiscal year 1995, and for other purposes.

The conference report and joint explanatory statement provide a detailed description of the agreements we are recommending. I will take only a few moments of the Senate's time to summarize the highlights.

The conference agreement provides a total of $2,367,421,100 in budget authority for the legislative branch in fiscal 1995. This is $55,712,500 in budget authority and $4,130,000 in outlays under the subcommittee's 602(b) allocation and $142,282,400 less than the President's budget request. It is also $1,375,000, less than the amount recommended in the bill that was passed by the Senate on June 16, 1994.

These reductions were achieved notwithstanding the need to provide contingency funding for higher pay costs than were assumed in the House version of the bill. If the Congress does not approve a 2-percent COLA and 1.05-percent locality adjustment for the Washington-Baltimore area, the total provided in the bill will be reduced by $10,489,000 under section 311.

The conferees also agreed to the substance of Architect of the Capitol Human Resources Act and to modified language amending section 207 of P.L. 102-392. The language adopted incorporates high volume "duplicating" within the definition of printing for purposes of procurement from external sources and includes a class of work exemption.

In closing, let me once again recognize Chairman FAZIO, the ranking member, Mr. YOUNG, and the other House conferees. Meeting these gentlemen in conference is always a pleasurable experience. My thanks to them and their capable staff.

Much of the credit for what we have accomplished in this bill belongs to my ranking member, Senator MACK and the other Senate conferees. The Senate is particularly fortunate that Senator MACK serves as ranking member of this subcommittee. He is committed to the welfare of this institution and of the legislative branch in general. His ideas and advice are invariably sensible and constructive.

The Senate delegation on the legislative bill, of course, always includes our full committee chairman, Senator BYRD, and his colleague and ranking member, Senator HATFIELD. Both personify what it means to be a Senator. Their guidance and assistance are invaluable.

Finally, I wish to acknowledge the work of our committee staff: Jerry Bonham, the majority clerk on the subcommittee, Jim English, the majority staff director for the full committee, Mary Dewald, the chief clerk for the full committee, Elizabeth Blevins, staff assistant for the full committee, and Keith Kennedy, the minority staff director for the full committee who, fortunately, is also assigned to this Subcommittee.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4454, the legislative branch appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $56 million and under its 602(b) outlay allocation by $4 million.

I compliment the distinguished manager of the bill, Senator REID, and the distinguished ranking member of the Legislative Branch Subcommittee, Senator MACK, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the legislative branch appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 4454—FISCAL 1995 LEGISLATIVE BRANCH APPROPRIATION—CONFERENCE BILL

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary totals:		
New spending in bill	2,367	2,174
Outlays from prior years appropriations	.....	206
Permanent/advance appropriations	0	0
Supplementals	0	−(*)
Subtotal, discretionary spending	2,367	2,380
Mandatory totals	92	92
Bill total	2,459	2,472
Senate 602(b) allocation	2,515	2,476
Difference	−56	−4
Discretionary totals above (+) or below (−)		
President's request	−142	−77
House-passed bill	−31	19
Senate-reported bill	−2	3
Senate-passed bill	−1	−1
Defense	0	0
International Affairs	0	.....

SENATE BUDGET COMMITTEE SCORING OF H.R. 4454—FISCAL 1995 LEGISLATIVE BRANCH APPROPRIATION—CONFERENCE BILL—Continued

[In millions of dollars]

Bill summary	Budget authority	Outlays
Domestic Discretionary	2,367	2,380

Mr. LAUTENBERG. Mr. President, the conference report on the legislative branch appropriation bill for fiscal year 1995 makes some necessary reforms, and I commend Senators REID and MACK for their contributions to that effort. This bill will stop unsolicited mass mailings, which I support. It also reduces spending on the Senate itself. We will spend almost $6 million less on the Senate next year than we did this year. Since fiscal year 1992, spending on the Senate has declined by 12 percent in constant dollars.

Mr. President, overall spending on the legislative branch will increase under this legislation after going down slightly over the past few years. Mr. President, I applaud the reductions we have made in the past, and the reforms included in this bill, but I will vote against the conference report because I believe we should cut funding for the legislative branch.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. JEFFORDS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—73

Akaka	Durenberger	Moseley-Braun
Bennett	Exon	Moynihan
Biden	Feinstein	Murkowski
Bingaman	Ford	Murray
Bond	Glenn	Nunn
Boren	Gorton	Packwood
Boxer	Graham	Pell
Bradley	Grassley	Pryor
Breaux	Harkin	Reid
Bryan	Hatfield	Riegle
Bumpers	Hollings	Robb
Burns	Inouye	Rockefeller
Byrd	Jeffords	Sarbanes
Campbell	Johnston	Sasser
Chafee	Kassebaum	Shelby
Cochran	Kennedy	Simon
Cohen	Kerrey	Simpson
D'Amato	Kerry	Specter
Danforth	Leahy	Stevens
Daschle	Levin	Thurmond
DeConcini	Lieberman	Wallop
Dodd	Mack	Wellstone
Dole	Mathews	Wofford
Domenici	Mikulski	
Dorgan	Mitchell	

NAYS—27

Baucus	Faircloth	Helms
Brown	Feingold	Hutchison
Coats	Gramm	Kempthorne
Conrad	Gregg	Kohl
Coverdell	Hatch	Lautenberg
Craig	Heflin	Lott
Lugar	Metzenbaum	Roth
McCain	Nickles	Smith
McConnell	Pressler	Warner

So the conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the conference report 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. CHAFEE. Mr. President, today, we approved the budget for fiscal year 1995 for the legislative branch of Government. We have appropriated $2.4 billion to operate Congress, the General Accounting Office, the Government Printing Office, the Library of Congress, the Botanic Gardens, the Congressional Budget Office, the Architect of the Capitol, and the Office of Technology Assessment. On its face, this bill is a 4.1-percent increase over the fiscal year 1994 appropriation, but it is important to note the steps that were taken by the Senate to continue our efforts to limit spending.

The fiscal year 1995 appropriation for the Senate is $5.8 million less than last year. That is a reduction of 1.3 percent. The Senate is the only account within this appropriations bill that has gone down.

I am especially pleased that we have eliminated funding for unsolicited, franked mass mailings. This action alone allowed us to reduce our spending by $5 million. Of course, Senators still will be able to answer inquires from constituents and provide them with updates on matters in which they have expressed concern. But we have ended the practice of papering our States with so-called postal patron newsletters that too often find their way, unread, into trash bins. Perhaps, the House will follow the Senate's lead by taking similar steps next year.

In this bill, the Senate takes an important step toward increasing accountability. Every year beginning in 1995, the published report by the Secretary of the Senate will contain a statement of each Senator's office allotment, expenditures, and year-end balance. Our constituents will be able to see for themselves how we use our official funds.

There are two programs that have received increases that I wholeheartedly support. First, the Library Of Congress' National Library Service Program for the Blind and Physically Handicapped has received an increase of $2.3 million. The National Library Service provides recordings of books and magazines on cassettes and discs, as well as equipment to play the recordings, to individuals with disabilities that impede their access to printed material. This is an extremely important and valuable service. The additional funds will be used to repair and update the playback equipment.

Second, $1.5 million was restored in the conference report to permit the Government Printing Office to complete its work on providing Government information to Federal depository libraries through electronic on-line services. The GPO Access System will provide direct, on-line access to the CONGRESSIONAL RECORD and the Federal Register.

I am pleased that the Senate has continued its efforts to keep spending down. I believe that more can and should be done to limit spending on the legislative branch and hope that next year, the House will follow the Senate's example and make a greater effort to cut unnecessary spending on itself.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

AMENDMENT NO. 1840

Mr. NUNN. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment number 1840.

Mr. NUNN. Madam President, that is the Johnston amendment.

The PRESIDING OFFICER. That is the Johnston modified amendment.

Mr. NUNN. I would suggest that we see if we could dispose of that amendment. I hope we could do it by voice vote.

Mr. President, the amendment that is now pending is the Johnston-Feinstein amendment. I do not see any need for a rollcall vote. I believe that amendment is going to be agreed to. We have already had a lot of discussion and some debate on that amendment, so I would ask that it be voted on by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would ask if the distinguished chairman and ranking member could possibly work with us during the vote so we could have some idea as to whose amendment is coming from where. There are several Senators with amendments, at least four or five on this side and several on the other side. Hopefully, I ask the distinguished chairman and ranking member, we could work out some order of amendments so we would have some idea, rather than all of us coming here and sitting around.

Mr. NUNN. Mr. President, we will work on that. I appreciate the suggestion.

Mr. MCCAIN. I have no objection.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 1840) was agreed to.

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

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2146

(Purpose: To improve the reporting and investigation of sexual misconduct cases involving Department of Defense personnel)

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 amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2146.

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:

At the end of title X, add the following:

Subtitle _—Investigations of Sexual Misconduct

SEC. 1081. DIRECTOR OF SPECIAL INVESTIGATIONS.

(a) ESTABLISHMENT.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 143. Director of Special Investigations

"(a) APPOINTMENT.—There is a Director of Special Investigations who is appointed by the Secretary of Defense from among civilians who have a significant level of experience in criminal investigations. The Director reports directly to the Secretary of Defense.

"(b) SENIOR EXECUTIVE SERVICE POSITION.—The position of Director of Special Investigations is a Senior Executive Service position. The Secretary shall designate the position as a career reserved position under section 3132(b) of title 5.

"(c) DUTIES.—Subject to the authority, direction, and control of the Secretary of Defense, the Director of Special Investigations shall perform the duties set forth in this section and such other related duties as the Secretary may prescribe.

"(d) DATA COMPILATION AND REPORTING.—(1) The Director shall obtain, compile, store, monitor, and (in accordance with this section) report information on each allegation of sexual misconduct of a member of the armed forces or of a dependent of a member of the armed forces against a member of the armed forces, against a dependent of a member of the armed forces, or against a civilian not a dependent of a member of the armed forces that is received by a member of the armed forces or an officer or employee of the Department of Defense in the official capacity of that member, officer, or employee.

"(2) The information compiled pursuant to paragraph (1) shall include the following:

"(A) The number of complaints containing an allegation referred to in paragraph (1) that are received as described in that paragraph.

"(B) The number of such complaints that are investigated.

"(C) In the case of each complaint—

"(i) the organization that investigated the complaint (if investigated);

"(ii) the disposition of the complaint upon completion or other termination of the investigation; and

"(iii) the status or results of any judicial action, nonjudicial disciplinary action, or other adverse action taken.

"(D) The number of complaints that were disposed of by formal adjudication in a judicial proceeding, including—

"(i) the number disposed of in a court-martial;

"(ii) the number disposed of in a court of the United States;

"(iii) the number disposed of in a court of a State or territory of the United States or in a court of a political subdivision of a State or territory of the United States;

"(iv) the number disposed of by a plea of guilty;

"(v) the number disposed of by trial on a contested basis; and

"(vi) the number disposed of on any other basis.

"(E) The number of complaints that were disposed of by formal adjudication in an administrative proceeding.

"(3) The Director shall make the information obtained and compiled under this subsection available to the Secretary of Defense, the Secretaries of the military departments, Congress, any law enforcement agency concerned, and any court concerned.

"(e) DIRECT INVESTIGATIONS.—The Director shall investigate each allegation of sexual misconduct referred to in subsection (d)—

"(1) that is made directly, or referred, to the Director, including such an allegation that is made or referred to the Director by—

"(A) a commander of a member of the armed forces alleged to have engaged in the sexual misconduct or to have been the victim of the sexual misconduct;

"(B) an investigative organization of the Department of Defense; or

"(C) a victim of the alleged misconduct who is a member of the armed forces or a dependent of a member of the armed forces; or

"(2) that the Secretary directs the Director to investigate.

"(f) OVERSIGHT AND QUALITY CONTROL OF OTHER INVESTIGATIONS.—(1) The Director shall monitor the conduct of investigations by units, offices, agencies, and other organizations within the Department of Defense regarding allegations of sexual misconduct.

"(2) In carrying out paragraph (1), the Director may inspect any investigation conducted or being conducted by any other organization within the Department of Defense, review the records of an investigation, and observe the conduct of an ongoing investigation.

"(3) The Director may report to the Secretary on any investigation monitored pursuant to in paragraph (1). The report may include the status of the investigation, an evaluation of the conduct of the investigation, and an evaluation of each investigator and the investigative organization involved in the investigation.

"(g) POWERS.—In the performance of the duties set forth or authorized in this section, the Director shall have the following powers:

"(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available in the Department of Defense which relate to the duties of the Director.

"(2) To request such information or assistance as may be necessary for carrying out

the Director's duties from any Federal, State, or local governmental agency or unit thereof.

"(3) To require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the Director's duties, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

"(4) To serve subpoenas, summons, and any judicial process related to the performance of any of the Director's duties.

"(5) To administer to or take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the Director's duties, which oath, affirmation, or affidavit when administered or taken by or before an employee designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(6) To have direct and prompt access to the Secretary of Defense, the Secretary of a military department, and any commander when necessary for any purpose pertaining to the performance of the Director's duties.

"(7) To obtain for any victim of sexual misconduct referred to in subsection (d)(1), from any facility of the uniformed services or any other health care facility of the Federal Government or, by contract, from any other source, medical services and counseling and other mental health services appropriate for treating or investigating—

"(A) injuries resulting from the sexual misconduct; and

"(B) other mental and physiological results of the sexual misconduct.

"(h) REFERRALS FOR PROSECUTION.—(1) The Director may refer any case of sexual misconduct described in subsection (d)(1) to—

"(A) a United States Attorney, or another appropriate official in the Department of Justice, for prosecution; or

"(B) to an appropriate commander within the armed forces for action under chapter 47 of this title (the Uniform Code of Military Justice) or other appropriate action.

"(2) The Director shall report each such referral to the Secretary of Defense.

"(i) STAFF.—(1) The Director shall have—

"(A) a staff of investigators who have extensive experience in criminal investigations;

"(B) a staff of attorneys sufficient to provide the Director, the criminal investigators, and the Director's other staff personnel with legal counsel necessary for the performance of the duties of the Director;

"(C) a staff of counseling referral specialists; and

"(D) such other staff as is necessary for the performance of the Director's duties.

"(2) To the maximum extent practicable, the staff of the Director shall be generally representative of the population of the United States with regard to race, gender, and cultural diversity.

"(j) REPORTS TO DIRECTOR.—Each member of the armed forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

"(k) ANNUAL REPORT ON SEXUAL MISCONDUCT.—The Secretary of Defense shall submit to Congress an annual report on the number and disposition of cases of sexual misconduct by members of the armed forces and officers and employees of the Department of Defense.

"(l) DEFINITIONS.—In this section:

"(1) The term 'sexual misconduct' includes the following:

"(A) Sexual harassment, including any conduct involving sexual harassment that—

"(i) in the case of conduct of a person who is subject to the provisions of chapter 47 of this title (the Uniform Code of Military Justice), comprises a violation of a provision of subchapter X of such chapter (relating to the punitive articles of such Code) or an applicable regulation, directive, or guideline regarding sexual harassment that is prescribed by the Secretary of Defense or the Secretary of a military department; and

"(ii) in the case of an employee of the Department of Defense or a dependent subject to the jurisdiction of the Secretary of Defense or of the Secretary of a military department, comprises a violation of a regulation, directive, or guideline referred to in clause (i) that is applicable to such employee or dependent.

"(B) Rape.

"(C) Sexual assault.

"(D) Sexual battery.

"(2) The term 'complaint', with respect to an allegation of sexual misconduct, includes a report of such allegation.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 of such title is amended by adding at the end the following:

"143. Director of Special Investigations.".

SEC. 1082. CRIMINAL FAILURE TO REPORT SEXUAL MISCONDUCT.

(a) OFFENSES.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246;

(2) by inserting after section 2244 the following new section:

"§ 2245. Failure to report sexual misconduct

"(a) FAILURE TO ACT ON ALLEGATION OF CRIMINAL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of criminal sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender, shall be imprisoned not more than 10 years, fined under this title, or both.

"(b) FAILURE TO ACT ON ALLEGATION OF CIVIL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of civil sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 1 year, fined under this title, or both."; and

(3) in section 2246, as redesignated by paragraph (1)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) the term 'criminal sexual misconduct' means engaging in a sexual act or sexual contact in circumstances such that the act or conduct constitutes a criminal offense under this chapter, other Federal law, or State law; and

"(7) the term 'civil sexual misconduct' means engaging in a sexual act, sexual conduct, or other activity of a sexual nature in violation of a statute, rule, order, or other lawful authority that prohibits the activity but does not authorize imposition of a sentence of imprisonment for a violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 2245 and inserting the following:

"2245. Failure to report sexual misconduct.

"2246. Definitions for chapter.".

(c) CONFORMING AMENDMENT.—Section 506(f)(3)(B) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756(f)(3)(B)) is amended by striking out "section 2245(1)" and inserting in lieu thereof "section 2246(1)".

SEC. 1083. PERSONNEL ADMINISTRATION MATTERS.

(a) PERFORMANCE EVALUATIONS AND BENEFITS.—(1) The Secretary of Defense shall prescribe in regulations a requirement that the commitment of an officer or employee of the Department of Defense and a member of the Armed Forces of the United States to the elimination of sexual harassment in the officer's, employee's, or member's place of work or duty and at installations and other facilities of the Department of Defense be one of the factors considered in—

(A) the preparation of the evaluations of the officer's, employee's, or member's performance of work or duties;

(B) the determination of the appropriateness of a promotion of the officer, employee, or member; and

(C) the determination of the appropriateness of selecting the officer, employee, or member to receive a financial award for performance of work or duties.

(2) The Secretary shall submit to Congress an annual report on the implementation of the regulations required by paragraph (1). The report shall contain an assessment of the effects of the implementation of such regulations on the number, extent, and seriousness of the cases of sexual harassment in the Department of Defense. The annual report under this paragraph shall be separate

from the annual report required by section 143(k) of title 10, United States Code, as added by section 1081.

(b) ELIGIBILITY FOR PROMOTIONS AND AWARDS.—The Secretary of Defense and the Secretary of the military department concerned may not approve for presentation of a financial award for performance of work or duties or for promotion any officer or employee of the Department of Defense or any member of the Armed Forces of the United States who—

(1) has been convicted of a criminal offense involving sexual misconduct; or

(2) has received any other disciplinary action or adverse personnel action on the basis of having engaged in sexual misconduct.

SEC. 1084. PROTECTION OF PERSONS REPORTING SEXUAL HARASSMENT.

(a) REGULATIONS OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall prescribe regulations that prohibit officers and employees of the Department of Defense from retaliating or taking any adverse personnel action against any other officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by an officer or employee of the Department of Defense or a member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member. The regulations shall include sanctions for violation of the regulations.

(b) REGULATIONS OF A SECRETARY OF A MILITARY DEPARTMENT.—(1) The Secretary of each military department shall prescribe regulations that prohibit members of the armed force under the jurisdiction of that Secretary from retaliating or taking any adverse personnel action against any officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by any other officer or employee of the Department of Defense or any other member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member.

(2) A violation of the regulations prescribed pursuant to paragraph (1) shall be punishable under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

SEC. 1085. SEXUAL MISCONDUCT DEFINED.

In this subtitle, the term "sexual misconduct" has the meaning given that term in section 143(l) of title 10, United States Code, as added by section 1081.

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

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

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

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

The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the Senator from Minnesota, Mr. WELLSTONE, was here and wanted to make a statement. I was going to yield to him so I will proceed.

Mr. President, I sent an amendment to the desk that I take very seriously and I hope my colleagues will bear with me while I talk about it for just a few minutes.

Women in the U.S. Armed Forces are being subjected daily to sexual harassment ranging from verbal abuse to forcible rape. Who does the harassing. Men whom these women trust as fellow comrades-in-arms or—even worse—superiors who use their authority to sexually coerce lower echelon military women and then intimidate them into silence.

When victims of such abuse attempt to report it to higher military officials, they find their experience discounted as of minor importance, or as part of being in the military. The Tailhook scandal is only one example of the military's efforts to cover up and discount the magnitude of the sexual abuse problems of military women. Hundreds of individual, if not thousands of incidents occur every year. Both the incidents themselves and the subsequent cavalier treatment of the victims are unconscionable and can not be tolerated.

Mr. President, I sat in horror 2 years ago as I heard Reservist Jackie Ortiz testify before the Committee on Veterans Affairs. Ms. Ortiz was sodomized by her company first sergeant while on duty in 18 miles northwest of the Iraqi border during Operation Desert Storm. Ms. Ortiz immediately reported the incident. Instead of providing the immediate medical attention she required, her commanders placed her on unneeded guard duty for 6 straight hours and, then for 12 hours at a time. When the CID investigator finally arrived, Jackie was subjected to 6 hours of interrogation during which she was required to describe the incident in graphic detail time after time after time. For the next 2½ months, Jackie remained under the command of her attacker, requiring face to face confrontation almost daily, and continued denial of medical attention. Despite the first sergeant's later confession, he received a promotion and was allowed to retire. Jackie received counseling from the Chaplain, the tentmate of the company physician.

This is a real honest to goodness story, what happened to one of our military personnel in the Persian Gulf war.

The committee that held those hearings under the distinguished chairman, Senator Cranston, also heard appalling testimony indicating that one study conducted by Dr. Jessica Wolfe showing that nearly 29 percent of 113 Vietnam Era women had fallen victim to attempted or actual sexual assault, and that the rate is probably higher for war zone service. This is more than double the experience of American women as a whole. Not one of these women was raped by the enemy.

Mr. President, it is true that the survey sample was small, but I am afraid Dr. Wolfe's study accurately reflects what is going on in the military and we must put a stop to it. The fact that no reliable data exists highlights the shocking indifference to this problem. Even if the 29 percent incident rate of that survey is ignored, the 1988 Department of Defense own study of women who were on active duty indicated that 5 percent of the respondents reported actual rape or attempted rape or sexual assault. Even if one applies that very conservative estimate to all women in the military, as many as 11,000 military women would have been victims in 1 year alone.

Mr. President, the Department of Defense does not have comparable crime records for the various services and the services themselves do not maintain consistent data on sexual violence. Moreover, the DOD has yet to request sufficient funds to achieve timely compliance with the National Incident-Based Reporting System. While I applaud the efforts to date of Assistant Secretary of Personnel and Readiness Dorn on the integration of the various services' criminal data reporting systems, I am advised that the Department has not developed a specific plan or identified resources to achieve compliance with by June 1, 1995, as required by the Uniform Federal Crime Reporting Act of 1988.

Mr. President, I had thought, since the hearings before the Veterans Committee and the introduction of my bill in the 102d Congress calling for an independent Office of Criminal Investigations, that the military could have made some progress in the reeducation of its personnel.

In response to the Tailhook affair, the Navy Department reported then that it had implemented stand down orders which included meaningful programs to sensitize those "good ole' boys". The Secretary of the Navy unequivocally stated that the incidence of sexual misconduct, no matter how slight would quote, "not be tolerated." The transformation of the Navy appeared, for the moment, to be genuinely under way. However, the cultural change was short-lived. Almost a year later negative signs resurfaced and the long-awaited inspector general's report remained stalled for months in a quagmire of doubletalk about the lack of a Secretary of the Navy of general counsel to release the report. That is the reason, we were told, that the report could not be released.

While Air Force Secretary Widnall did come to the rescue of Sergeant Martinez in early June, the fact that a rescue had to occur underscores the basic problem here. No apology was provided and her superiors have not been reprimanded for retaliation against her for simply testifying before the House Armed Service Committee on harassment in the military. Moreover, her career is irreparably scarred. In the words of Sgt. Martinez herself, "there's nothing to prevent something like this from happening again."

Boy, that is an understatement. I ask unanimous consent that at this point in the RECORD I may insert some articles from the Washington Post and New York Times.

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

[From the Washington Post, June 8, 1994]

MARINE CORPS DROPS FINAL TAILHOOK CASE

The Marine Corps has dismissed the last pending military case stemming from the Tailhook scandal of sexual misconduct at a naval aviators' convention.

Lt. Gen. Charles C. Krulak dismissed the case against an unidentified officer for insufficient evidence, according to a Marine spokesman, 2nd Lt. Michael Neumann. Neumann declined to provide further details.

The dismissal, which took place last week, ends the year-long Marine Corps investigation into actions of its aviators at the 1991 Tailhook convention in Las Vegas.

More than 80 women allegedly were assaulted or harassed by drunken Marine and Navy aviators at the convention, according to Pentagon investigators.

The Navy ended its investigation in February. The Pentagon had referred 119 cases to Vice Adm. J. Paul Reason, the Navy's top Tailhook authority. None of those cases resulted in a successful court-martial.

The Marine Corps reviewed 21 cases referred by Pentagon investigators, and developed one additional case after reviewing the Pentagon findings.

Eight cases were settled in nonjudicial hearings. The Marine Corps declined to say what punishments were given.

Nine officers underwent extensive counseling, and one officer received "adverse material" in his personnel file and resigned. The other cases were dropped.

[From the Washington Post, Feb. 10, 1994]

REMAINING TAILHOOK CASE IS DISMISSED

QUANTICO, VA, February 9.—The remaining case stemming from the drunken debauchery at the 1991 Tailhook convention was dismissed because of insufficient evidence, an attorney said today.

Of 140 cases stemming from the scandal, no one has been court-martialed. About 50 Navy and Marine officers received administrative discipline.

Quantico Marine Corps Base said Lt. Gen. Charles C. Krulak had adjudicated the case against a Marine Corps lieutenant colonel accused of misconduct without imposing punishment. It did not identify the colonel, but the attorney for Marine Lt. Col. Cass D. Howell identified his client as the defendant.

Howell's attorney, David L. Beck of Knoxville, Tenn., said all charges against Howell were dismissed Tuesday because of insufficient evidence.

"We're just pleased with the results," Beck said. "He's maintained his innocence throughout."

Howell had been charged with lying and obstructing justice during the Tailhook probe. He also had been charged with assaulting a Tailhook investigator and with spending a night during the convention at the Las Vegas Hilton with a woman other than his wife.

Pentagon investigators concluded that 83 women were assaulted or molested at the convention. Many of the women were molested on the hotel's third floor, where men lined the hallway and grabbed women as they tried to pass.

Krulak handled the cases against Marines charged in Tailhook. On Tuesday, a military judge, Capt. William T. Vest Jr., dismissed Tailhook charges against three Navy officers.

Vest concluded that despite denials by Chief of Naval Operations Frank B. Kelso II, Kelso witnessed sexual misconduct at the Tailhook convention. Vest also said that Kelso tried to limit the investigation of Tailhook to junior officers to protect himself.

The dismissals could mean that no one will face court-martial for Tailhook.

The admiral handling Navy Tailhook cases, Vice Adm. J. Paul Reason, has until Friday to decide whether to appeal Vest's decision to throw out the charges against the three Navy officers.

[From the New York Times, June 10, 1994]

AIR FORCE SERGEANT IN A SEX COMPLAINT TELLS OF REPRISALS

(By Eric Schmitt)

WASHINGTON, June 9.—Just a week after the Navy was forced to apologize to a lieutenant who had suffered retaliation for reporting sexual harassment to her superiors, the Air Force today found itself in a similarly embarrassing spot.

House members were furious and senior Air Force officials were scrambling to head off potential trouble after an Air Force sergeant said her commander had retaliated against her after she returned from testifying before Congress in March about sexual harassment.

The sergeant, Zenaida Martinez, a 27-year-old military police officer at Mildenhall Air Base in England, said in a telephone interview today that shortly after she returned from Washington, base officials interrogated her about discussions she had had with civilian lawyers to prepare for the March 9 hearing before the House Armed Services Committee.

She refused to tell investigators anything, citing lawyer-client privilege. As a result, she said, her superiors in England last week told her that she was under a criminal investigation for actions related to travel expenses, namely, taking a $200 taxi from a London airport instead of a free military shuttle bus. The sergeant said she had taken the taxi after an airport official told her she had missed the last bus to the base.

Air Force officials in Washington refused to comment today on whether the base's decision to start a criminal inquiry into the cab fare was appropriate or to explain why her actions could have been a criminal violation.

The investigation into Sergeant Martinez's travel expenses was directed by the base's inspector general, Col. Dennis Adams, whom she has sued. The lawsuit accuses him of failing to investigate her earlier allegations of sexual harassment and reprisals for reporting the harassment—the very reason she was summoned to testify.

"This is astounding," said Representative Patricia Schroeder, a Colorado Democrat on the House Armed Services Committee. "This looks to me like a classic case of reprisal. I can't believe this just goes on and on and on."

After a day filled with high-level meetings, Air Force Secretary Sheila E. Widnall today invited Sergeant Martinez for a private meeting in Washington as early as Monday to discuss the matter. "I want to assure her of our commitment to eliminate all forms of discrimination, including sexual harassment, and to eliminate any actual or perceived reprisal," Ms. Widnall said in a statement.

But the Air Force has refused to cancel the criminal inquiry, saying it is sufficient for now to put it on hold, even though senior Air Force officials do not dispute the sergeant's version of events. Even if Ms. Widnall resolves the matter, the Defense Department's Inspector General has agreed to Sergeant Martinez's request to review the entire incident.

"IT'S ALL DISAPPOINTING"

"I'm happy to go meet with the Secretary, but this whole thing is not what I imagined when I joined the Air Force," said Sergeant Martinez, who enlisted in 1986. "It's all disappointing and disheartening."

With the example of the Navy's action on a similar case looming large, Ms. Widnall and her top aides are clearly trying to extricate themselves from the embarrassing episode.

"On a case with this much visibility, the base commander should have made his staff car available," a senior Air Force official said, voicing exasperation.

Navy Secretary John H. Dalton last week personally apologized to Lieut. Darlene Simmons, a Navy lawyer who testified at the same hearing with Sergeant Martinez, for the harassment she experienced and the retaliation from her commanders after she reported it.

Sergeant Martinez's troubles all started in 1990, when she said her master sergeant solicited her for sex, offering to "discuss my 'career' after hours." When he persisted, Sergeant Martinez said, she reported him to her commander but encountered only "delays and diversions."

Two years later, she said another sergeant in her unit harassed her by "explicitly describing the benefits of having a sexual relationship with him." The man "made me understand that if I refused, my career would suffer."

When she did rebuff his advances, she said, the tires on her car were slashed and wheel bolts loosened. "The more complaints I made, the more trouble I got into with my chain of command in the squadron," Sergeant Martinez told lawmakers in March.

Sergeant Martinez said that she was given poor grades on evaluation and that her chances for promotion plummeted. She said she discovered that documents accusing her of poor conduct had been placed in her personnel file without her knowledge. The sergeant said she then learned she was the focus of the official inquiry, not the men whom she reported to.

Mr. DECONCINI. Mr. President, the list of known sexual assault and harassment casualties reads near as long as the call of quorum of the Senate—Lt. Paula Coughlin, Specialist Alexis Colin, Sgt. Zenaida Martinez, Lt. Darlene Simmons, Staff Sergeant Carol

Furman, Private Pamela Clemm, Reservist Jackie Ortiz and Seaman Apprentice Mary Kelley Richard, Specialist Barbara Franco. Countless others have contacted my office, but requested that their identity be withheld after they have seen how other women had been treated. Actually, they said to me in more than one case how they felt they had been tortured by their professed comrades in arms for coming forward and reporting these abuses.

Mr. President, as most Members in this body know, at least 83 women and 7 men were sexually harassed and physically abused during Tailhook's 35th annual convention. About half the 140 cases were dismissed for lack of evidence, 40–45 received letters of reprimand, but no courts martial were taken. Thirty-two Navy admirals and one Marine general were cited for failure to stop the abuses; all but two received nonpunitive letters of reprimand. Seven admirals lost their commands, were disciplined, or took early retirements in Tailhook's wake. And just 3 weeks ago today, the Marine Corps announced the dismissal of the last pending military case arising from the Tailhook scandal of sexual misconduct.

Mr. President, when I heard that not one person accused of sexual misconduct went to trial, much less convicted, it sent a cold chill up my spine, and I will not forget it. I felt deeply saddened for the women in uniform who are victims and who will be victims and may be victims right now. Mr. President, who will these defenders of our liberty turn to now that they know that even all the publicity in the world nor a massive IG investigation will not help to guarantee their safety and most surely will not protect their careers, if they are a victim and the chances are very great that they will be.

Sadly, the problem can be summed up into one tiny phrase, the U.S. military "still just doesn't get it", and that is the essence of my concern.

Mr. President, before I begin the explanation of my simple bill, I need to quickly dismiss a memorandum in opposition to my amendment produced by the same office whose Tailhook investigation yielded no court martials which was circulated to some Senate offices, but not mine. As I am almost certain that my friend and colleague from Georgia will submit this memo for the RECORD, I would like to take a couple of moments to rebut the points made in this flawed analysis of the bill.

First, this memorandum argues that my legislation would usurp and disrupt the operations of the DOD Inspector General and cause confusion as to which office has primary criminal and civil investigative jurisdiction. This argument grossly exaggerates the intent of this legislation beyond reasonable bounds and greatly offends me. This new Office of Special Investigations has no independent authority to conduct investigations. This legislation clearly states in unequivocal terms in section 143, paragraph (c) that "subject to the authority, direction and control of the Secretary of Defense, the Director of this office shall perform the duties set forth in this section * * *." This section dictates that this office shall only obtain, compile, store, monitor, and report information on each allegation of misconduct. In other words, it audits the investigations conducted by military and DOD entities with such primary jurisdiction. In short, this argument in the memorandum signed by DOD Deputy Inspector General Derek J. Vander Schaaf is clear misreading of this proposed legislation.

And I am disappointed that it would result in this kind of subterfuge to oppose a legislative solution to the outlandish problem within our military.

Last, the memorandum claims that this new office could serve no beneficial purpose and would duplicate the Defense criminal investigative organizations oversight functions of IG, DOD. Mr. President, the IG, DOD, is incapable of providing any meaningful analysis given it lacks the raw data required to competently satisfy those responsibilities. No entity currently has such information; it does not exist and the DOD has yet to request the estimated $37 million required to integrate the various Defense criminal investigative organizations data. So here we have an instance where DOD has not even asked for the funds to implement what we have told them to do. Moreover, no entity can fulfill this function until it has adequate data until from military officials receiving the initial report from the victim.

Until those officials receiving the reports are under the threat of criminal or civil penalties for failure to provide such data as this legislation requires, I contend this data will never exist or be produced because it has not been, and not even the money has been asked for so that it could be forthcoming.

The IG, DOD also does not possess the funding resources or manpower to provide the specialized training required to respond to the deficiencies in the individual services branch investigative organizations. In short, the memorandum circulated here to discredit this amendment to some Senate offices—but not the courtesy to send one to me, we had to scrape and find one by accident almost—fails to offer any reasonable argument in opposition to the pending legislation.

I am offended by its characterization and sweeping misstatements of fact. I hope the Senator from Georgia might not even rely on it.

Mr. President, I began my work on this problem well before the Tailhook scandal blanketed the airwaves and front pages across this Nation in the spring of 1992. I was troubled by the number of constituents—we have many bases and defense establishments in Arizona—who were seeking my assistance because their chain of commands were unwilling to help victims of sexual misconduct and harassment. I approached the issue as I would any other. I sought the counsel of experts in the field. My staff was briefed by dozens of law enforcement investigators and prosecutors. As a former county attorney and member of the Judge Advocate General Corps of the U.S. Army, I also brought some firsthand experience.

While the scandal served as a catalyst for more inquiry, it considerably hampered my investigation and retarded the receipt of crucial data on sexual violence. From the beginning, I sensed that the principal problem was systemic both in terms of investigation and prosecution.

Some policymakers, including the House Armed Services chairman then, Chairman Aspin, had called for stripping the services of jurisdiction over these types of crimes, taking away all jurisdiction over sexual harassment or sexual misconduct. I did not concur with such actions because I thought it would be counterproductive. We need to work within the military and within the Defense Department.

I also believe such a proposal would undermine military readiness and delay responsiveness to the problem in the chain of command. Most importantly, my experience as a former prosecutor had long ago taught me that the immediate investigations and evidence collection are of paramount importance to effective law enforcement in developing a case, if there is one to be developed. Thus, the various proposals for elimination of local jurisdiction over such investigation would be prohibitively expensive and would actually hinder, not enhance, prosecution.

Mr. President, I instead sought to enhance the ability of each of the military investigators by creating a cooperative, supplemental investigative cadre of seasoned, experienced, Federal-civilian investigators to assist in an investigation when called upon, and, more importantly, to audit the handling of such cases.

The legislation before the Senate today, in my judgment, is the product of many years of effort of trying to put together something real. Make no mistake. This legislation will not solve the problem of sexual misconduct and harassment and rape in the military. If it had been in place in 1991, I do not believe that the Tailhook scandal would have occurred.

However, Mr. President, in my search for a solution I unveiled one of the biggest problems; that the virtual dearth of raw data on sexual misconduct is not available. I discovered that despite

numerous congressional directives, reliable data on the problem of rape, other sexual assaults, and sexual harassment against military personnel and civilians by military personnel, no uniform collected data existed anywhere.

In fact, the Senate Armed Services Committee itself criticized the Department of Defense in 1983 for its utter failure and apathy over the collection of crime data. In its report, report No. 980–53, at page 6, lines 30–32, it states that the committee "was concerned about the need for an improved data base for analyzing military justice issues. The committee experts from the Department of Defense working with the Code of Military Justice Committee suggested the establishment of a uniform process and format to collect such data on key operational military justice indicators that will permit useful analysis of military justice trends and issues."

It is too bad that in 1983 we did not legislate something. Maybe this would not have occurred.

Mr. President, I ask unanimous consent to insert a copy of the charter of the data collection working group of the Joint Service Committee on Military Justice at an appropriate place in the RECORD.

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

CHARTER OF THE DATA COLLECTION WORKING GROUP OF THE JOINT-SERVICE COMMITTEE ON MILITARY JUSTICE

PURPOSE

The purpose of this chapter is to state the purpose for which the Working Group is appointed and the goals which the Working Group seeks to achieve.

BACKGROUND

In S. Rep. No. 53, 98th Cong., 1st sess. 6, 30–32 (1983), the Senate Armed Services Committee stated that it "was concerned about the need for an improved data base for analyzing military justice issues. The Committee expects the Secretary of Defense, working with the Code Committee, to establish a uniform process and format to collect data on key operational military justice indicators that will permit useful analysis of military justice trends and issues." Consequently, the General Counsel, Department of Defense, directed the Joint Service Committee on Military Justice to establish a separate working group to study the matter and to make recommendations to the Code Committee not later than 30 June 1994.

CHARTER

The separate working group shall hereafter be known as the Data Collection Working Group of the Joint Service Committee on Military Justice. Its short title will be the "Data Collection Working Group." The Data Collection Working Group will be composed of representatives of the following: The Judge Advocates General, the Director, Judge Advocate Division, USMC, and the General Counsel of the Coast Guard.

It shall be the function of the Data Collection Working Group to study each service's military justice data collection system and to evaluate the systems in light of the concern expressed in S. Rep. No. 53. The Group shall endeavor to identify the existing major information problems or difficulties related thereto, and submit recommendations for establishing a uniform process and format among the services for collecting data on key operational military justice indicators, which will produce information permitting useful analysis by the Secretary of Defense, the armed services, and Congress, of military justice problems, trends, and issues.

Mr. DECONCINI. Mr. President, however, due to the tireless pursuit and patience of some in my staff, particularly Tim Gearan, and two interns, Matt Burnham and Neal Effron and a law school professor that was extremely helpful, seeking data to conduct a study on rape, I believe we have been able to piece together landmark evaluation of criminal sexual misconduct by military personnel. The preliminary finding of this study was prepared by Duke University law professor Madeline Morris.

The findings raise serious questions about the problem of sexual misconduct in the military. The findings show that after controlling for age and gender, rates of violent crime appeared lower among the military than among the civilian population. However, in the most recent available data—and, believe me, it is hard to come by, as I pointed out—dating 1986 through 1992, the rate of reduction in the military rape rate is far less than among civilians. Actually, it is several times less, and the difference is highly significant.

In contrast, the rate of reduction for murder, non-negligent manslaughter, or aggravated assault, is consistent with the civilian rate of reduction. The preliminary finding of the study which has been validated by some of the country's best statisticians, including an FBI statistician, raises the urgent question of why are military services less effective in reducing rape than in reducing other violent crimes?

The amendment I have offered today that is pending, would provide the raw data necessary to answer many of the questions raised by Professor Morris.

Mr. President, I ask unanimous consent to enter a statement by Professor Morris in support of this legislation into the RECORD at the appropriate place.

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

STATEMENT OF PROF. MADELINE MORRIS, DUKE LAW SCHOOL, ON THE DECONCINI AMENDMENT TO THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1994 TO ESTABLISH WITHIN THE OFFICE OF THE SECRETARY OF DEFENSE THE POSITION OF DIRECTOR OF SPECIAL INVESTIGATIONS AND FOR OTHER PURPOSES

I

Sexual abuse—including sexual harassment, sexual assault, and rape—by members of our armed forces is a cause for serious concern. Several recent commentators have suggested that the problem of sexual abuse within the U.S. military is one of substantial proportions.[1] Several witnesses at hearings before the Senate Committee on Veterans' Affairs in 1992 stated that the extent of sexual assault within the U.S. military is underestimated because reporting is informally discouraged, and because reports that are made are too frequently swept aside.[2]

In fact, too little is known about the extent of sexual assault by military personnel because little data collection has been done on the issue.[3] A large-scale study of active duty military personnel conducted by the Defense Manpower Data Center in 1988 found that five percent of the female and one percent of the male personnel responding stated that they had been the victims of actual or attempted rape or sexual assault during the previous year.[4] The study indicates that the majority of perpetrators of all forms of sexual abuse reported were other military personnel.[5] However, the purpose of the study was to measure victimization of military personnel. It therefore did not seek to estimate rates of sexual abuse perpetration by military personnel. It thus did not, for example, examine sexual assault of civilians, American or otherwise, by military personnel.

A 1989 Navy study of sexual harassment rendered similar results to the 1988 Defense Manpower Data Center study.[6] However, it too sought to measure victimization of rather than perpetration by military personnel. For that reason, the Navy study shared with the Defense Manpower Data Center study the limitations noted above.

A series of articles, cumulatively entitled "Rape in the Ranks: An Investigation into Rape in the U.S. Armed Forces," was published by the Orange County Register in 1992. These materials address the issue of perpetration of rape by military personnel,[7] and make some comparisons with civilian rates.[8] However, the materials are not purported to represent a systematic study nor to control for the gender and age differences in military and civilian populations. For those reasons, the Orange County Register materials, while providing some insights, must be viewed with caution.

I am currently completing a study comparing the rape proneness of military and civilian populations.[9] Toward that end, the study compares the rates of rape and other violent crime by male U.S. military personnel and civilians, in peacetime and during World War II (WWII).[10] Some preliminary findings from that study follow.[11]

The study of military and civilian crime rates during World War II (WWII) allows for a measurement of rape proneness of military personnel in the combat context. The WWII data suggest that rape rates follow different patterns from the rates of other violent crimes in war, rising in peak violent crime periods very disproportionately to the rates of homicide and aggravated assaults.

Specifically, during the breakout across France, August and September, 1944, the average monthly murder/non-negligent manslaughter rate of U.S. Army personnel in the European Theater of Operations (ETO) was about half (47%) of the U.S. male civilian rate, and the average monthly ETO aggravated assault rate was about one sixth (18%) of the U.S. male civilian rate. During the same period, the ETO rape rate was 2.86 times the U.S. male civilian rate. (All crime rate comparisons are made after controlling for the age structures of the two populations.)

The relative crime rate pattern during the breakout into Germany was very similar to

Footnotes at end of article.

the pattern during the breakout across France. The rates of all three types of crimes examined rose to even higher levels during the German breakout than during the French breakout. But the relative relationship of the three crime rates was strikingly similar to the two periods: In each instance the increase in rape was far greater than that in either murder/non-negligent manslaughter or aggravated assault. During the period of the breakout across Germany, March and April, 1945, the average monthly ETO murder/non-negligent manslaughter rate was essentially equal to the U.S. male civilian rate, and the average monthly ETO aggravated assault rate was about one quarter (27%) of the male civilian rate. During the same period, the ETO rape rate was 3.66 times the male civilian rate.

The wartime data might seem to suggest that perhaps some feature of combat itself tends to elevate rape rates far more than rates of other violent crime. However, study of peacetime data suggests that the features of combat cannot fully explain the phenomenon of rape proneness in military organizations.

The results of the peacetime (1987–92)[12] study, in short, are as follows. First, the rates of violent crime (murder/non-negligent manslaughter, aggravated assault, and rape) are lower, after controlling for age, among the male military than among the male civilian population. Second, however, the diminution in military rape rates from civilian rape rates is less—several times less—than the diminution in the rates of the other violent crimes. In other words, military rape rates are reduced far less from civilian levels than military rates of other violent crime.

During the period 1987–1992, on yearly average, the Army's murder/non-negligent manslaughter rate was about a fifth (19%) of the civilian rate, its aggravated assault rate was about a sixth (18%) of the civilian rate, and its rape rate was approximately half (47%) of the civilian rate. For the Navy, on yearly average, the murder/non-negligent manslaughter rate was one fourteenth (7%) of the civilian rate, the aggravated assault rate was one twenty-fifth (4%) of the civilian rate, and the rape rate was approximately one fifth (19%) of the civilian rate. For the Marine Corps, on yearly average, the murder/non-negligent manslaughter rate was approximately one eighth (13%) of the civilian rate, the aggravated assault rate was one twenty-fifth (4%) of the civilian rate, and the rape rate was approximately one fourth (27%) of the civilian rate. For the same years, the Air Force murder/non-negligent manslaughter rate was one twentieth (5%) of the civilian rate, its aggravated assault rate was one fiftieth (2%) of the civilian rate, and its rape rate was one fifth (20%) of the civilian rate.

Thus, military rape rates are diminished far less from civilian levels than are military rates of other violent crime. To simplify presentation, I have combined the murder/non-negligent manslaughter and aggravated assault data into an index of "other-violent-crime." Military populations' diminution of other-violent-crime rates from civilian levels can now usefully be compared with their diminution of rape rates from civilian levels.

On yearly average, the diminution in other-violent-crime in the Army exceeded the diminution in rape by a multiple of 2.62. That is, the Army's ratio of other-violent-crime diminution to rape diminution was 2.62:1. Or, put differently, the Army diminution in rape rates from civilian levels was only 38% of the Army diminution of other-violent-crime from civilian levels. The diminution in other-violent-crime in the Navy exceeded the diminution in rape by a multiple of 4.93. Thus, the Navy diminution in rape rates from civilian levels was only 20% of the Navy diminution of other-violent-crime from civilian levels. The diminution in other-violent-crime in the Marines exceeded the diminution in rape by a multiple of 5.61. Thus, the Marine diminution in rape rates from civilian levels was only 18% of the Marine diminution of other-violent-crime from civilian levels. And the diminution in other violent-crime-in the Air Force exceeded the diminution in rape by a multiple of 11.03. So the Air Force diminution in rape rates from civilian levels was only 9% of the Air Force diminution of other-violent-crime from civilian levels.

Regression analyses performed on these data determined that, for each military service, the difference between the diminution of rape and of other-violent-crime was statistically significant. Thus, while the particulars differ between the different services, all of the services show the same overall pattern of diminishing all violent crime rates including rape from civilian levels but diminishing rape rates significantly less than the rates of other violent crime. These data raise the question why military rates of murder/non-negligent manslaughter and aggravated assault are diminished so dramatically from civilian levels but military rape rates are diminished so much less.

In sum, in the peacetime period studied, military rape rates were diminished substantially less from civilian levels than were other violent crime rates. And in WWII, during peak violent crime periods, rape rates were increased very substantially over civilian rates, while the rates of other violent crime remained below or essentially equal to civilian rates. Thus, in war, military rape rates were increased far more than other violent crime rates, and in peacetime, military rape rates were reduced from civilian levels far less than other violent crime rates.

These data suggest that rape has been and continues to be a more intractable problem among military personnel than are other violent crimes. This finding underscores the need for a serious effort to bring the rates of sexual abuse including rape into line with the very low rates of other violent crime among our military service personnel.

II

Notwithstanding the few studies that have been done to date on the issue of sexual abuse by military personnel and the anecdotal evidence such as that provided by witnesses at the June 30, 1992 hearings of the Senate Committee on Veterans' Affairs, there remains a dearth of information on the extent of sexual abuse within the services, and on the handling and disposition of sexual abuse cases.

In order appropriately and effectively to address the problem of sexual abuse by military personnel, it is essential to have reliable information on the nature and scope of the problem. For that reason, the annual report on sexual misconduct, to be prepared by the Office of Special Investigations as proposed in the DeConcini Amendment, will be a tremendously important part of any serious remedial effort.

The need for an annual report on sexual misconduct such as that proposed in the DeConcini Amendment will continue even once the Defense Incident Based Reporting System (DIBRS) is in place. The Uniform Federal Crime Reporting Act of 1988[13] provides that all federal agencies shall keep crime records and information in a uniform manner, to be specified by the Attorney General. The Attorney General has required reporting in conformity with the National Incident Based Reporting System (NIBRS) (which the Department of Defense will implement as DIBRS). DIBRS is expected to collect information on criminal and non-criminal sexual misconduct (and other offenses) in all four services, from the law enforcement through the investigation, prosecution, and corrections stages.[14] The DIBRS program has not yet been implemented, but will be in the coming years. Once the DIBRS system is in place, it will substantially facilitate—but by no means render redundant—the data compilation and reporting functions that the Office of Special Investigations will fulfill in preparing the annual report on sexual misconduct in the armed forces.

III

The DeConcinci Amendment also provides for several important functions in addition to data collection. As provided in the Amendment, the Office of Special Investigations would provide oversight of all sexual abuse investigations. The Amendment also provides for criminal sanctions for failure to fulfill legal obligations to act on allegations of sexual abuse, provides protection against retaliation for reporting sexual abuse, and also makes commitment to the elimination of sexual abuse a factor for consideration in performance evaluations of personnel. All of those provisions of the Amendment would be independently significant and, also, together would send an important message that sexual abuse by military personnel is viewed as a serious matter which will be treated seriously.

In sum, the DeConcini Amendment to the National Defense Authorization of 1994 is in my view a very valuable step in the handling of sexual abuse within our military services. Though the Amendment will not alone eliminate sexual abuse by military personnel, it will contribute significantly to reducing the incidence of such conduct, and to improving the handling of such cases when they do arise.

FOOTNOTES

[1] See generally Senate Hearing 922, 102 Cong., 2d Sess., June 30, 1992 (including testimony of numerous military, veteran, and academic witnesses on the extent of sexual assault of U.S. military women by U.S. military men).

[2] See Senate Hearing, *supra* note 1 at 12, 13 (testimony of Diana Danis), 24 (testimony of Jacqueline Ortiz), 26 (testimony of Barbara Franco), 28, 33–34, 38–39 (testimony of Kelley Richard).

[3] See Senate Hearing, *supra* note 1 at 10 (testimony of Diana Danis regarding the lack of incidence data on rape in military); Gary Warner, Rape In Military: Vexing Problem but Difficult to Measure, Orange Cnty. Register, July 11, 1992, p. A1; 1990 Navy Women's Study Group, An Update Report on the Progress of Women in the Navy III–28 (1990) ("The incidence, the reporting, and the actions taken regarding sexual assault/rape are not fully captured in any Navy data base."). Cf. 1990 Navy Women's Study Group, *Id.* at III–23 ("The lack of a data base and a common punitive charge for sexual harassment inhibits command oversight and trend analysis.").

[4] Melanie Martindale, Sexual Harassment in the Military: 1988 xiii (1988). The "actual or attempted rape or sexual assault" category, though rather broad, was not further subdivided in the study.

[5] See *Id.* at 35.

[6] See Amy L. Culbertson et al., Assessment of Sexual Harassment in the Navy: Results of the 1989 Navy-wide Survey (1992).

[7] See, e.g., Gary Warner, Navy Rape Reports Tripled in Five Years, The Orange Cnty. Register, May 18, 1992, p. A–1.

[8] See, e.g., Gary A. Warner, Army Rape Rate 50 Percent Higher than the Nation's, The Orange Cnty. Register, Dec. 30, 1992, p. A–1.

[9] I use the term "rape proneness" to refer to proclivity, predisposition, tendency, or likelihood to rape. A rape prone individual or group would thus be one with a likelihood to commit rape under some set of circumstances. Defined in this way, rape proneness is meaningful only as a relative concept, comparing the rape proclivity of one individual or group to that of another. While it is meaningless to ask in the abstract, "is the military population 'rape prone'?", it does make sense to ask whether a military population is more or less prone to rape than its civilian counterpart—and that is the question pursued in the study.

[10] World War II was chosen for study because it is the most recent war other than Vietnam in which the U.S. was engaged for a prolonged period and in which troops had extensive contact with civilians. Contact with civilians in Korea and in the Persian Gulf was limited. Vietnam was not chosen for study because it may have been unusual in its levels of low troop morale which would presumably influence crime rates.

[11] Because the study is still in the process of completion, findings are subject to revision.

[12] The "peacetime" period studied is 1987–1992. That period includes of course January and February of 1991, during which there was active fighting in the Persian Gulf War. That combat period, however, had no discernable effect on the relevant crime rates. Regression analyses performed on the data excluding 1991 produced essentially equivalent results to those produced when including the 1991 data.

[13] 28 U.S.C. 534 (West 1993)

[14] Telephone interview with David F. Shutler, Lt. Col. U.S.A.F., Deputy Director, Legal Policy, Requirements and Resources, June 27, 1994.

Mr. DECONCINI. Mr. President, the aftermath of rape may become even more disabling than the incident itself. I found this to be true when I was a prosecutor, and as a result commenced the first example in Arizona of a victim witness program where we provided counseling, paid for by Pima County, for rape victims. Fear, anxiety, concern about personal safety, pregnancy, disease, are common immediately following an incident. Rape victims may become severely depressed, have suicidal thoughts, and experience social dysfunctions which affect not only personal quality of life, but also their work performance. Thirty-one percent of all rape victims in America develop what is known as rape-related posttraumatic stress disorder, similar to PTSD experienced by combat personnel.

Mr. President, I am not one that takes a great deal of time when I offer amendments. I am one that always, I believe, wanted to enter into time agreements. But this disturbs me, Mr. President, and I know it is infringing on the time of other people and where they may want to go.

I have tried to get hearings on this legislation for more than 2 years. I feel I need to talk about it, because there have been no hearings on this legislation. Moreover, I asked the Secretary of Defense during hearings before the Defense Subcommittee on Appropriations over 2 years ago for comments on my bill. Today marks another day where I will wait in frustration for a response to those questions asked over 2 years ago.

Women relive the trauma in an ongoing and intrusive basis. They are subject to daytime memories and nightmares, accompanied by intense psychological distress. Many deliberately restrict contact with the outside world in order to avoid remedies of reminders of the trauma. Compared with women who have never been raped, those with RR–PTSD are 13.4 times more likely to have major alcohol problems and 26 times more likely to have major drug abuse problems.

Trauma and other psychological disorders resulting from rape itself are compounded by an apparently permissive environment which encourages or at least does not adequately discourage the sexual mistreatment of military women. As stated earlier, the Senate Committee on Veterans' Affairs heard testimony on June 30, 1992, from three women veterans who, after being forcibly raped, were further brutalized by the indifference of higher echelon officers to whom they had turned for help. One, in fact, was demoted, while her abuser was promoted. Another woman, a career military person, was raped on two separate occasions during her time serving this country.

These data lend credence to the increasing skepticism felt by the American public, and especially by the women who serve in our military, about the military's ability to police itself in the area of sexual misconduct. Clearly, a focused effort is required to redress the problem of sexual misconduct by military personnel. Something has to be done. I believe something will be done.

The amendment I am offering today to the Defense authorization bill creates an Office of Special Investigations at the Department of Defense level. This new office will have oversight and audit jurisdiction over all reports of sexual harassment, abuse, and assault, and other related offenses by active-duty military personnel against other active-duty personnel and civilians. The Secretary of Defense is also empowered to direct the new office to investigate or assist in the investigation of cases being conducted by any military investigative service.

Military victims of sexual assault will also be able to address their complaints directly to this office, rather than through the military chain of command, which we know does not work. In turn, this office would make the appropriate referral back to the chain of command and defense criminal investigative organizations. Most victims I have talked to simply do not believe that their allegations will be taken seriously and/or pursued vigorously by their supervisors in a male-dominated profession. We need to assure them that will be done.

The Office of Criminal Investigations will have a separate investigative staff with, to the fullest extent possible, professional expertise in sexual assault investigations. It will be independent and will have absolute authority to collect evidence and compel testimony and, when requested, secure appropriate, immediate medical treatment and psychological counseling for victims of sexual abuse.

A principal element of the office will be the collection of data so we can get a better handle on the extent of the problem, including the number of cases that go to prosecution. The cost of operating this new office and staff is modest and expected to be no more than $1 million to possibly $4 million per year. This includes an office, a staff of approximately 15 to 20 support personnel and investigators, computer capability for a data base, equipment, travel, and medical and psychiatric support availability.

This amendment would also establish a new Federal crime for failure by any commanding officer to promptly notify this new Office of Investigations of any report of sexual misconduct. Failure by a commanding officer to report sexual misconduct would be a felony punishable by imprisonment for up to 10 years.

Mr. President, no other aspect of this bill is more important than the criminalization of the coverup of sexual misconduct. Without this provision, any data collected on reports will continue to be inaccurate and perpetuate an institutional culture of coverups of sexual violence against military women that has been going on probably since women have been in the military. Are we going to stand by when there are over 200,000 fighting women who are defending our liberties and not do anything? We have an opportunity to do something. This is a tough measure, but I think it is long overdue.

Mr. President, not one organization that represents women in the military opposes this legislation. In fact, the executive committee of WANDAS WATCH, a leading organization representing only women on active duty, endorses this legislation.

I ask unanimous consent that a memorandum of June 22, 1994, from Susan Barnes, an authorized spokesperson and founder of this group, Standing Watch for Women Active in our Nation's Defense, their Advocates and Supporters, in support of this legislation, and the amendment, be printed in the RECORD.

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

[Memorandum from WANDAS WATCH]

Re: Proposed amendments to FY 1995, Defense Authorization Act.

To: Tim Gearan.

From: Susan Barnes.

Date: 6/22/94.

Thanks for your call and the copy of Senator DeConcini's bill. We are delighted that the Senator is taking an interest in this important issue and are pleased to say that we support the bill.

Our Executive Committee met last evening to review Senator DeConcini's bill. We concluded that it would be a step in the right direction provided that it is accompanied by a

requirement that the Department of Defense without further delay issue a stronger set of regulations to deal with the problem of reprisals for reporting sexual harassment.

From the scores of complaints that WANDAS is now getting as the result of the support we are providing to Air Force Sergeant Zenaida Martinez, we know right now that the Whistleblowers Act (10 USC §1034) is not working in its present form. Unfortunately, although the current House amendment to that Act was intended as a "first step" toward a resolution of the problems highlighted by the military women who testified at the HASC hearing in March, it is not strong enough to rise to even that level,[1] and our fear is that without more this year, the military services will feel free to return to their old practices and continue to sweep the problem of sexual harassment and other forms of gender bias under the rug.

The lawsuit we brought for Sgt. Martinez to force DoD and the Air Force to comply with the Whistleblowers Act recently resulted in a procedural ruling from the Court that demonstrated that complainants under the Whistleblowers Act have no protection from ongoing reprisals for reporting unlawful complaints while the investigation drags on (a principal motivator of the foot dragging is the fact that the investigation is usually conducted by the very command against which the complaint has been made.) The recent reprisals suffered by Sergeant Martinez as the result of her Congressional testimony is but the latest example that proves that the current law is not working.

Typically under the Whistleblowers Act the Department of Defense Inspector General refers sexual harassment cases back to the IG for the service of the complainant. The DoD IG's stated reason for doing this is that the DoD IG gets too many complaints to handle them all at the DoD level. In the Martinez case, we argued that the Whistleblowers Act does not permit the DoD IG's practice of referring the investigation back to the chain of command. The Judge ruled against us on that important point, and we will appeal; however, it appears that the true solution lies in legislative reform. That is why we believe that the approach taken by Senator DeConcini's bill has merit, although we all understand that it is not intended to solve all the problems.

Senator DeConcini's bill in combination with ours could make a big difference and additional amendments to the Whistleblowers Act. Major revisions of the Whistleblowers Act also are imperative. The Government Accountability Project is currently circulating some proposals in that regard, and WANDAS WATCH supports them.

In the past month I have had three discussions with Congresswoman Schroeder directly on these issues and, of course, a number of discussions with her staff. It is my understanding from those discussions that Mrs. Schroeder will support an effort on the Senate side to strengthen the bill that came out of the House to the extent that protocol permits her to do so. It was Mrs. Schroeder who suggested that we take our bill to improve DoD regulations to AF Secretary Widnall when we met with her last week. We did so, and Secretary Widnall has transmitted our proposal to Secretary Dorn (her co-chair on the joint task force) who in turn is circulating it to interested people in the Pentagon.

We have sent our proposal to several Senators whom we hope might be willing to take leadership roles to assure that Congress does something meaningful this year. We appreciate Senator DeConcini's willingness to "step up to the plate."

Mr. DECONCINI. Mr. President, a great number of women choose to serve their country through careers in the military. American service women should not be subjected to this type of humiliation. They should not experience a sense of vulnerability engendered by the current permissive military environment. They should not be subjected to the terror and long-term incapacitation resulting from sexual assault. And they should not be subject to indifference from supervisors who are responsible for their safety.

We need to send a message to our military that such an environment and such a behavior will not be tolerated. We can fix the problem by establishing an independent unit with jurisdiction over these offenses.

I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, will the Senator yield for a brief question? I have a second-degree amendment prepared, and I would like to send it to the desk, if I could.

I do not want to rush anybody. But if we each want 20, 30, or 40 minutes on each amendment that I have heard of, now we are going to be here tonight, tomorrow, Sunday, and from now on. So if people are going to get anxious around here, saying why can we not have shorter speeches, I know everybody wants to present their full point of view, but we are going to have a difficult time finishing this at a reasonable hour tonight unless we all cooperate and make our points as briefly as possible.

MILITARY CULTURE MUST CHANGE IF SEXUAL HARASSMENT IS TO STOP

Mr. WELLSTONE. Mr. President, I rise to express my support for this amendment, designed to be an important step toward combating sexual harassment in the military, and for the efforts of Senators MURRAY, MOSELEY-BRAUN, DECONCINI and others involved in this effort. I have been impressed by their willingness to press the Pentagon hard in its handling of sexual harassment cases. It is long past due for Congress to take a closer look at the Pentagon's policies—and their enforcement of those policies—in this area.

I believe Senator DECONCINI's proposal to establish an independent investigative body within the Office of the Secretary of Defense deserves careful consideration. It may be time to establish such an independent office in the wake of the Tailhook investigations and other less notorious—but no less significant—cases of sexual harassment within the Armed Forces. Sexual harassment cases must be investigated and prosecuted as fairly, efficiently, and effectively as possible. That is still not being done consistently. I am concerned that Pentagon officials are still not doing enough to vigorously enforce their own policies on this matter.

I am particularly concerned about a case that I have been working on together with Senator DURENBERGER and Congressman VENTO involving a Minnesotan, Lt. (jg.) Rebecca Hansen. Her story has been told recently in several recent articles in the New York Times, the Washington Post, and elsewhere, so I will not rehearse it here.

Lieutenant Hansen's case illustrates some of the myriad problems that are typically found in investigations involving sexual harassment or threats of reprisal and other forms of intimidation by military personnel, including administrative delays, insensitivity by colleagues, investigative carelessness, conflicting interpretations of military standards, and a lack of strong oversight by top military officials. Her case, and others like it, remind us all of the distance we still must travel to change a military culture which too often tolerates sexual harassment and abuse of some of its members. This must change.

I urge my colleagues to support this amendment, which I have cosponsored, to require the Pentagon to toughen its policies on sexual harassment, and to urge the Commission that is currently reviewing Pentagon policies in this area to assess and report to Congress on the merits of the proposal to establish a separate investigative body within the Office of the Secretary to deal exclusively with these cases.

AMENDMENT NO. 2147 TO AMENDMENT NO. 2146

Mr. NUNN. Mr. President, I send a second-degree 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 himself, Mrs. MURRAY, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 2147 to amendment No. 2146.

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 1, strike out everything after "subtitle" down through the end of the amendment and insert in lieu thereof the following:

—DISCRIMINATION AND SEXUAL HARASSMENT

SEC. . DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that such regulations are substantially equivalent to the regulations of the Army on such matters.

[1] Sergeant Martinez, who is a very articulate young woman, wrote a statement outlining her concerns about the bill. I enclose a copy of her statement and our press release.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraph (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

The Advisory Board on the investigation capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters relative to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

Mr. NUNN. Mr. President, this amendment that I sent to the desk on behalf of myself and the Senator from Washington [Mrs. MURRAY] and the Senator from Illinois, [Ms. MOSELEY-BRAUN], is an amendment that deals with the same kinds of problems the Senator from Arizona is addressing.

The difference is that this amendment basically takes the approach of dealing with what we already see happening at the Pentagon, building on a firm foundation. The Army has proposed certain regulations that have been carefully examined.

I believe the Senators from Illinois and Washington will describe that.

In addition to that part of the amendment, which is the heart of the amendment—it is their amendment really—that we have incorporated as a second degree, I do address the provision that the Senator from Arizona has in his amendment, but we do so in a way that gives us some flexibility when we receive the report from the advisory commission that has been reported by the President under the authorization bill last year and is headed up by Mr. Charles Ruff. And that commission is supposed to report in all of this area in December.

The reason I send this to the desk in the form of a substitute is frankly I think that the Senator from Arizona has such a sweeping amendment that I am not sure of the implications of it.

The Senator on page 9 of his amendment says:

Each member of the armed forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

Mr. President, we have millions of people working in the Department of Defense. We have school teachers all over the world working for the Department of Defense.

This amendment, as I read it, makes the failure to report any allegation of sexual misconduct, any allegation of sexual misconduct, a criminal offense by the individual who does not report it to the Director, to one person in Washington.

This does not give any room for something that may be handled at the local level. People may think this is absurd, but I read this amendment to mean that if some third grade student comes in and says that someone told her a dirty joke or told him a dirty joke and that school teacher frankly does not report that to Washington that school teacher is guilty of a criminal offense.

We want to deal with this problem, but we do not want to turn it into an administrative nightmare. I do not see how any individual could possibly fulfill the job that has been described in the first-degree amendment. They would be receiving allegations every day by the thousands perhaps, if this amendment is read literally.

How many times a day in the whole Department of Defense does someone complain to someone else about sexual misconduct?

I do not know where you draw the line on that. The judgment that would have to be made out in the field would be staggering.

So I think we need to take this step by step and deal with it in the way we are trying to deal with it and make sure we send a message that this conduct will not be permitted and will be dealt with. But we better think before we make a criminal offense out of failure to report to Washington every single incident that may happen in the field throughout the whole world. That, I think, is something we better put up a little warning light on.

Mr. President, I yield to my colleagues. I yield the floor and hope they will explain the amendment because it is their amendment, in essence.

Mr. DECONCINI. Mr. President, I wonder if the Senator could get us copies of the amendment.

Mr. NUNN. Yes, I will get the Senator a copy.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I rise in strong support of the substitute amendment proposed by Senator NUNN, Senator MURRAY, and myself.

Actually, Mr. President, the good news in all of this is that the climate of opinion and the culture in this institution regarding issues of discrimination and sexual harassment has so changed and so been heightened that we have competing—maybe not competing—we are congruent, but we all have these different proposals to deal with the problem that 2 years ago was not even recognized as existing.

I commend Senator DECONCINI, who raised this issue months ago with me, at least, on the train one day. I know his sincere concern. I appreciate the passion of his remarks in that regard.

We have tried to work together to come up with a not just congruent approach but come up with the same approach, and we have not really done that because we felt that it made sense in my opinion to reward initiatives that are already being taken to provide a remedy, a redress, a process for dealing with sexual harassment and discrimination, equal opportunity complaints.

The Army has adopted such a process, and it is a process that so far is working. It is being improved over time, but it has already adopted such a process. It is a process that gives an individual the opportunity to speak, to have a hot line in the first instance, to file a formal complaint if it gets to that and only if it gets to that, because sometimes there could be confusion. But if there is a need for a formal complaint or the individual decides he or she is not getting attention that they require, they can file a formal complaint.

That formal complaint—and I think this is interesting and positive about the process that is in place by the Army now—is that it can go to any number of people, including the individual's doctor, the individual's chaplain or minister, the individual's direct housing referral office, the EEO adviser, the Equal Employment Opportunity adviser, the inspector general,

the judge advocate general, the military police or criminal investigator in the chain of command.

So there are a number of options for an individual who has suffered from what he or she believes to be discrimination, either based on sex or on gender or on race. And I think that is an important initiative for the Army to have taken.

The initiative of the second-degree amendment, Mr. President, essentially says we are going to take the Army's attempted experiment, the Army's procedure, which is shown to be a good procedure that has safeguards and time lines for reporting, 3 days for the complaint to be acted upon, 14 days for the decisionmaking, 7 days for appeal, if you do not like the decision, and then finally even further, a cooling off kind of period, a period in which there is final resolution. There is time lines and a process that is broad based. There is a process that allows for a number of different kinds of approaches in this very important and sensitive area.

This process makes sense to us and is one that the second-degree amendment seeks to apply across the forces, the various Armed Forces. It says that the initiative the Army has taken in this regard should be recognized, should be supported, and we will give the other services an opportunity to pick up the same initiative so there will be a consistent, coherent process among all of the services for dealing with complaints of sexual harassment and denial of equal opportunity. We think that consistency makes sense.

Further the second-degree amendment goes on and picks up where Senator DECONCINI left off and says we will also take a look at whether or not a separate, freestanding agency is required in this area.

So it really kind of says we are going to give the services the opportunity to develop inhouse something that works for military personnel and that preserves military readiness and is sensitive to the issue of discrimination and denial of equal opportunity and sexual harassment at the same time, and I think it makes sense for us as a body, Mr. President, to support that, to encourage that kind of initiative and to allow it to go forward and put it in place in all the other services.

We understand that the Navy has already adopted or suggested they are going to adopt the Army approach. The other armed services can adopt the Army approach. So a woman in the military, for example, will not have to worry that there is one process over here, another process over there, and that if different branches of the service all have different rules, we have one set of rules for all of our military personnel and that, again, it seems to me to make sense.

Mr. President, again, I congratulate and commend and thank Senator NUNN for his sensitivity and for listening and for helping us get to this point. I think he has come up with something that is a workable compromise that addressed the concerns expressed by Senator DECONCINI, the concerns expressed by the military leadership, the concerns expressed by the women of this body, because all the women of this body had cosponsored Senator MURRAY and my amendment to begin with.

So what Senator NUNN has done here is come up with a response that is responsive and responsible and that relates to and I think in a positive way says we are going to do this constructively as opposed to being in opposition to the military opposed to using a hammer they are going to use a glove and work on this issue in a way that will give real meaningful recourse to the women and men of the military who want to have some avenue for remedy of their sexual harassment or equal opportunity complaints.

Mr. DECONCINI. Mr. President, will the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. Yes.

Mr. DECONCINI. I wonder if the Senator from Illinois will answer this. She made a statement that was of interest to me that the Army has adopted these regulations, and I believe that the distinguished Senator said it is working. I question that it is working. I hope it works, but I am advised it has only been effective since April 1, 1994. And I wonder on what basis the Senator from Illinois can think what this is really doing about the sexual harassment problem and sexual misconduct problem even within the Army.

Ms. MOSELEY-BRAUN. I respond to the Senator from Arizona that the association of women, the WANDA's—I do not know exactly what the acronym stands for. We will look it up. The women's organization for military personnel supports this approach.

And the Senator is correct. The final part of this, the cooling off period and the post-appeal part of the process, is new and started in April. But the Army has been working on this since September of last year, 1993, and, I say to my friend, the Senator from Arizona, if anything, that, I think, undergirds and underscores the case made for the second-degree amendment. The Army came up with the process. They worked on it. The women worked with the issue. They said, "Well, we need further refinement there," and they went to this final 35-day period so they refined it.

The second-degree amendment says, well, we are going to take a step further and make this across the board and we will take a look at whether or not we need to go further and make even further adjustment. So this is a work in progress. It seems to me it is better to go with a work in progress that shows this kind of attention and applauds the initiative of the military to take that step, rather than go with a kind of draconian hammer approach and say let us throw out something; they are trying to do the right thing here, let us throw it out.

Mr. DECONCINI. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. Let me just conclude.

Again, I appreciate the passion and the commitment that the Senator from Arizona has demonstrated here. But, as he mentioned in his speech, having been a lawyer, having been a prosecutor, having handled cases like this, I come from a similar background. Having handled cases like this, I think that, if we have an opportunity here to give the military some opportunity to work out a positive process in a constructive way, then we ought to support that initiative. If it turns out it does not work, then maybe it will be appropriate to go with heavyhanded legislation and, you know, dictate from here.

But given the fact they have worked this out already, I think it would be appropriate for us to incorporate that approach in the second-degree amendment.

Mr. DECONCINI. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. Yes.

Mr. DECONCINI. I thank the Senator.

I appreciate her optimism that the military is now going to really adopt and do something when all the history is that this has not occurred. I cannot really believe for a moment the military is going to respond near as effectively.

The executive committee of WANDAS WATCH stated, in a memorandum to my staff, Mr. Gearan, on June 22, that: "Our executive committee met last evening to review Senator DECONCINI's bill." The exact bill that is before the Senate. "We concluded that it would be a step in the right direction, provided that it is accompanied by a requirement that the Department of Defense, without further delay, issue a strong set of regulations to deal with the problem of reprisals for reporting sexual harassment."

So this organization, I just want to advise my friend from Illinois, who specifically supports this legislation in conjunction with whistleblower protections akin to the approach taken by my friend from Illinois, Senator MOSELEY-BRAUN.

But my question goes to the statement I believe the Senator from Illinois made that the amendment that the distinguished chairman has offered here says, let us take a look at this through this commission and see whether or not we need an independent office.

And this study that is going to come back—I wonder if the Senator really believes, really believes, that there is a

chance, a chance, that any Defense Department board or task force would ever come back with a criminal penalty for failure to report sexual harassment, because I do not believe they will.

Ms. MOSELEY-BRAUN. I say to my friend, the Senator from Arizona, the difficulty with this debate is that we are really on the same side and it kind of gets to be very difficult to have people on the same side parsing an issue in a way that makes sense.

I have the exact same interests and the exact same goals that you do with this. The only question and the only difference between your legislation and the second-degree amendment is a matter of approach. The approach that we have in this legislation is an approach that has received support that comes out of the military itself, that so far is working and probably may have to go further. It may have to go to the point of having criminal penalties, et cetera, added. It may have to get to that.

But it just seems to me, as a matter of timing, it makes sense to take the approach incrementally, to take the approach in a way that responds to the issue in a constructive, proactive way.

There is an old expression, you know, the cure for a headache is not a bullet to the brain. It seems to me if you are going to cure this headache, we need to take the steps that have been demonstrated already and that I think are constructive.

I yield to the Senator from Washington.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Washington.

Mrs. MURRAY. I thank the Chair and I thank my colleague league from Illinois.

Madam President, I am happy to join my colleague, Senator MOSELEY-BRAUN, and the chairman in support of this amendment which we do believe is a good first step, and I assure you it is a first step, in addressing the problem of sexual harassment in our Nation's armed services.

I am pleased to note that all 7 women of the Senate—Democrat and Republican—are cosponsors of the original amendment that the chairman has now incorporated into this broader amendment addressing sexual harassment.

I want to take this opportunity to thank the Senator from Arizona for his work on this issue. As a cosponsor of his original amendment, I know that this is an approach that he has worked long and hard on, and I support him in that. And I assure him that we believe that the second-degree amendment that is before us is only a first step. We are going to be watching it very carefully. He raised very good and legitimate concerns and it is up to all of us, if this second-degree amendment passes, to assure that those are put in place and, if not, to do continued work on it.

But most importantly, let me take this opportunity to thank Air Force Sgt. Zenaida Martinez, Navy Lt. Darlene Simmons, Marine Corps S. Sgt. Carol Fuehrman, former Army private Pamela Klemm, former Navy lieutenant Paula Coughlin, and other women like them who have had the courage to come forward—at great personal and professional risk—to speak out on this problem, and to offer meaningful solutions.

It is because of—and on behalf of—these women that I speak out on the problem of sexual harassment in our military.

We know that women in civilian life have a tough enough time when it comes to dealing with sexual harassment in the workplace. But for women in the military, the situation is even more difficult. Women in the military do not have a strong Federal law to protect them like title VII, nor do they have an outside judicial system to turn to.

We recently met with the Joint Chiefs to discuss this problem, and I believe the message is beginning to be heard at the highest levels—finally.

I am extremely proud of our Armed Forces. Our Nation's military force remains the best trained, most capable military in the world. However, I know that Defense Secretary Perry and the Joint Chiefs agree with me that sexual harassment, like discrimination of any kind, undermines the readiness of our forces.

The Pentagon's own statistics show that across the services, more than 60 percent of military women report having experienced sexual harassment.

The Pentagon has long known that this problem is pervasive, and simply has not done anything about it. A Department-wide "zero-tolerance" policy was issued in 1988. Notwithstanding this policy, the DOD, the Navy, and the Air Force have not taken any significant actions to enforce it.

In fact, the Pentagon only formed its Task Force on Sexual Harassment after four military women testified at a highly publicized House hearing about their services' refusal to punish sexual harassment and the reprisals they suffered for reporting it.

The Army, to its credit, has taken the problem more seriously, and has conducted a thorough review of its regulations. As a result of that review, the Army came out with a pretty good set of regulations, which, although not perfect, address many of the concerns our military women have raised.

Today, we are building on this positive development.

This approach uses the new regulations on sexual harassment adopted by the Army as the baseline. We require the Air Force and Navy to develop regulations that are equal or better than the Army regulations. Obviously, each service has special circumstances that have to be accommodated, and that is accounted for in the legislation.

Right now the current system of separate regulations for the different services is not working. Only the Army has studied the problem seriously and has taken broad action. The regulations issued by the Air Force and Navy have no real protection against reprisals for reporting discriminations. Only the Army has a strong statement in its regulations against reprisals for reporting discrimination violations.

Adopting the Army's regulations as a minimum standard will not fix all of the problems, but it will be a meaningful first step. The Army's regulations have incorporated many of the changes that the military women who have spoken out on this problem have said are needed.

Our goal is to begin a process that will lead us to a uniformed sexual harassment and discrimination policy for all of the services, and a standard grievance procedure.

Let me be clear—the approach we are supporting today will not end the problem of sexual harassment in the military. It is, however, a good and meaningful first step. What we begin today, we will add to tomorrow.

I want our Nation's military women to be assured that we are with them on this, and we are with them for the long haul.

Ms. MOSELEY-BRAUN. Madam President, Senator MURRAY and I are proud to propose this amendment, which has the support of all of the women Senators on both sides of the aisle. This amendment will improve the process of addressing, and fairly and aggressively resolving, equal opportunity complaints including sexual harassment across all branches of the armed services.

This amendment will require all four services to implement the regulations of the U.S. Army related to the handling of equal opportunity complaints, including sexual harassment complaints.

Mr. President, since the Tailhook Convention in 1991, the public has become aware of the problems of sexual harassment and sexual misconduct in the military. I abhor discrimination anywhere, but sexual harassment in the military is especially intolerable because the unit suffers, and readiness suffers.

Teamwork and unit cohesiveness are vital to military preparedness. The ability of a unit to perform suffers when one highly trained member of the team is harassing another member of the team.

The Army has recognized this, and has developed a set of regulations that address how sexual harassment and other equity complaints are investigated. But the goal is not just the investigation. The goal is to change behavior by having a clear process for

handling complaints, and promoting a culture of zero tolerance by actions, not words.

Why is this legislation needed? The Department of Defense's own statistics show that across the services more than 60 percent of military women report having experienced sexual harassment. A recent report of the Department of Defense Inspector General showed that the services have taken no meaningful action to deter reprisals. Only 6 percent of the case files examined by the IG in the IG's review of the handling of actual cases in 1993 found that the Service involved took any action to detect or deter reprisals.

Only the Army has studied the problem seriously and has taken sweeping action. Air Force and Navy regulations have no real protection against reprisals for reporting discrimination. The current system of separate regulations for separate services is not working.

In September 1993, the Army implemented new regulations for investigating an equal opportunity complaint. Let me explain how it works.

A member of the Army with a sexual harassment complaint fills out the equal opportunity complaint form explaining the nature of her complaint, and her requested remedy. The form itself guides the investigation step by step, because as the investigation goes through each stage, an additional part of the form is filled out. The form also creates a paper trail, so that no one in the chain of command or elsewhere can bury an investigation or lose a file.

One of the most important aspects of the Army regulations is that they set up strict deadlines for the completion of each stage of the investigation. The deadlines ensure that the complaint is investigated quickly and thoroughly. If the investigator fails to complete each stage of the investigation on time, the investigator is required to go up his or her chain of command to get an extension.

Under Army regulations, the person who investigates the complaint is not in the direct chain of command. If a complaint occurs in a company, the investigator would likely come from a unit other than the unit one step higher in the direct chain of command. This change provides for greater objectivity. When investigators come from within the chain of the command, the complaint may be seen as a reflection of the commander, and the way he or she runs the company. There can be a tendency to cover up complaints, instead of addressing the problems. Taking the investigations out of the direct chain of command is therefore critical.

Finally, the Army regulations protect the women who make the complaint from reprisals. We learned during hearings held by the House Armed Services Committee that women commonly face reprisals for making sexual harassment complaints. There is a pattern of referring people who complain to a psychologist for counseling, in order to discredit her complaint. This must stop. Sexual harassment is not the victim's fault.

The Army regulations are a work in progress and are continually being reviewed and fine tuned as the service gains experience investigating complaints. This regular review of the regulations and how they are working in the field is extremely important. I have written this amendment to allow the services flexibility to implement regulations appropriate to the conditions of each branch of the military. But make no mistake. The Army regulations should be seen as a minimum standard, and this amendment is a first step.

We have a commitment to ensure that all of the members of the Armed Forces can serve and excel to their maximum ability. We must send a clear message that sexual harassment or any other harassment will not be tolerated.

I urge the Senate to adopt this amendment. It puts the Senate on record that we will work with the military to root out sexual harassment and make our fighting force the best it can be.

Mr. NUNN. Madam President, first, let me congratulate the Senator from Illinois and the Senator from Washington for what I think is a very responsible approach here. They have not only presented their ideas, but they have worked with the Department of Defense in a spirit of cooperation. They are building on a foundation and encouraging this effort rather than, as the Senator from Illinois said, hitting people over the head with a hammer. Sometimes you have to use a hammer, but when people are really trying and when they are really moving forward and doing their level best to get on top of a very difficult situation, a very important situation, I think that is the way to proceed.

We are going to be watching this report very carefully. In the second-degree amendment we have incorporated the ideas of the Senator from Arizona in terms of asking the commission that is going to be reporting to take a look at what the Senator is proposing. So it is part of this second-degree amendment. It does not go as far as the Senator did, but his ideas are conveyed there.

It is my hope that we can dispose of this matter now and move on to another amendment. I know the Senator from Oklahoma would like to present an amendment. I wonder if we can agree to the second-degree amendment being accepted?

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. DECONCINI. Madam President, I can see where we are going here. But I must say with all due respect to the authors of the second-degree amendment, in my judgment—it is only one person's opinion and maybe only 1 out of 100—it is long overdue for the hammer and not the glove. If anybody here has talked to female members of the military, like I have and, I suspect, many of my colleagues have—do you know why you have talked to them, at least if they have come to you since you have been in Congress? It is because we are the only ones who will raise the issue. To leave this within the military, which historically disregards it and abuses the people who are the victims and who file the complaints, is just absolutely naive in my judgment.

But I realize where the votes are here. I understand the strong feelings of, "Let's try it. Let's work with the military. Let's give them a chance. And let's ask them to put together some data so maybe we can find out. And let's have an appeal process here within the military." So the military will all of a sudden wake up and say, "Hey, maybe we better take these seriously. Maybe we better keep some data. Maybe we better reprimand somebody. Maybe we ought to prosecute them."

That has not happened. We saw rape and sodomy just in this last war experience that this country went through. And what happened? The victim was brutalized—6 hours she had to explain the procedures and sexual acts that were committed by her commanding sergeant; 6 hours she was humiliated. What happened to the commanding officer after he confessed? He got promoted and got to retire. Tell me, that is what we want? Tell me that there is no need for a hammer?

Madam President, I cannot let an opportunity for a hammer go by. It is long overdue. Members in this body know it is long overdue.

I have been guilty, too. I have been in this body for 18 years and I have not offered this amendment until 2 years ago—or a year and a half ago, when I finally put it together where I could get enough data where I thought we could argue the case. May I suggest to the distinguished chairman—I know he wants to get on with it—that we have a rollcall vote on the second-degree amendment.

Mr. NUNN. Madam 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 Senator from Arizona.

Mr. DECONCINI. Madam President, I am going to vote against this amendment, not because this amendment is necessarily a bad amendment. It is better than zero—no question about it. But it does not do anything for women

in the military to set up anything independent and to provide some real penalty for sexual harassment and for failure of reporting sexual harassment. I may be the only vote against this because at least this is an improvement. I suggest to the Senators from Washington and Illinois that it is an improvement and it is a step in the right direction and it is the first step, perhaps. But I, in conscience, cannot let it go any longer. I think it is time for a hammer. I am prepared to vote.

Mr. NUNN. Madam President, I think we are prepared to vote. I would say when the hammer hits it needs to be the right hammer and it needs to hit in the right spot. We have used hammers before.

I say to the Senator from Arizona, in spite of the considerable improvement that must be done in the military in this area, in the courts of the military, and the appellate courts in the military, only the narcotics and drug cases exceed the sexual cases that are now in the courts. So I would not agree that nothing is being done.

Madam President, I hope we could come to a vote. The yeas and nays have been ordered.

Mr. HATFIELD. Mr. President, today I was unexpectedly delayed in my effort to reach the Senate floor to cast my vote or the Nunn second degree amendment to the DeConcini amendment No. 2146. Had I cast my vote, I would have done so in support of Senator NUNN's amendment, numbered 2147. I support the efforts of both Senators DECONCINI and NUNN to provide stronger prohibitions on sexual harassment in the Armed Forces.

The PRESIDING OFFICER. The question occurs on amendment No. 2147.

The clerk will call the roll. The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from North Carolina [Mr. HELMS], and the Senator from Alaska [Mr. MURKOWSKI], are necessarily absent.

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

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—93

Akaka	Campbell	Exon
Baucus	Chafee	Faircloth
Bennett	Coats	Feingold
Biden	Cochran	Feinstein
Bingaman	Cohen	Ford
Bond	Conrad	Glenn
Boren	Coverdell	Gorton
Boxer	Craig	Graham
Bradley	D'Amato	Grassley
Breaux	Danforth	Gregg
Brown	Daschle	Harkin
Bryan	Dodd	Hatch
Bumpers	Dole	Heflin
Burns	Domenici	Hollings
Byrd	Dorgan	Hutchison
Inouye	McCain	Robb
Jeffords	McConnell	Rockefeller
Johnston	Metzenbaum	Roth
Kassebaum	Mikulski	Sarbanes
Kempthorne	Mitchell	Sasser
Kennedy	Moseley-Braun	Shelby
Kerry	Moynihan	Simon
Kohl	Murray	Simpson
Lautenberg	Nickles	Smith
Leahy	Nunn	Specter
Levin	Packwood	Stevens
Lieberman	Pell	Thurmond
Lott	Pressler	Wallop
Lugar	Pryor	Warner
Mack	Reid	Wellstone
Mathews	Riegle	Wofford

NAYS—3

DeConcini	Durenberger	Kerrey

NOT VOTING—4

Gramm	Helms
Hatfield	Murkowski

So, the amendment (No. 2147) was agreed to.

Ms. MOSELEY-BRAUN. I move to reconsider the vote.

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

The motion to reconsider the vote was agreed to.

The PRESIDING OFFICER. If there is no objection, amendment No. 2146, as amended, is agreed to.

So the amendment (No. 2146), as amended, was agreed to.

AMENDMENT NO. 2148

(Purpose: To prohibit Department of Defense funds from being provided to institutions of higher education that deny access for military recruiting purposes)

Mr. NICKLES. Madam 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 Oklahoma [Mr. NICKLES], for himself, Mr. THURMOND, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. COATS, Mr. BENNETT, Mr. BROWN, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, and Mr. BOND, proposes an amendment numbered 2148.

Mr. NICKLES. Madam 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 249, between lines 7 and 8, insert the following:

SEC. 1068. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

Mr. NICKLES. Madam President, I will be brief. I wish to thank Senator NUNN and Senator THURMOND for their cooperation.

This amendment is very simple, very direct, and it is very similar to legislation or an amendment that was adopted in the House. This amendment would deny Department of Defense research funds to universities that deny recruiters access to their campus. There was a study requested, and the Department of Defense found 140 institutions of higher education that, for some reason or another, whatever reason, have denied recruiters access to their campus.

This amendment says if they did deny recruiters access, then, therefore, they would not be eligible to receive Department of Defense research and development grants or funds.

This is cosponsored by Senators THURMOND, LOTT, MACK, MCCAIN, COATS, BENNETT, BROWN, FAIRCLOTH, GRASSLEY, SMITH, and BOND. It was adopted in the House by a vote of 271 to 176. I appreciate the cooperation of Senator THURMOND and Senator NUNN in accepting it.

Let me say that I wish all of my colleagues could have attended a recent hearing held by the Senate Appropriations Defense Subcommittee which looked into our problems of recruitment. The hearing made two points regarding recruiting that are pertinent to this debate.

The first point is that the propensity of America's youth to join the military is on the decline as documented in the 1993 Youth Attitude Tracking Survey, known as YATS, which was issued in January of this year.

The YATS showed that among 22- to 24-year-old men, 14 percent of them were likely to join the service in 1992. In 1993, that figure is down to 11 percent. In the cover memo on the YATS, Edwin Dorn, the Assistant Secretary of Defense for Readiness, states the 3-point drop from 1992 to 1993 is statistically significant.

Madam President, it is easy to see that if the propensity for America's college-age youth to join the service has dropped, recruiters will have to visit more schools in order to meet the recruiting requirements for new talent.

It was made perfectly clear in that hearing that military recruiters are barely reaching their goals of bringing new talent into the military. In fact,

even in downsizing, an Army recruiter testified that his recruiting unit was not meeting its recruiting goals. With schools putting restrictions on military recruiters, it makes it even harder for them to meet their goals.

These hearings also exposed that there is a perception among many college and university placement offices that the military is not hiring. We all know this is not the case, yet this perception goes unquestioned in many cases. This is due, in part, because approximately 140 institutions of higher learning do not allow recruiters on campus to explain to its students that the military is still in search of young, bright, and energetic graduates.

My colleagues understand that we depend upon an All-Volunteer Force to defend the freedoms we enjoy. To maintain a quality all-volunteer force, military recruiters need access to the best students in America. Today this is simply not the case.

I remind my colleagues of the Army recruiter who stated before the Senate committee that his unit is not meeting its goals, and policies that bar recruiters from campus just compound the problem.

This amendment is necessary because it addresses readiness. Readiness starts with recruiting, and if the military does not have access to some of the most talented students in our country, then we are not doing our best to defend America. I believe this is a great disservice. If this amendment is adopted and some schools change their policy, then the pool of available talent to the All-Volunteer Force will be increased.

As critical as our personnel needs are, I also find it very hypocritical for these institutions that bar military recruiters from their campuses to have an open wallet policy to DOD grants and research money. However, when it comes to allowing the Pentagon an opportunity to hire the young men and women its budget helped to educate and inspire, these institutions have a closed-door policy.

While some Members of this body would approve of this policy, there is none who could find it consistent or nondiscriminatory. Do you really want to vote for retaining this inconsistent and hypocritical practice? I certainly hope not. This amendment is an opportunity to stop this practice.

Let me add that this amendment does not infringe upon an institution's right to take a stand on issues. If they choose to bar military recruiters, they may continue to do so. However, it does prevent an institution from accepting DOD money for research and then turning away the recruiters when they come to campus.

Some may claim this amendment will chill academic freedom. Not so. In fact, true academic freedom would result if these institutions allowed military recruiters to come to campus and permitted the students to decide with whom they will or will not interview.

In short, this amendment attempts to make the widest array of talent in our Nation's institutions of higher learning available to DOD recruiters. By doing so we will increase the readiness level of our military, and restore recruiting to many of our Nation's campuses.

A vote for this amendment is a vote for readiness.

Mr. THURMOND. Madam President, Senator NICKLES' amendment is a positive step toward keeping our college campuses open to military recruiters.

Some colleges have decided to prohibit military recruiters access to their campus; deny them access to the students and certain student records. At the same time, many of these colleges and universities accept millions of dollars in contracts and grants from the Department of Defense. This is an example of having your cake and eating it too.

Madam President, I think we all agree that the quality of our Armed Services has never been better. All of us have supported the efforts of the military services to recruit from groups who have high school educations or better. Those college or university administrators and any State officials who assist in barring military recruiters from a campus are denying the military the opportunity to explain the extraordinary opportunities available in the military today. They also deny those students who may be interested in serving their country easy access to information upon which they could base a career decision.

The Nickles amendment is not different from the policy decision any major corporation might make if their personnel were barred from an institution. It is not unfair to refuse to pay money to an institution which denies access to their facilities. It is just good business.

I urge my colleagues to vote for the amendment.

Thank you Madam President.

Mr. SIMPSON. Mr. President, I rise today to offer my strong support for the Nickles amendment regarding the issue of defense funding for universities that do not allow military recruiting on their campuses.

This amendment would not allow funds available to the Department of Defense to be provided by grant or contract to any educational institution that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining access to campuses for military recruiting purposes.

I truly do understand—and I share—the most valid concerns that the Senator from Oklahoma has regarding this issue. The quality of recruits in all of our branches of the Armed Forces is down significantly. The quantity of recruits and enlistees is also measurably down since 1992. One way to shore up that decline is to allow recruiting at universities around our Nation. If universities do not allow the Department of Defense to recruit on their campuses, I do not believe those same universities should be allowed to ask for grants and other contracts from the Department of Defense. I also understand the economic impact that this amendment may very well have on some educational institutions.

However, universities can not have both ways. Our national security is the primary responsibility of the Federal Government. We must do what we can to support a strong military, and universities should assist in that process—not hinder it.

Mr. NUNN. Madam President, I urge acceptance of the amendment.

The PRESIDING OFFICER. The question occurs on amendment No. 2148.

The amendment (No. 2148) was agreed to.

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

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I have an amendment which has 53 cosponsors regarding antipersonnel landmines. I have discussed it with the distinguished manager of the bill.

Two years ago I sponsored legislation that would have imposed a 1-year moratorium on the export of antipersonnel landmines. That legislation was signed into law by President Bush. Last year, my amendment to extend the U.S. export moratorium an additional 3 years, to overlap with a U.N. conference on landmines that is scheduled to begin next year, was adopted by the Senate on a rollcall vote of 100–0.

That amendment called on the President to seek an international export ban, and further limits on the production and use of landmines. Last year I introduced on behalf of the United States a resolution at the United Nations calling for an international export ban. That resolution passed the U.N. General Assembly unanimously. It put all countries on record endorsing a halt to the export of landmines worldwide. Again, a tremendous step, with broad support for stopping the scourge of landmines.

According to the administration, close to 20 countries have since either announced or adopted export bans similar to the one we passed here in the U.S. Senate.

Madam President, each month over 1,200 people, most of them innocent civilians, are killed or injured by landmines. One hundred million of these

tiny explosives, many of which can be produced for $3 apiece and are often no bigger than a shoe polish can, are strewn in over 60 countries—100 million unexploded landmines in 60 countries. Each one waits silently, hidden by a few inches of sand or dust, for an unsuspecting person, often a child, to step on it. That child loses a leg, an arm, an eye or often their life.

Landmines are unique because no matter how sophisticated, they are indiscriminate weapons. They cannot tell the difference between a combatant and a civilian or an elderly person and a child. But they can make whole areas of land uninhabitable, and they can be an effective force multiplier for the most rag-tag Third World army. You can have an ill-equipped, ill-trained, ill-prepared army, but they can be an enormous, potent force because they have landmines and they can use them as weapons of terror against innocent civilians or against anybody else.

A $3 landmine can blow the leg off a child as well as it can blow the leg off the most highly trained, well-equipped American soldier or peacekeeper, medical aide, or missionary.

Some say it is naive to think that by acting ourselves we can get others to act likewise. I strongly disagree. Our export moratorium showed what U.S. leadership can do. It inspired countries like Germany, South Africa, and France to follow the United States example. Italy is one of the world's largest producers and exporters of landmines. Last week, the Italian Defense Minister called for a ban on the production and export of antipersonnel mines. So has the Vatican; so has the Swedish Parliament. When the Swedish Parliament called for this, it was not just an empty gesture. Sweden was a major landmine producer.

Our moratorium inspired a U.N. conference to review the outdated landmine protocol next year, and meetings to prepare for that conference have already begun in Geneva.

It is interesting, Madam President, that a year ago the press hardly paid any attention despite the fact that landmines may have killed and maimed more civilians than all the chemical and nuclear weapons combined. What a difference a year makes. There is hardly a major newspaper in this country that has not reported on the landmine scourge.

Two weeks ago, in an effort to keep the momentum going, I introduced here in the Senate, with 53 original cosponsors, the Landmine Protection Moratorium Act. That legislation would impose a 1-year moratorium on U.S. Government production and procurement of antipersonnel landmines. Its purpose is simple. It is intended to show the world that the United States is going to lead by example, and we are going to not only have the moral leadership but we are going to challenge other countries that produce these weapons to join us in stopping the carnage they cause.

Over half the Senate has cosponsored this bill, and a number of Senators who have not yet cosponsored it have assured me they will vote for it. I think this is powerful proof of the depth of support in the Senate for dramatic action to deal with this problem. Republicans and Democrats, conservatives and liberals and moderates, all have joined as cosponsors.

I believe that nothing short of a total ban on these weapons is going to stop their widespread use and slaughter of civilians and of children.

Madam President, I have gone to refugee camps. I have gone to places where they use the Leahy War Victims Fund. I have gone to rudimentary hospitals in the Third World, and I have seen what landmines do. My wife is a nurse. She told me she had never seen anything in her experience to compare to the trauma caused to children from landmines.

A total ban is a long-term goal, and there are many interim measures that could help reduce the toll. We need strong, enforceable limits on production, use, and transfer of landmines.

If the United States continues to show the kind of bold leadership that captures the world's attention and forces other countries to answer why they too should not act forcefully to deal with this problem, the negotiations will succeed. Otherwise, we will see cosmetic changes, or measures which do not get at the heart of the problem. There is no escaping the fact that dozens of countries produce landmines, and a $3 Serbian mine is as effective, and some might argue more effective, as the most sophisticated self-neutralizing U.S. mine.

Mr. President, it was my intention to offer my landmine production moratorium as an amendment to the Defense authorization bill, which we are debating today. I am convinced I have the votes to win. There is also strong support in the House for identical legislation that is sponsored by Congressman LANE EVANS. He has been a strong leader in this field.

But I have decided not to offer this amendment at this time. It is a difficult decision, and I have made it for a number of reasons.

The administration, thanks to Secretary Warren Christopher, Ambassador Madeleine Albright, Ambassador Alan Holmes, Ambassador Thomas McNamara, and others, has become seriously engaged on this issue. We have had discussion in my office and in their offices, here and in New York at the United Nations.

There are some in the Pentagon who oppose any action that would in any way limit their ability to produce, stockpile, or use landmines, or probably any other weapon. But that is not the administration's position.

I met recently with Ambassador Alan Holmes and Ambassador Thomas McNamara. They described the two-track strategy the administration is pursuing. As an interim measure, the administration is seeking support from other landmine exporting nations to get an international export ban, and the administration is also conducting a policy review of broader options to deal with the problem of civilian casualties from landmines, and there are thousands and thousands of civilian casualties. Far more civilians are killed and maimed by landmines than combatants. Last year, I met with Secretary Christopher at length on this subject.

According to a letter jointly signed by Secretary of Defense Perry and Secretary of State Christopher, which I received this week, the options being considered range from a total ban on these weapons to limits on their production, stockpiling, and use.

Ambassadors Holmes and McNamara urged me to hold off offering my amendment at this time, to give the administration a chance to complete its policy review and to seek support from other nations for these measures. They said their process will take time and that a U.S. production moratorium could derail their efforts.

Madam President, I have said time and again that the United States cannot solve the landmine problem alone, not when there are landmines in 60 countries and 100 million of them waiting to be exploded, to kill and maim. Only U.S. leadership and international cooperation can solve it.

I have also said this is a long-term effort. I want to support any serious efforts the administration is making.

But while I commend Ambassadors Holmes and McNamara for their attention to this issue—and I do commend them, and I will hold off for now to give them a chance to show what they can do—I want to issue a warning.

We know we could have passed this today, but I am willing to hold back to enable them to move forward. However, I am very concerned that the administration may try to solve this problem with an elaborate, unenforceable international control regime that favors high-tech mines over others, which would not have a snowball's chance in hell of working. We are not dealing with countries like the United States and Great Britain and others who can afford all these highly sophisticated and expensive landmines and delivery systems. We are dealing with a problem, in 60 countries, of inexpensive mines.

I am also concerned that United States may not be showing the kind of leadership in Geneva that I and a majority of Republicans and Democrats in the Congress are calling for. Apparently, the administration is proposing that the focus of the U.N. Conference on the Landmine Protocol be limited

only to the use of landmines—only to the use—when they have to be addressing the broader issues of production, stockpiling, and transfer. I am very concerned the administration is pursuing an overly narrow approach that can result in only superficial changes to the already flawed landmine protocol. That would be an unacceptable result.

The U.N. review conference is a unique opportunity, and squabbles over whether this is an issue of arms control or humanitarian law should not prevent a discussion of a broad range of options covering all the issues. Nor should the administration's plans to pursue an export regime or other controls, separate and apart from the landmine protocol, preclude trying to accomplish as much as possible in the U.N. conference.

Finally, Madam President, I urge the administration to undertake a credible, independent analysis of the military utility of these weapons, compared to the immense economic and social damage they cause. Consider the danger these weapons pose for U.S. troops, whether in combat or on peacekeeping missions in places like Bosnia or Somalia. Consider what incentive there is for poor countries to stop producing $3 mines which do not self-neutralize, when we keep producing and using our sophisticated mines.

Over half the Senate is standing ready to support a halt on U.S. production of antipersonnel landmines. During the coming months I and others will be listening closely to what the administration says in Geneva, and watching what it does here at home. This is a crucial year, and the test will be whether the administration can cast aside the conventional wisdom. Imagine a world without these weapons, and then believe that it is possible to get there and figure out how to do it. I believe it is possible. think of the benefits it would bring not just to the people of countries like Cambodia, Angola, and Nicaragua, but to our own soldiers.

Mr. President, I want to thank the cosponsors of my legislation, and people everywhere who have called and written to me to express their support for it.

I ask unanimous consent that the letter from Secretary Perry and Secretary Christopher be printed in the RECORD.

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

THE SECRETARY OF STATE,
Washington, DC, June 28, 1994.

DEAR SENATOR LEAHY: We are writing to express our strong support for your leadership in addressing the problem of civilian casualties from anti-personnel landmines. As you know, the Clinton Administration is committed to redressing this problem and looks forward to continuing to work cooperatively with you.

We are committed to working toward an effective international anti-personnel landmine control regime. The Administration is conducting an intensive policy review to determine the parameters of what the United States would propose for a regime, both in the near term and the longer term. A broad spectrum of options is under discussion, ranging from a total ban on APL to export controls on all types of APL, production and/or stockpiling restrictions, and transparency measures. We expect whatever initial controls can be agreed upon will be strengthened over time, and as we assess the regime's international support and the effectiveness of its implementation.

While we have been strongly supportive of the current export moratorium, we are concerned that the legislation you are considering, which would ban U.S. production/procurement of anti-personnel landmines, would be counterproductive to the goal we all share of developing as quickly as possible an effective anti-personnel landmine control regime. Pursuing this legislation now would prejudge the U.S. negotiating position, restricting our ability to conduct effective consultations with countries critical to a control regime. It also could impede our diplomatic efforts to build support both for the export moratorium and an eventual regime.

A control regime is just one aspect of our comprehensive approach to the complex landmine problem. We will continue to expand our demining programs, to work for successful ratification of the Convention on Conventional Weapons, and to achieve our goals for significantly strengthening the Convention, particularly its protocol on landmine use. Together, these efforts represent a comprehensive strategy to address the widespread humanitarian problems caused by indiscriminate and irresponsible use of anti-personnel landmines.

Sincerely,

WARREN CHRISTOPHER,
Secretary of State.
WILLIAM J. PERRY,
Secretary of Defense.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I have chatted with the floor leader of the bill, and we worked out three amendments that appear to have the agreement of both Democratic and Republican leaders on these issues, and I will then describe them in an amendment that we have talked about, which senator SIMON and I will offer together.

AMENDMENT NO. 2149

(Purpose: To establish additional United States policy concerning burdensharing in NATO and to require additional information to be included in the annual burdensharing report)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2149.

Mr. BROWN. Madam 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 200, between lines 8 and 9, insert the following:

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) INCREMENTAL COST DEFINED.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

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

Mr. BROWN. Certainly.

Mr. FORD. I understand that the Senator has three amendments that he believes are acceptable.

Mr. BROWN. Yes.

Mr. FORD. I am trying to help expedite this and am acting on behalf of Senator NUNN. Could we have a copy of the amendments or the numbers so that we could be prepared and we might expedite their consideration?

Mr. BROWN. Yes.

Mr. FORD. I thank the Senator.

Mr. BROWN. Madam President, this particular amendment deals with burden-sharing. There is a provision in the House bill that provides very strong terms with regard to burden-sharing, including an automatic formula.

As I examined the question of burden-sharing, it struck me that there were some questions that we simply did not have the information on or the mechanics to proceed.

Let me be specific. There was a question of whether or not we had a clear idea as to what portion of our troops in Europe were focused on providing services and defense for Europe and what portion were there for our convenience to serve other parts of the world.

So, part of the report that is asked for here is to help us identify costs that are particular to NATO, at least, I believe are ones that they ought to share in the cost of, and what portions of those costs are not related to NATO and are for our convenience to serve other parts of the world. This will require that to be added to the burden-sharing report.

It also sets forth a definition of the incremental cost; that is, a request to identify the additional costs the United States suffers because the troops are stationed in Europe rather than having them stationed in the United States. This is also an item that I think is essential if we are going to insist on burden-sharing from our European allies.

It also clearly calls for delineation of defense costs; that is, a comparative cost between the U.S. effort and our European allies.

We believe these are necessary items to move forward. It is not as strong a burden-sharing amendment as appears in the House bill, but it is one, I think, that gives us a solid basis for moving ahead with what I consider to be meritorious efforts; that is, insisting our allies share in the burden of the defense.

Madam President, my understanding is that this has been cleared on both sides.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Kentucky.

Mr. FORD. Madam President, it is acceptable on the Democratic side. However, I might make one point. It may be extremely difficult for the Pentagon to separate U.S. station costs in Europe into NATO and non-NATO categories. But the reporting amendment is acceptable, and I urge its adoption.

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

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2149) was agreed to.

Mr. BROWN. Madam 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.

AMENDMENT NO. 2150

(Purpose: To ensure that the President of the Republic of China on Taiwan can enter the United States on certain occasions)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] for himself and Mr. SIMON proposes an amendment numbered 2150.

Mr. BROWN. Madam 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 new section—

"SEC. . Visas for Officials of Taiwan.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

(ii) Prevention of nuclear proliferation;

(iii) Threats to the national security of the United States;

(iv) The protection of the global environment;

(v) The protection of endangered species; or

(vi) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

Mr. BROWN. Madam President, this measure is proposed by both Senator SIMON and myself. It deals with the question of visas for visiting officials in Taiwan. We think it is helpful in laying out critical areas where visas are appropriate. It is my understanding it has been cleared on both sides.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, the amendment is acceptable on this side.

Mr. COATS. Madam President, we have also looked at the amendment and find it acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2150) was agreed to.

Mr. COATS. Madam 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.

AMENDMENT NO. 2151

(Purpose: To require a study on the convergence of the Geosat and EOS altimetry programs)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2151.

Mr. BROWN. Madam 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 249, between 7 and 8, insert the following:

SEC. 1068. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In concluding the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services, Commerce, Science and Transportation and the Committees on Armed Services and Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit not later than February 15, 1995.

Mr. BROWN. Madam President, this amendment calls for a study. It looks at the convergence of the National Aeronautics and Space Administration Earth observing system altimetry mission with the Navy Geostat follow-on

program. We believe that there is a potential here for savings with the comparison and analysis of the purposes of both programs. The purposes of the study, I think, will be cost savings and a coordination of these two important systems. I believe it has been cleared on both sides.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, I understand NASA supports this, and we recommend that the Senate accept this amendment calling for a study.

Mr. COATS. Madam President, the minority staff and members also have examined this amendment and find it acceptable.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2151) was agreed to.

Mr. COATS. Madam 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.

AMENDMENT NO. 2152

(Purpose: To make Poland, Hungary, and the Czech Republic eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. BROWN. Madam President, I rise to offer my last amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] for himself, Mr. SIMON, and Mr. ROTH proposes an amendment numbered 2152.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

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

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNCIATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries."

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATIONS.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. 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. SIMON. Madam President, I rise to speak briefly on the amendment proposed by my colleague, Senator BROWN, that I am pleased to be a cosponsor of.

That amendment basically says that if the President of the United States wants to provide excess military equipment to Poland, Hungary, and the Czech Republic, the President can do that.

There is, in these three countries, some concern about the stability of the giant to the east, Russia. No one, I think, for a moment believes that Poland is going to invade Russia, or Hungary is going to invade Russia, or the Czech Republic will. I do think the great threat to the world today is instability. We have changed from a world where the nuclear threat because of the confrontation of two giant nuclear powers is the great threat. It is now instability. And these three countries, Poland, Hungary, and the Czech Republic, have established solid viable democracies.

I had an opportunity to work with the Polish Government. I can remember when the Presiding Officer in 1989 joined me as a cosponsor of the Polish aid bill, which helped Poland get a big start in their process of becoming a democracy. I think it is important that we extend these kinds of gestures.

This leaves it up to the President. I think Senator BROWN has crafted this very, very carefully. I think it is a good, solid amendment. I understand there may be some concern in the State Department that it is viewed as an anti-Russian amendment. Frankly, there is no reason that there should be any fear on the part of the Russians. I do not view it as an anti-Russian amendment. I am sure my colleague, Senator BROWN, does not view it as an anti-Russian amendment. It is a chance for the United States to help lend some stability to countries that have some genuine fears.

I hope this can get worked out. I am sure Senatcr BROWN is amenable to language changes that do not just gut the amendment. But I think we ought to be moving in the direction the Brown-Simon amendment suggests.

AMENDMENT NO. 2153 TO AMENDMENT 2152

(Purpose: To make Poland, Hungary, and the Czech Republic eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. MCCAIN. Madam President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered No. 2153 to amendment 2152.

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

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

The amendment is as follows:

Strike all and insert:

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions off law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area and Europe.

Mr. McCAIN. Madam President, I say to my friends from Kentucky and Georgia, I am sending that amendment at the request of Senator BROWN who asked that I submit a second-degree amendment in order to preclude a second-degree amendment from the managers of the bill. Basically, it is to fill up the tree. I have no further comment on the amendment.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, the amendment I think is quite straightforward. What we are attempting to do is include Poland, Hungary, and the Czech Republic specifically in discretionary areas that many other countries now enjoy in their relationship with the United States.

Those are specifically, if the President decides it is in our interests, the ability to transfer excess defense articles; if it is the President's decision that it is in our national defense interests to lease and loan defense equipment and other defense articles; and again, if it is the President's decision it is in our national interests and security interests, to loan materials and supplies and equipment for research and development purposes as well.

Right now this discretionary authority lies within the powers of the President for such countries as Bahrain, Senegal, Oman, and Morocco. What we would decide is whether or not we would place Poland, the Czech Republic, and Hungary as these other nations.

Let me emphasize, it is not mandatory. It does not force the President or the Congress to move anything in this area. But it does give specific reference to these three Republics, putting them on a par—where it can be done.

Why should we be concerned about it? Every American remembers the tragedies that these countries have been through in this century. No one could forget the tragedy they have faced with the invasion of Nazis during World War II and with the also tragic takeover by Soviet interests in the cold war period following World War II.

For these countries, national security and concerns about their independence are not simply something they speculate about; it is something they have lived through. It is a nightmare they have come to understand. They have a keen and abiding interest in ensuring that the freedom and democracy that sometimes Americans take for granted is ensured for their children and their grandchildren.

Perhaps most hard to believe for Americans is that they not only look to America with pride and with friendship, but they look to us to ensure that they will be able to cooperate with America in ensuring the freedom of this world continues on. We are sent heartrending letters from Americans of Polish decent.

I ask unanimous consent at this time to have printed in the RECORD a letter I received from the President of the Polish American Congress, and also from the Ambassador from Poland.

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

POLISH AMERICAN CONGRESS,
Chicago, IL, June 17, 1994.

Hon. HANK BROWN,
U.S. Senator,
Washington, DC.

DEAR SENATOR BROWN: I have just received from Myra Lenard of the Washington Polish American Congress office a copy of the Amendment to the Foreign Relations Authorization Act which is cited as the Brown-Simon Amendment: NATO Participation Act of 1994.

On behalf of the Polish American community I extend my sincere gratitude to you Senator Brown for all your efforts in this regard. This amendment will not only help Poland, but also maintain stability and promote democracy in Eastern Europe. This amendment will ease the transition of Poland into NATO by having Poland be included in the activities of NATO forces.

This amendment is being extensively reported in the Polish Daily News (Dziennik Zwiazkowy), radio station WPNA and other local Polish-American press.

We will make every effort to assist passage of this amendment in support of your efforts. Thank you again and we look forward to a favorable vote in the Senate.

Sincerely,

EDWARD J. MOSKAL,
President.

EMBASSY OF THE
REPUBLIC OF POLAND,
Washington, DC, June 22, 1994.

Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BROWN: I would like to express words of appreciation and gratitude for planning to introduce, together with Senator Paul Simon of Illinois, an Amendment to make Poland, Hungary and the Czech Republic eligible for allied defense cooperation with NATO countries. I believe this legislation is crucial for Polish and Central European new security arrangements. It will in an important way stimulate integration with NATO and create excellent opportunity for developing Polish-American cooperation and trade exchange.

As the Polish Minister of Foreign Affairs Mr. Andrzej Olechowski declared at the NATO Ministerial meeting in Istanbul last week: "the results achieved by Poland and other countries in building democracy and a market economy, their commitment to NATO values, rapid growth of their interdependence with Western countries and institutions call into questions the rationale for maintaining unchanged the present membership in the Alliance. In fact these new democracies fulfill or will soon fulfill criteria for NATO membership set up in the Washington Treaty. Moreover, their membership in NATO should be considered not only as a response to their legitimate security aspirations but also as an important condition for European stability".

Your skillfully prepared amendment Senator, fully corresponds with the Polish view on security arrangements in Europe and can be very beneficial for the United States, Poland, and the NATO Pact.

Thank you again for your significant initiative.

With my highest regards,

JERZY KOZMINSKI,
Appointed Ambassador.

Mr. BROWN. Madam President, I think Members will have an opportunity to review these letters and many, many others in their own files in the months ahead. I think they articulate some anxiety, the concern, and deep interest that Americans who have come from these countries have, as well as the existing citizens of Poland, Hungary, and the Czech Republic.

Let me emphasize, while this provides for permission only and discretion in the hands of the President, that it is extremely important. It is important because these countries have become concerned when the United States was not active in urging their admittance to NATO. Our stance, the official stance of the United States, has been they may be eligible for membership in the future but at this point full

membership should not be granted to them.

What it does is raise what I believe is an unfounded concern, but a concern in these citizens that the United States may not be willing to work toward their independence; that the United States may be unwilling to stand up and ensure that they enjoy the freedoms that are so important to their people.

Clearly, I think every Member of this Chamber would not want to see the freedoms of these republics jeopardized. They have made enormous progress, not only toward bringing democracy about in their countries, but privatizing their economies. Thus the importance of this amendment. By simply saying to these countries that we are going to put you on the list, and using their names where we can cooperate with them, it sends a new message to them. It sends a message we are interested in their security and their safety, and we are interested, at least in the long run, in cooperating with them.

Should we try and coordinate our communication systems with them? I think we should. But, again, that is simply an option for the President.

Should we try to coordinate the kind of military equipment we use with them? I think we should. But again this is simply an option for them.

Should we send them a signal that we care about them and we do not want them to slip under the dark cloud of another Iron Curtain regardless from which direction it comes? I think we should.

No American can look at the tragedy that those countries have suffered in the past half century and not feel an urgent need to reassure them and to encourage them. The last thing we want is for people in Eastern Europe to think that they are forced back into the old ways because the free countries of the world are not willing to stand beside them.

This amendment more than anything else sends a signal of hope, of interest, of concern. I think it is a signal that is sorely needed. I believe every American has an interest in securing the peace and the freedom of Eastern Europe, and in a small way this signal will encourage those who have sacrificed so much to bring freedom to their country.

I yield the floor.

The PRESIDING OFFICER. Speaking as a Senator from Maryland, I ask the Senator to add me as a cosponsor to the amendment.

Mr. McCAIN. Madam President, I ask my friend, there is obviously some controversy and discussion surrounding his amendment, and I wonder if for the sake of moving forward he would agree and the managers would agree to temporarily setting aside this amendment while we try to work something out and we move on to another amendment. I wonder if that would be agreeable to, first of all, the Senator from Colorado.

Mr. BROWN. I would be happy to do that. Obviously, this is something that we should be able to reach agreement on.

Mr. McCAIN. I ask the Senator from Georgia, the distinguished chairman, if that would be agreeable.

Mr. NUNN. Madam President, this amendment is opposed by the Foreign Relations Committee according to what we have heard. It would be very helpful if, while we are trying to get them over here to speak to the authors of the amendment to see if something could be worked out, we could temporarily set this amendment aside and let it recur as the pending business after we get another amendment done.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I think that is a very good suggestion by the Senator from Arizona. There are some considerations—I think a lot of people are sympathetic with what the Senator is trying to do. There is a process here that I think needs to be examined and given some time so that perhaps we can come up with an acceptable modification to which everyone can agree.

Mr. McCAIN. Madam President, in light of that, I ask unanimous consent that the pending Brown amendment and the McCain second-degree amendment be temporarily set aside.

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

Several Senators addressed the Chair.

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

AMENDMENT NO. 2154

(Purpose: To limit the total amount that may be obligated or expended for procurement of the first and second *Seawolf* submarines)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 2154.

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

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

The amendment is as follows:

On page 22, between lines 9 and 10, insert the following new section:

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN-21 and SSN-22 Seawolf submarines may not exceed $4,673,371,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

Mr. McCAIN. Madam President, I had intended to ask for a rollcall vote on this amendment. I do not. I am in deep sympathy with all of my colleagues who would like to depart on this holiday weekend and also to the distinguished managers of the bill who are obviously trying to get done. Under normal circumstances, I would spend a lot of time on this amendment. But I would like to take as short a time as possible. And also while I am on this amendment, I wish to mention the situation as far as military construction is concerned, and then I would ask for a voice vote. I believe that this amendment is acceptable to both sides.

Madam President, also I would like to point out I do not intend to offer an amendment to kill the *Seawolf* submarine at this time. I do not intend to because, frankly, there is no money authorized in this bill for the third *Seawolf* submarine, and so I do not intend to offer that amendment. I would state to my friends and colleagues, though, that next year there will be a requirement for additional authorization for a third *Seawolf* submarine. I will vociferously and energetically oppose that next year.

At this time, however, I am going to try to bring the tremendously escalating costs associated with the *Seawolf* submarine under control, and I am very disappointed to tell my colleagues that last year we had a similar amendment pass by voice vote, which in itself means that no one objected to it, and yet the amendment was dropped in conference with the other body, and in the intervening time the costs of the *Seawolf* submarine went up again.

Let me try to explain a little bit about the costs of the submarines and how basically the cost is out of control. Initially, the cost of the *Seawolf* submarine was estimated at $1.6 billion. Today, that figure has risen to $2.4 billion, an increase of $740 million. The cost of the SSN-22, the other one, was originally estimated at $1.7 billion, and that cost is nearly $2.3 billion, an increase of $560 million. The total cost of these two submarines has increased $1.3 billion—B, billion dollars—since the program began, a 38-percent cost increase.

Madam President, the Congress has authorized and appropriated nearly $4.7 billion to buy two submarines. Two submarines have cost $4.7 billion.

I was not surprised, I must say, Madam President, when I received a letter from the Secretary of the Navy on June 9 stating that the cost of these

two submarines had increased by another $125.5 million. When will it stop? Next year, Congress will be asked to approve funding for a third *Seawolf* submarine, currently estimated to cost $2.3 billion. I will oppose that authorization because I believe it would be throwing good money after bad. I also suspect that by the time the Senate debates authorizing the third submarine, the cost will have increased yet again.

I will summarize the rest of my statement, Madam President, by saying in a time of declining defense budgets, which have seen a 35-percent cut since 1985 and another 10 percent cut is envisioned by 1999, we cannot afford to pay another dime for any militarily unnecessary luxury like the *Seawolf* submarine. I urge my colleagues to support the amendment.

I understand that my colleagues from Connecticut will propose a second-degree amendment to the pending amendment. Their amendment would increase the cost cap in this amendment by $86 million, the amount of the Navy's most recent cost increase, which will be permissible under the specific terms of the amendment. I have no objection to incorporating that change in the amendment, and I would urge its adoption. I would expect one of the Senators from Connecticut over here pretty soon.

In the meantime, Madam President, I wish to bring to the attention of the Senate that nearly $200 million in unrequested military construction costs are part of this bill. The bill before the Senate today already includes $545 million for military construction projects which were not included in the administration's request. These add-ons were requested by individual Members of the Senate for projects in their own States. Funding for these projects was made available at the expense of other high-priority programs like pay, readiness and training, and weapons systems modernization.

I oppose the addition of all $545 million additional in military construction add-ons in the readiness subcommittee. I propose an amendment to transfer the funds to combat readiness and training. So these $545 million in add-ons are included in the bill before the Senate. And I now understand that the Senate will be asked to give perfunctory approval to another 26 projects totaling $190.8 million.

Madam President, this has to stop, and I ask the distinguished chairman of the committee and the ranking member, when do we stop adding milcon money and at the same time cut the defense budget?

I remind my colleagues that due to the passage of the Exon-Grassley amendment, $500 million was taken out of the defense appropriations, and yet in both the appropriating committee and in the authorizing committee we are adding hundreds of millions of dollars in military construction projects. Meanwhile readiness suffers, training suffers, recruiting suffers, and depot-level maintenance backlogs continue to rise. If you ask any military commander in the field, they will tell you that military construction projects are their last priority, not their first.

Madam President, we are doing a great disservice to the people of this country in the expenditure of their hard-earned tax dollars by continuing to add on military construction project after military construction project.

Madam President, again, for the last 10 years the defense budget has declined every year. Defense budget authority has declined by almost 41 percent since 1985. At the same time, military construction budget authority has been reduced by only 29 percent. We have a terrible mismatch of infrastructure funding with a top line decline in the defense budget far more serious than that of the military construction budget.

In the past 5 years, from fiscal year 1990 through 1994, Congress added over $4.4 billion in unrequested military construction projects to the defense budget. This equates to $880 million every year in projects designated for Members' districts or States. It has to stop. Senator GLENN and I have set up a set of criteria for inclusion of additional military construction projects. I hope that the distinguished chairman and ranking member would adopt that as one of the rules of our committee.

I hope and pray that we can bring this to a stop. If for some reason the Defense budget turns around and we see increases, my objections to these additional MILCON projects will be dramatically reduced, although we will still need an orderly process that is based on merit as opposed to geography.

Before I yield, maybe my friend, the distinguished chairman of the committee, would like to respond.

Mr. NUNN. Madam President, I would say to my friend from Arizona that, No. 1, we have not agreed to any amendments here on the floor on MILCON that I know of. There are amendments that are being proposed. They are being worked at the staff level. I believe Senator GLENN's staff is involved in it from our side. There are amendments that are being presented, as they always are. We are trying to apply the same criteria to those amendments as we did to the amendments we considered in the committee. Those criteria were suggested by the Senator from Arizona. So we are working that way.

Any amendment that would be presented here would have to meet those criteria or we will not agree to them. Of course, Members have a right to present amendments. We have a right to say they have to go to a rollcall vote, and we have a right to say that we will not accept them unless they meet the criteria. That is what we are working on right now.

Mr. McCAIN. I thank the chairman. I will ask for a voice vote at the appropriate time after my friend from Connecticut speaks.

I yield the floor.

AMENDMENT NO. 2155 TO AMENDMENT NO. 2154

(Purpose: To increase the maximum amount.)

Mr. DODD. Madam 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 Connecticut [Mr. DODD], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 2155 to amendment numbered 2154.

Mr. DODD. Madam 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 the first page, line 7, strike out "$4,673,371,000" and insert in lieu thereof "$4,759,571,000".

Mr. McCAIN. Madam President, is this amendment being offered in the second degree?

Mr. DODD. Madam President, this amendment is being offered in the second degree to the amendment offered by the Senator from Arizona.

Madam President, this amendment is fairly straightforward. It seeks to cap the reasonable costs of the *Seawolf* submarine program while providing the Navy and the contractor—in this case the Electric Boat Division of General Dynamics—with the necessary flexibility to deal with uncontrollable changes that could occur in this program.

I believe that our colleague and friend from Arizona has had the opportunity to see this amendment. We have circulated it, and I believe this modification is acceptable. I would like to take a minute or two and explain to my colleague the purpose and the rationale for it.

Madam President, when the *Seawolf* submarine program was first proposed as the future Navy attack submarine technology for our country, the Pentagon and we envisioned a fleet of some 26 of these submarines. Today, that number has been reduced to just three.

As a consequence of that revision, it would naturally follow that the per-unit cost of the reduced fleet would go up. That is something I think most of our colleagues are familiar with. That is precisely what has happened to this program. Obviously, the more units you build the unit cost comes down. When you reduce the number from 26 to three, the cost per unit would be higher than you originally envisioned. That is a typical research and design cost that would normally be spread across 26 submarines. It must now be placed on top of just three. That is a

very difficult pill to swallow. But, nonetheless, those are the facts.

The program is now in its final phase. Deputy Secretary Deutch, in a significant program decision dated June 23, 1994, has in fact decided to move forward with a new attack submarine design that will be smaller, less expensive, and ultimately quieter than the *Seawolf* class submarine. Clearly we are on a new course.

Madam President, I am not disputing at all the amendment for a cost cap on this *Seawolf* submarine program. Frankly, I commend my colleague from Arizona. We have our disagreements with a threshold question on the *Seawolf*. But as far as this particular amendment goes, I think it is a constructive amendment to try to contain the costs of these programs.

I should add very quickly, however, that I do so with strong reservations about cost capping major weapon systems procurements without a clear road map for future modernization. In essence, we must be certain that the actions taken to curtail spending do not tie the hands of senior military planners with respect to future force planning.

I understand and share the concern of my colleague from Arizona about escalating Navy construction costs in a declining budget environment. Therefore, Madam President, I offer, along with my colleague from Connecticut, Senator LIEBERMAN, this second-degree amendment that would increase the Senator's cost cap by some $86 million, and would retain the identical exceptions language as proposed by my colleague from Arizona.

Madam President, we do not do this lightly. I remain vitally concerned about the future of this Nation's submarine construction capability. I remain very concerned with attempts to squeeze programs to the point of near death.

This amendment, I think, is a fair compromise. It seeks to cap the costs of the ongoing *Seawolf* program while maintaining adequate funding and authority for the Department of Defense, should uncontrollable costs increases occur.

I thank my colleague from Arizona for his support of this amendment, and strongly urge our colleagues to support it. I hope that we can adopt this amendment and then move on with the completion of this program and the next generation of submarines.

Allow me to yield the floor to my colleague from Connecticut.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Thank you, Madam President. I will speak very briefly.

Madam President, I rise to support the second-degree amendment of my colleague, the senior Senator from Connecticut. There is no secret to the fact that I believe in the *Seawolf* submarine. It is the world's best submarine and it should be a part of our strategic inventory because it is needed militarily and it provides the necessary bridge to production of a new attack submarine which will have *Seawolf* stealth but will be smaller and have a lower price tag.

No one who believes in protecting our national security wants to do this. Everyone recognizes that we have crying needs in this country—both in defense areas and domestic programs. We all want to make sure that taxpayer dollars are spent effectively, efficiently, wisely, and yes, frugally.

I strongly support the *Seawolf* program. I want to see three ships produced as this administration has decided it must if we are going to meet our military needs and be able to produce globally competitive nuclear attack submarines in the next century.

But I do not favor unlimited or uncontrolled spending. No one believes that authorization of a defense program should be seen as a blank check from the Federal Treasury and I do not believe that is what the Navy or the producer of the *Seawolf* want or expect. We all want to produce *Seawolf* submarines and every other piece of defense equipment at a cost which is reasonable and affordable. We have seen in the demise of the old Soviet Union what happens when a country fails to control its defense spending. We are not in a similar position here.

I disagree with the Senator from Arizona about the way this program has been and is being managed. I am concerned, as we all are, about the costs of this system and other technologically advanced defense systems, but I believe that this program is being managed professionally and in a fiscally responsible manner. I believe the record to date fully bears this out.

Thus, when my colleague from Arizona made it known that he was planning on offering an amendment to cap the costs of SSN-21 and SSN-22, I chose to work with him to achieve our common goals of controlling costs, enforcing fiscal discipline, and protecting our scarce defense and national resources. I believe we have come up with a cap which is responsible and will permit this vital program to be completed successfully. The contractor is fully prepared to abide by these amendments.

I should note for the record that the Navy has not agreed to either of these amendments. Their position is understandable. Construction of these incredibly complex submarines takes 6 years; technology changes in that time period, especially in electronics, and the Navy understandably wants to keep its options open to be able to issue change orders to obtain technological improvements when they occur. The Navy believes that some additional clarification of exceptions to the cap are needed to protect their ability to affect necessary changes in design or production due to submarine safety, personnel safety, valid programmatic reasons to support ship delivery, resolution of legitimate contractor and subcontractor claims, and the ability of the Government to meet its contractual liability. I do not believe that this amendment precludes the Navy from making necessary changes for these valid reasons. It will, however, require the Navy to return to the Congress to explain the proposed changes, the cost, and their rationale. This increases the administrative burden on the program managers in many respects, but I believe this is an acceptable price to pay for the potential benefit of increased protection of taxpayer dollars.

Our second-degree amendment allows for the same increases in costs as did the Senator from Arizona—those which are due to factors which are beyond the control of the Navy or the contractor: inflation and changes in law. It also does not include the outfitting and post-delivery costs which are incurred when these ships go to sea. We have changed none of this from the Senator's underlying amendment.

Our only change to the underlying amendment is that we have altered the imposed cap by $86.2 million to account for increases which are now known and certified by the Navy due to factors which are allowed by the exceptions I have just mentioned and that Senator from Arizona recognizes are necessary. Specifically, $34.8 million in inflation and labor index changes and $51.4 million in changes required to workman's compensation and negotiated benefits. This data comes to us in a letter addressed to Senator MCCAIN dated June 9, 1994, signed by the Secretary of the Navy, John Dalton.

The Secretary says in this letter that this data is the best estimate of the cost for SSN-21 and 22 and will be reflected in the fiscal year 1994 ship cost adjustment report which will be delivered to the congressional defense committees shortly.

Madam President, I believe that what we are doing here today in both the underlying and second-degree amendments is responsible and reasonable. I appreciate the forthright way in which my colleague from Arizona has worked with the Navy and the Armed Services Committee. We clearly have significant differences on other aspects of this important national security program, but there is no difference in our belief that responsible government is good government and we are pleased we have been able to jointly develop mechanisms to be accountable for the way we spend taxpayer dollars.

I will support our second-degree amendment and the underlying amendment as modified and urge my colleagues to do the same.

I ask unanimous consent that the letter from the Secretary of the Navy be printed in the RECORD.

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

OFFICE OF THE SECRETARY,
DEPARTMENT OF THE NAVY,
Washington, DC, June 9, 1994.

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

DEAR SENATOR MCCAIN: The current best estimate of cost for SSN 21 and SSN 22 is $4,799B, which is an increase of $125.5M from the $4,673B which was reported in 1993 for the annual Ship Cost Adjustment. This increase change, which will be reflected in the FY 1994 Ship Cost Adjustment, is due to:

Increases to which the contractor is legally entitled to which are beyond control of the government:

	Millions
Inflation/labor indices	$34.8
Workmans Comp/Fringe Benefits	51.4
Contractually mandated adjustments due to negotiated changes or requests for equitable adjustment	39.3
Total	125.5

Examples of contract increases to which the contractor is legally entitled which are beyond the control of the government may include items such as:

The Government's pre-determined share of any further allowable increases between contract target price and ceiling price,

Contractually mandated price increases for changes resulting from compliance with changes in federal law [e.g., environmental laws] and/or escalation in specified labor and material costs,

The difference between actual experience and the historically conservative OMB inflation estimates mandated for budget purposes and,

The settlement of legitimate contractor claims or requests for equitable adjustments.

Sincerely,

JOHN H. DALTON,
Secretary.

Mr. LIEBERMAN. Madam President, this is I believe the successful completion of a dialog that began in the Armed Services Committee between the Senator from Arizona and this Senator. Obviously, we have a disagreement on the underlying program, the SSN *Seawolf* Submarine Program. But we have no disagreement on the desire to make sure that this program comes in at the lowest cost possible for the taxpayers.

I enthusiastically support the *Seawolf* program. It will produce the three finest attack submarines ever made. They will be out in the waters for the next 40 years protecting us and those who follow us, performing a very wide array of missions.

Building these *Seawolf*s is the most cost efficient way to preserve the submarine industrial base, which everyone agrees we need to preserve, to build the next generation of attack submarines, which everyone agrees we need to build.

But no one should be given an open and blank checkbook. The amendment that we have agreed on with the second-degree amendment puts reasonable constraints on the Navy and the contractor in the construction of SSN-21 and 22. Therefore, I support the second-degree amendment and am pleased to join with both my colleague from Connecticut and my friend and colleague from Arizona in doing so.

I thank the Chair.

I yield the floor.

Mr. PELL. Madam President, I rise to support the second-degree amendment offered by my colleagues from Connecticut.

As many of my colleagues know, the administration has already decided to cap the *Seawolf* Program at three submarines, a great reduction from the 26 previously envisioned. As a result of this reconfiguration, the per-unit cost of each of the three submarines has obviously increased.

I believe the amendment by my colleagues from Connecticut is fair and reasonable. It also accomplishes the goal sought by the Senator from Arizona, and that is to ensure the efficient, cost-effective production of these submarines.

Madam President, I believe this amendment is a fair compromise and achieves the result we all desire. It caps the cost of the first two *Seawolf* submarines, which have been previously authorized and appropriated by Congress, while ensuring adequate funding for the successful completion of the program.

I urge my colleagues to support this amendment.

Mr. MCCAIN. Madam President, I thank both Senators from Connecticut for their agreement on bringing about cost caps to this very expensive program. I would remind them that the procurement cost total to date for two *Seawolf* submarines has been $10.4 billion. That includes R&D and all of that. But one must admit that that is a significant amount of money to spend for two submarines. In fairness, if a third one were built, the number would be around 12.

I would also suggest that we will save the debate on the merits of the weapons system for next year.

I would like to thank the distinguished chairman and ranking member of the committee for adopting new sets of criteria for inclusion of military construction projects, and also for land transfers. I believe that we, as a committee, can function more efficiently and in a more cost-conscious fashion with the adoption of both of those. I appreciate the chairman and ranking member for adopting those.

I say to my friends from Connecticut that I will be leaving this afternoon to attend the commission of a ship named after my father and my grandfather. Given the incredible labors of the Senators from Connecticut in behalf of the third *Seawolf* submarine, I will be suggesting that the third *Seawolf* submarine be named the Dodd-Lieberman or the Lieberman-Dodd, whichever is appropriate.

Mr. DODD. Will my colleague yield on that particular point? I wanted to suggest, as our colleague from Arizona has been extremely aggressive in these last several years on the *Seawolf* Program, Senator LIEBERMAN, my colleague from Connecticut, and I were going to suggest that they offer an amendment that we name the next *Seawolf John McCain*, in exchange for which he might move on to some other construction program.

But, Madam President, I would be remiss, in all seriousness—and I apologize for not raising it myself. The father of our colleague from Arizona and his grandfather served this Nation of ours with incredible distinction. The fact that a ship in Bath, ME, is being dedicated, christened in the name and in honor of his father and grandfather is an honor that is long overdue. Both his father and his grandfather would be deeply proud of the service of their son and grandson in this body. I congratulate him.

Mr. MCCAIN. I thank my dear friend from Connecticut for these very kind remarks.

Madam President, I do not believe there is any more debate.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2155) was agreed to.

Mr. DODD. Madam 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.

The PRESIDING OFFICER. Is there further debate on the first-degree amendment, as amended?

The question is on agreeing to the amendment, as amended.

The amendment (No. 2154) was agreed to.

Mr. DODD. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, although this amendment will not be included in the Senate's version of the 1995 DOD authorization bill, I fully expect this issue to be addressed by the conferees.

Under the Base Realignment and Closure Commission, Tooele Army Depot in Utah [TEAD] was realigned. This realignment will actually result in closure for many of the depot's functions. Yet, since TEAD is being realigned and

not closed, employees are not eligible for automatic restoration of annual leave payments and housing relocation assistance. This definitional technicality is resulting in a great disparity and injustice to many of the employees of TEAD. Call it a realignment or a closure, the effect is the same.

The fact that in most cases, a major realignment of an installation results in the same adverse impact on the employees of the installation as does a base closure, this issue should be addressed. I believe there is no sound basis for distinguishing between base closures and major base realignments so far as concerns the leave restoration provision of title 5. As a constituent pointed out:

> You take the maintenance and supply functions away from Sacramento Army Depot and you have a depot closure. You take the same functions away from TEAD, and you have some functions (ammunition and chemical) remaining, so you have a depot realignment. In both cases you are losing roughly the same missions and the number of people. . . .

All of TEAD's industrial missions are closing. The only part that will remain is the south area, a separate part of the base located 15 miles away where 42 percent of the Nation's obsolete chemical munitions are stored. There will be virtually no possibility for employees at the industrial area to transfer to the southern area.

Complicating the issue, is the Defense Logistics Agency [DLA] employees who are hosted by TEAD. DLA employees will be given the full benefits of automatic restoration of annual leave and housing relocation assistance. In a few cases, we have the ironic situation of a working couple at Tooele: one spouse working for the Army as a civilian who is not eligible, and the other working for the DLA who is eligible. The reason DLA is giving its employees the automatic benefits is that the 1993 BRAC listed DLA's warehousing activities at Tooele as being disestablished, which has been interpreted to mean closure.

It would seem reasonable to designated TEAD employees working in functions or activities anticipated to be closed or severely curtailed be recognized under Public Law 102-484 and be authorized for leave restoration. This would allow personnel and the commander of the base with some needed flexibility.

In light of the 1995 defense base closures, it is essential that we correct this inequity now to avoid greater problems later. people and their families are being negatively impacted by the 1993 BRAC decisions. The employee benefits packages were instituted to assist Defense Department civilians who would be separated because of those decisions.

I look forward to having this issue addressed in conference, and thank the chairman for his assurances.

Mr. NUNN. Madam President, I say to my friend that we have talked about this issue and he brought it to my attention. I looked at it briefly, and I will be delighted to work with him and to keep in touch with him as we go to conference on this. I will listen to his views, and I assure him he will have my attention as we move into conference on this bill.

Mr. BENNETT. I thank the chairman.

AMENDMENT NO. 2156

(Purpose: To express the sense of the Senate concerning the training and modernization of the Reserve components)

Mr. BUMPERS. Madam President, I send an amendment to the desk on behalf of myself and Mr. FORD, Mr. BOND, Mr. AKAKA, Mr. BINGAMAN, Mr. BUMPERS, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mr. FORD, Mr. HOLLINGS, Mr. INOUYE, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MIKULSKI, Mr. PELL, Mr. PRYOR, Mr. ROBB, Mr. SARBANES, Mr. SHELBY, Mr. WELLSTONE, Mr. WOFFORD, Mr. DURENBERGER, Mr. JEFFORDS, Mr. LUGAR, Mr. BURNS, and Mrs. BOXER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. FORD, Mr. BOND, Mr. AKAKA, Mr. BINGAMAN, Mr. BUMPERS, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mr. HOLLINGS, Mr. INOUYE, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MIKULSKI, Mr. PELL, Mr. PRYOR, Mr. ROBB, Mr. SARBANES, Mr. SHELBY, Mr. WELLSTONE, Mr. WOFFORD, Mr. DURENBERGER, Mr. JEFFORDS, Mr. LUGAR, Mr. BURNS, and Mrs. BOXER, proposes an amendment numbered 2156.

Mr. BUMPERS. Madam 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 126, insert after line 21 the following:

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) Findings, the force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(b) the mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(c) the mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could be deployed;

(d) funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(e) funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces;

(f) Now, Therefore, it is the Sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom-Up Review.

Mr. BUMPERS. Madam President, I think the distinguished floor manager is familiar with this amendment. It is a sense-of-the-Senate resolution. It says:

> It is the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and Reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom-Up Review.

The genesis of this amendment is that a number of our National Guard units, including the 142d Field Artillery of Arkansas, when sent to Fort Hood prior to deployment to Desert Storm, had only about 50 percent of the equipment they needed. I know that we cannot provide everything to avoid this kind of deficiency. But this is a sense-of-the-Senate resolution. It is designed to let the Pentagon know that they should do their very best to comply with the Bottom-Up Review.

Mr. NUNN. Madam President, let me make sure I understand the Senator's amendment. I believe this is an amendment that expresses the sense of the Senate that the Department of Defense would establish a standard readiness and evaluation system and provide adequate resources to ensure that National Guard and Reserve units are trained in the same standard as active forces, and the DOD should allocate sufficient resources to modernize the Reserve components to carry out the full range of missions assigned to them in the Bottom-Up Review. Is that capturing, pretty much, the amendment?

Mr. BUMPERS. Yes.

Mr. NUNN. I urge adoption of the amendment.

Mr. BUMPERS. Before we do that, I ask unanimous consent that Senator PELL be added as a cosponsor.

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

The question is on agreeing to the amendment.

The amendment (No. 2156) was agreed to.

AMENDMENT NO. 2157

(Purpose: To reduce the amount of guidance systems provided for the Trident II Missile Program)

Mr. BUMPERS. Madam 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 Arkansas [Mr. BUMPERS] proposes an amendment numbered 2157.

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

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

The amendment is as follows:

Strike line 23 on page 14 and insert in lieu thereof the following: "pedoes, $2,322,539,000, of which no more than $535,300,000 are authorized to be appropriated for procurement of 18 Trident II missiles and 14 Mark-6 guidance systems."

Mr. BUMPERS. Madam President, if I could have the attention of the floor manager, this will only take a few minutes. It is a complicated amendment, but not if you understand it. I think if I could take 5 minutes of the chairman's time, I believe that he and the committee will be willing to accept this amendment.

Mr. NUNN. If the Senator will yield for a question. Just in the possible eventuality that the Senator is not persuasive to the managers and we have to oppose the amendment, would the Senator be willing to have a rather brief time limit on both sides?

Mr. BUMPERS. Yes, of course.

Mr. NUNN. Would the Senator prefer to wait on the time agreement?

Mr. BUMPERS. I would like to explain the amendment and get the chairman's reaction to it.

Madam President, every Trident II missile that we have on our submarines has a guidance system. That guidance system is the MK–6, commonly referred to as a Mark 6. Let me pause a moment to say that this amendment tracks precisely the recommendation of GAO, which has a draft report ready on this matter. The final GAO report has not been issued, but I can tell you that everything I am going to say in this debate is exactly what GAO has said regarding these guidance systems that we use on each one of our missiles.

A Trident submarine has 24 missiles on board. Each one of those missiles, in order to hit its target, has to have a guidance system. That guidance system normally costs about $8.3 million. But the Navy has already bought some advance components so it is now spending $6.6 million on each in fiscal year 1995. My amendment proposes to cut the procurement of those guidance systems in 1995 from 30 to 14, thereby saving $106 million. I might digress to say that we just adopted the Warner amendment with a big majority to restore military retiree COLA's, and I can tell you that this committee, when they get to conference with the House, is going to be looking for ways to fund that COLA.

I do not put this money in base cleanup. I do not transfer it anywhere. I give it to the committee to try to meet what GAO says are more pressing needs.

But here is how simple this is: When the Trident submarines go to sea, they take a few spare guidance systems just in case the guidance system fails on one of those missiles.

But let me point out that while my amendment cuts the number of spares on each Trident submarine from six spares to four, during a 2-year period, by adopting this amendment, you will increase the chance by six-tenths of 1 percent that 1 missile out of the 24 missiles on a submarine will fail in the years 2017 to 2018. That is a 2-year period, 22 to 24 years down the pike. If you adopt this amendment, during that 2-year period these 10 Trident submarines might have to reduce the number of spares on board from six to four.

In the last 20 years, during 658 submarine patrols with the Trident I missile, on one occasion—and only on one occasion—have they had four failures. That one occasion did not affect their capability. It simply used up all the spares they had and that has happened 1 time out of 658 patrols.

Here is the GAO figure. If you do not remember anything else I say, please remember this. If you adopt my amendment to save this $106 million, here is what you will be doing to our readiness on our Trident submarines. In the years 2017 and 2018—that is a 2-year period, only in that 2-year period—you will increase the chance of the failure of one missile on one submarine by six-tenths of 1 percent.

If you do what the Pentagon wants to do, that is, have six spares on every submarine, you will have a 0.99979 assurance of total readiness. If you want to do what I am suggesting and what GAO has suggested, you will reduce that readiness to 0.99318, or roughly seven-tenths of 1 percent in one 2-year period 24 years from now on one missile on one submarine.

If that is not worth risking $106 million on, at a time when the Defense Department needs this money for much, much more pressing things, and which does not reduce their readiness one whit, I do not know what we can do around here.

Madam President, everybody in this body knows that over the 20-year period that I have been in the U.S. Senate, I have taken on some major issues. I felt very strongly about some of them. I was disappointed about the B–2 vote this morning. But when it comes to pure common sense, intellectual honesty, defense readiness, the Senate will never have a better opportunity to save $106 million for virtually no risk whatever.

I yield the floor, Madam President.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Arkansas.

Mr. BUMPERS. Madam President, since nobody wishes to respond at the moment, let me just make one other point.

In addition to what I have just said, I want to point out that even under my amendment, the Navy will still have 121 guidance systems onshore. When a submarine comes back from patrol, if they have had a guidance failure, they simply take that guidance system to be repaired. You do not throw these away. These are not disposable. They are highly repairable. We repair them all the time.

But if a submarine comes in from patrol and they find one of the guidance systems has failed during that patrol, they simply hand it to the mechanics, take a new one and put it on board. And the people onshore take the defective one and repair it, usually in a fairly short time.

The GAO has not validated the Navy's need for 120 onshore. But if you want to talk about redundancy, I am telling you, I am not disturbed by that one whit. They can keep their 120 guidance systems onshore.

The Navy is asking for 30 guidance systems in fiscal year 1995. I am saying 14 is not only more than adequate, but that we can save all this money and, in addition, I am saying that if we cut their purchases of MK–6's to 16 in 1995, they are probably going to come back the following year and ask for 12 more, and I am not going to resist that.

These figures and facts are not mine. They come from the GAO. If this body wants to vote for a bird nest on the ground it will never have a better opportunity.

I yield the floor.

The PRESIDING OFFICER. the Senator from Georgia.

Mr. NUNN. Mr. President, I will ask my friend from Arkansas whether the following is accurate, because it has been presented to me as being the case, that the Senator's argument and the GAO paper depends on three or four key assumptions that are crucial to the case that is being made here.

First of all, it is my understanding that one assumption that this saving is based on is that the Trident submarines are retired after precisely 30 years of service life, that is, they will not be kept on past their normal service lives. Is that correct?

Mr. BUMPERS. The Senator is correct.

Mr. NUNN. So if you kept the Trident beyond 30 years, you would then have guidance systems that were no longer in production. That would cost a great deal of money and that would not be available because you would not have bought them.

Mr. BUMPERS. The guidance systems would not be in production then anyway. Presumably, it would not because the Navy has said they want 30 next year and they have not even asked for any in the next year, 1996. But if they do ask for an additional 12 in 1996, that is likely to be all they will ever ask for.

Mr. NUNN. You are cutting down the number of them until presumably they would not be available. You would not

have as many available if something went wrong or the Tridents did not have a longer service life. Is that right?

Mr. BUMPERS. No, that is not entirely right.

We lose irreversibly one guidance system a year. Some of our Trident submarines have been in service now for what?—14 or 15 years?

We have 120 guidance systems onshore, plus all those on missiles, plus all these spares, about six per submarine, and we are going to only lose one a year. And if that is the case, you are going to have a lot more guidance systems 30 years from now than you could possibly use. You could extend the life of those submarines by 5 years, and that is probably going to be the maximum you are ever going to extend their usefulness. But if you extend the life of those submarines for 5 years, you are not going to suffer one bit. You are not going to buy additional MK-6's, so you simply start using up the 120 onshore, if you need to, and even that is a remote possibility.

Mr. NUNN. I say to my friend from Arkansas I am informed we use four a year just for the Trident test missiles we fire.

Mr. BUMPERS. Yes, they do use about four a year in tests. They do not have to use four a year, but they do.

Mr. NUNN. That is the plan they have.

Mr. BUMPERS. Just a minute.

Mr. NUNN. If I understand it—

Mr. BUMPERS. Senator, my amendment takes that into consideration. The 120 that we have onshore is in addition to the 4 the Navy uses each year for test purposes.

Mr. NUNN. I understand also, and I pose this in a form of a question to my friend from Arkansas, that the saving that he is postulating here also depends on the failure rate of the Mark 6 guidance units never increasing above the units it is today. It is relatively new.

Mr. BUMPERS. The Senator is correct. He is talking about the failure rates. I used the illustration a moment ago and the GAO used this in their report that only one time have we ever had four that failed on one submarine. Even if those four failures had occurred after my amendment became law, that still would not have decreased our effectiveness and our readiness one scintilla. And bear in mind, those four failures were not a loss, because all four were repaired.

Mr. NUNN. It is also my understanding that the Senator's amendment and the GAO report are based on the assumption that guidance repair time for failed units does not ever exceed the norm established on the basis of our current experience? In other words, everything remains the same.

Mr. BUMPERS. The Senator is correct. And that is an absolutely gilt-edged assumption.

Mr. NUNN. I also understand the rate of irreparable damage to the much more complex MK-6 guidance system will not be any higher than what we experienced on the more robust Mark-5 unit?

Mr. BUMPERS. I say to the Senator, the Navy uses the same methodology for the Mark-5 and the Mark-6. I know what the failure rate on the Mark-6 has been. Of course, that is what my amendment deals with.

You can build in redundancy and redundancy and redundancy, and I have tried to build in as much redundancy in this as would make any sense at all and still save $106 million.

I can almost guarantee that we will never have a single missile fail if this amendment is adopted. Based on the 658 patrols I alluded to earlier, we certainly could not anticipate a failure. And even if we did suffer the loss, that cuts our warheads from 3,500 to 3,492. Hardly a devastating loss.

Mr. NUNN. I think it is unfortunate that they have not gotten any response to the GAO report, but the information I have gotten informally is that basically, if the Senator is correct on all the assumptions—in other words, if all the best-case assumptions occur, the Senator is absolutely correct—we could save that much money.

But if any of these assumptions are not correct, and they are all based on an early kind of sampling, based on the early life of this guidance system, if any of them are not correct, what we have done—in effect, we are as if somebody bought an automobile and nobody is going to make the batteries on that automobile after the initial purchase. And, therefore, the owner of the automobile tries to buy enough batteries to last a lifetime, knowing that if they did not hit it right, if they did not guess right, that they were not going to be able to find any more batteries unless they went back into production on something that is completely out of production.

Of course, batteries are common and you can buy batteries anywhere, so people do not try to anticipate that when they buy a car.

But when you are buying a Trident and nobody is going to make these things anymore and the guidance systems are not going to be made, then if you base the most optimistic assumptions here and something goes wrong and you do not have enough guidance systems, if any of these assumptions go wrong, then you are in real trouble. That is the opposition to the amendment.

Mr. BUMPERS. Let me make a couple of points.

No. 1, you could say the same thing about any missile. We are buying Trident II missiles right now, and in my opinion, in excess of what we ought to be buying. But if perchance we decided to go—this is a separate amendment and the Senator is familiar with my position on that—but if we decided to go with 12 missiles per submarine with eight warheads, rather than 24 missile with four warheads, as the Senator knows we would already have a lot more missiles than we would need. And anyway I assume that at some point, we are going to shut the line down.

You can say this about virtually any weapons system we have. If we try to keep the line open on every weapon we want, we will never, never, have enough money for the real things we need in defense. We will never upgrade the National Guard and the Reserve along the lines of the amendment that I just offered awhile ago on behalf of Senator FORD and Senator BOND and myself.

We simply cannot debate every issue on the assumption that we have to keep the line open for 20 or 30 years because we might need it.

Now, here we are with what I believe, and what GAO believes, is a legitimate assumption that you are not only going to have enough under my amendment, but that you are going to have more than you could possibly need over the next 25 to 30 years.

I have done my very best on this to be as honest as I could be in the numbers. They are taken from GAO's report. I admit I am no expert on this.

I know the Senator does not want to jeopardize readiness and I do not, either. The only disagreements we have ever had are on redundancy. And here we have so much built-in redundancy on this.

Let me make one other point. That is, the House of Representatives put some words in their bill, but they did not do anything to cut Mark-6 purchases. The reason they did not is because they had asked for the GAO report. But the GAO report was not out at the time they adopted their defense bill.

I do not know how this will turn out, but I would make one suggestion, and that is—and, you know, you will have my concurrence on this—if you accept the amendment and you go to conference with the House, you might do two or three things. No. 1, you will have had an opportunity to get the Navy's response to this. They can give you the whole rationale for why GAO is wrong, and I would like to see that myself. I mean, I am not infallible and GAO is not infallible and the Navy is not infallible.

But I would like to ask the distinguished floor manager, who has a lot of native intelligence about things like this and has been doing this for a long time, if, in that keen mind of the Senator from Georgia, he concluded that GAO really is on to something here and that the Navy's response is weak, feeble, and not viable, that the Senator was going to be on our side on this. Because I know the Senator is going to

have to be scrounging for money, as I say, just to meet the Warner amendment.

Mr. NUNN. The Senator from Arkansas is entirely correct on that.

I would suggest an alternative course. Rather than accept the amendment—we have right now an informal word that it would be a very high-level risk kind of set of assumptions—I would prefer we both try to get an answer out of the Navy and the Department of Defense and work together and have this addressed on the appropriations bill when in comes up. Because I do not see that we ought to basically adopt the amendment and then assume that in conference it might not be needed. I much prefer just to wait for another bill.

The Senator makes a case here, and it is a persuasive case if the Senator's assumptions are correct. But the assumptions are based on the first couple of years of experience of a new system for which we simply do not know the failure rate or risk factors. And that is what GAO based it on, and you cannot fault their analysis.

What you can fault, though, is their assumptions. And their assumptions may not be right. It may be they are right. If they are, then we ought to make the adjustments. But at this stage, it is just impossible to tell that. At least, I do not know it. I do not think anybody knows it on the floor of the Senate now. I do not think anybody could make that judgment.

Mr. BUMPERS. I say to the Senator, I am told that Mark-6 has been in use now for 4 or 5 years. My amendment is based on the failure rate during that period of time.

Let me just, if I may, read into the RECORD, for your attention and for the RECORD, a part of the appendix of the GAO report.

"The number of spare MX-6 guidance systems needed on board a patrol submarine was calculated based on the average number of initial unit failures per patrol per quarter over the past 2 years. Navy officials chose this method, claiming that it, one, weighs all patrols equally regardless of length; two, provides a conservative figure"—

Let me repeat that.

"Provides a conservative figure; and, three, has proven successful in estimating spares for prior programs such as the Trident I. The Navy's guidance system operational readiness goal is to have adequate spares available 99.9 percent of the time."

Now, that is the Navy's goal.

The Navy also included a 99 percent confidence level factor in its calculations because, according to Navy officials, it provided a more conservative result and helped ensure that sufficient spares would be available even in the event of unforeseen future systems problems. Based on this methodology, the Navy calculated that six spare guidance systems are required on each submarine.

Madam President, the GAO did not fully accept all of the Navy's assumptions because the Navy could not back up what they wanted with what their experience had been. There was nothing in the Navy criteria to justify six guidance systems per missile. But let me stress that. Under my amendment, in only 2 years—and that is 24 years from now—in only 2 years, the year 2017 and 2018, will there be four MK6's on board each submarine instead of six.

Mr. NUNN. Madam President, what I would like to propose to my friend from Arkansas—he may be correct here. GAO might be correct here. I simply cannot make the judgment, nor can I say to my colleagues on the floor in good conscience that I believe he is correct, because I really do not have enough response from the Navy or Department of Defense to the GAO report. But my understanding is that the Navy goes for a high percentage of readiness because they are not sure of their assumptions. If assumptions go wrong, and you have gone for 80 percent readiness and your assumption is wrong, all of a sudden you are down a whole lot lower than that.

What I would like to suggest to my friend, as a way to bringing this to conclusion and perhaps agreement—if not we come to a vote—that we fence $106 million and basically require the Secretary of Defense to examine the GAO report, examine the Navy response to that report, and he not expend that money unless he believes it is essential, after looking at those reports, to the national security.

But let him make the decision after he examines that. I just do not think the Senate is capable of making that decision. I know I am not capable of saying to my friends on the floor of the Senate today, we know exactly what the assumptions are and how they are going to play out. This is pretty intricate business here and there is a lot at stake.

Mr. THURMOND. Will the Senator yield?

Mr. BUMPERS. I have enough respect for the Senator——

Mr. THURMOND. Will the Senator from Arkansas yield?

Mr. BUMPERS. I will be glad to yield.

Mr. THURMOND. I am willing to go along with the suggestion made by the able chairman. If my colleague does not accept that, I suggest we just have a vote to move on.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I want to make one other observation. That is that if you want to, you can save up to $318 million on guidance systems if you are willing to reduce the operational readiness on one missile on one submarine in that same 2-year period to .31253. Then, there would be a chance that you might have a submarine someplace in the next 20 years that would have one missile out of its 24 that would not fire. But rather than try to save $318 million, I have tried to comply with precisely the recommendations of the GAO, cut it off at 0.7-percent risk in one 2-year period on one missile on one submarine.

I do not mind telling you, I am astounded that we would spend money like that for that kind of built-in redundancy.

I want to say to the Senator from Georgia that I respect his knowledge and I respect his integrity on these issues. All I want to say is that once we get the Navy response, he and I sit down and discuss it; just an honest discussion, and ask ourselves if this is a place we can and should save $106 million? Or should we blow $106 million just to satisfy ourselves on redundancy?

The appropriations process is going to be coming along. We will have an opportunity then. In the Senator's request of the Navy, I would like the Senator to attach some urgency to it, because you never know when that appropriations process will be finished. We have in the past, as the Senator knows, passed appropriations bills before an authorization bill came out.

All I am saying is that I would like to put some urgency to the request to the Navy so we can get that information back here before the appropriations process, so if the Senator and I still have a basic disagreement, we can look at it then. I do not think we have a disagreement now, I think the Senator is simply saying I want to hear the Navy's side on it before I make that decision.

Mr. NUNN. That is right. The Senator is correct.

In fact, I say to my friend from Arkansas, the suggestion I made I believe will convey the sense of urgency. Because if you fence the money, that means they cannot spend it until the Secretary of Defense makes the certification, and he would have to have the response from the Navy there. So the Navy has every incentive to accelerate that response.

If we go this way, I think you have that sense of urgency built into the approach. But I would also be glad to sit down with the Senator, and the Senator from South Carolina, and the Navy people involved, or the people from the Secretary of Defense involved, and try to understand this completely and make a decision on it while we are in conference. Or if not, on the appropriations bill.

Mr. BUMPERS. With that understanding, Madam President, I will withdraw my amendment.

Mr. NUNN. Would the Senator like to have an amendment, or have us draw one up to reflect this fencing? That is not done now.

Mr. BUMPERS. If my colleague would do that and just run it by me, I would appreciate it very much.

Mr. NUNN. I appreciate the Senator's willingness to do that.

The PRESIDING OFFICER. Does the Senator seek unanimous consent to withdraw his amendment? Does the Senator from Arkansas seek unanimous consent to withdraw his amendment?

Mr. BUMPERS. I am sorry?

Mr. FORD. You want to withdraw your amendment?

Mr. BUMPERS. I ask unanimous consent to withdraw my amendment, Madam President.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2157) was withdrawn.

AMENDMENT NO. 2158

(Purpose: To modify the requirements for transfers of Army M1A1 tanks)

Mr. FORD. On behalf of myself, Senator BOND, Senator NUNN, and Senator THURMOND, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself, Mr. BOND, Mr. NUNN, and Mr. THURMOND, proposes an amendment numbered 2158.

Mr. FORD. 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 247, line 6, insert ", at no expense to the Army," after "Marine Corps".

On page 247, line 10, insert "of the Army" after "Secretary"

On page 247, beginning on line 11, strike out "not less than" and all that follows through line 12 on such page, and insert in lieu thereof "84 M1A1 tanks selected by the Secretary of the Army.".

On page 247, beginning on line 20, strike out "may not" and all that follows through line 24 on such page, and insert in lieu thereof "shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.".

Mr. FORD. Madam President, during the Senate Armed Services Committee consideration of the 1995 defense authorization bill, an amendment was offered requiring the Army to transfer between 84 and 124 M1A1 tanks to the Marine Corps. The amendment would have also effectively stopped the modernization of the National Guard, as Congress had directed a few years ago.

As cochairman of the National Guard Caucus I, and my fellow cochairman, Senator BOND from Missouri, believe this language should not be included as a part of this legislation because it violated the Goldwater-Nickles Act.

In addition, there is not a valid Joint Chiefs of Staff requirement for the transfer of these tanks from the Army to the Marine Corps.

The amendment at the desk is a compromise reached with the help of the chairman of the Armed Services Committee and its ranking member.

The amendment would place a cap of 84 M1A1 tanks to be given to the Marine Corps as they become excess to the active duty Army. The amendment would also direct the Secretary of the Army to transfer an M1A1 tank on a one-for-one basis to the Marine Corps and to the National Guard. Furthermore, Madam President, it directs that this transfer of tanks to the Marine Corps will be made at no expense to the Army.

The amendment would require the transfer of plain M1A1 tanks from active Army, not M1A1 common tanks. This will assure that these M1A1 tanks would not have to be taken from active duty Army units.

And so, Madam President, I ask unanimous consent that the remainder of my remarks be included in the RECORD.

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

Mr. FORD. Mr. President, I am deeply concerned about the provisions in this bill, directing the transfer of M1A1 tanks from the Army to the Marine Corps. The bill directs that any M1A1 tanks exceeding the active army requirements shall be transferred to the Marine Corps until their requirements have been met. It also specifies that the army may not transfer any additional M1A1 tanks to the Army National Guard until the total requirements of the Marine Corps are satisfied.

I am not concerned about the relative priority of assigning equipment to the various military components. But I am troubled that this bill ignores the fact that the Department of Defense has previously addressed this issue in Colin Powell's Roles and Missions Report of February 1993.

The roles and missions report stated that the Marine Corps would retain enough tank battalions to support amphibious operations and to outfit three maritime prepositioning squadrons. It directed the Army to provide any additional tank support required. However, the report did not identify any Marine Corps equipment shortfall or direct the Army to transfer any tanks.

Since this time, Congress has directed establishment of a Commission to review roles, missions and functions of the armed services. That review is not scheduled to be completed until next year.

The Chief of Staff of the Army is on record strongly opposing the provisions in this bill. He has stated there is a validated requirement in the Army which is greater than the number of M1A1 and M1A2 tanks which will be available and has urged the Chairman, Joint Chiefs of Staff be given the opportunity to review and resolve this issue.

I'd like to take a moment to discuss the problems of this provision.

The Marine Corps contends that it has a requirement for 443 M1A1 tanks, but their current inventory only totals 271 tanks. However, the Marines have not requested, justified, nor have the Joint Chiefs approved a Marine requirement for additional tanks. In fact, none of the CINC's of the unified and specified commands has identified a tank shortage in the Marine Corps Maritime Preposition Squadron Forces.

While it's true that the total Army inventory of tanks exceeds 7,000, and the army intends to transfer 1,500 tanks to the National Guard as M1A2 upgrades are completed at the rate of 120 per year, this is part of a modernization plan following Desert Storm. Congress has directed the Army to modernize the Enhanced Readiness Brigades in the National Guard with the same priority applied to the active forces.

And it's my understanding that at the same time the Army began its modernization program, the Marine Corps canceled its remaining buy of M1A1 tanks and retired more than 600 M60 series tanks from its inventory. One might assume this action constituted Marine Corps realignment to a lighter, more mobile force that would fight jointly with heavy force augmentation provided by the Army.

We are not raising any objection to the 2-year plan to provide M1A1's to the Marine Corps Reserve in exchange for M1A2 upgrades. Clearly, the Department of Defense believes the Marine Reserve battalions will experience difficulty in training with only the eight tanks they currently have, and this action does not lessen the Army's warfighting capability nor disrupt the services' modernization plan for the National Guard.

But the Department does object to the transfer of 84—maybe as much as 124—tanks, because the requirement has not been validated by the CINC's, OSD or the Chairman, Joint Chiefs of Staff.

And finally, the Department of Defense agrees with the argument with the active Marine Corps could very well see action in a conflict before some Army National Guard units.

However, the Department defers to the language of the Goldwater-Nichols Act which charged the Chairman of the Joint Chiefs of Staff to review service acquisitions that should emanate from requirements identified by the CINC's of the unified and specified commands.

Madam President, the Senator from New Hampshire, Senator SMITH, is on his way, should be here momentarily,

and Senator BOND. I understand that Senator SMITH wishes to say a few words. But we have worked out an agreement, and I do not think it will be too long.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Madam President, I had planned to offer an amendment with my good friend, the Senator from Kentucky, to strike section 1066 of this bill.

As the Senator has described, this section currently in the measure directs the Army to transfer up to 124 of the M1A1 heavy armored tanks from its active duty, first-to-deploy units to the Marine Corps.

As has accurately been pointed out very well by my distinguished colleague and cochair of the National Guard Caucus, this provision ignores the process established in the Goldwater-Nichols law for consideration of this issue. It bypasses consideration by our most senior military experts. It bypasses consideration by the blue ribbon roles and missions commission which we established just last year, and it sets a very bad precedent for future similar efforts.

The provision in the bill currently is opposed by the Chairman of the Joint Chiefs of Staff, General Shalikashvili; the Chief of Staff of the Army, General Sullivan, and the White House.

For my part, I think we ought to be paying some attention to the opinion of these senior military leaders. They are the people best able to make decisions about which services and which units should have specific tanks. That is why we set up the process, whereby the JCS is designated the appropriate authority to make these decisions.

It does not make sense to overrule their decisions, take the authority away from them as the current provision would do.

Now, I am not here to argue about whether or not the Marine Corps should have tanks or whether they have this version of tank or that version of tank or whether they should get them before Army units or after. These are not judgments that I am qualified to make. And I am willing to make a good guess that most of my colleagues in this body are not qualified to make them either. The people who are most qualified to make them are our most senior military leaders, the Joint Chiefs of Staff. That is why we gave them the authority to do so in the Goldwater-Nichols bill and subsequent legislation.

Section 1066 would substitute in our judgment—and in my opinion, even worse—the opinion of the General Accounting Office for that of our military leaders. That just does not make any sense to me. I have had enough experience with the GAO to know they are wrong quite often, sometimes more wrong than right, particularly when they are as far afield from traditional accounting questions as this area of military strategy. I do not want to take a chance that the GAO knows a whole lot more about military strategy and tactics than the Joint Chiefs of Staff.

On that point, I would note that the Office of the Secretary of Defense did not concur with the findings of the GAO report on which this section is based. Specifically, OSD stated, "A Marine Corps and Joint Staff position on overall tank allocation priorities and funding requirements has not been established. Until that occurs, there is no solid basis for further transfer of M1A1 tanks from the Army to the Marine Corps." That is from the GAO report, page 11.

Madam President, I would state again that I have no objection to the Marines getting additional tanks. I want the Marines, and all of the services, to have the equipment they need to do their job and return home safely. At the same time, however, I would note that the Marines have not asked for tanks in this year or in future years. I certainly understand that these are tough budget times and that money is tight. But that means the services have to make tough choices, not force other services to pay for their equipment.

Returning to the OSD response to the GAO report, they note that,

> The Marine Corps has not formally requested that additional tanks be transferred from the Army to meet its requirements. Each Service normally establishes its own equipment priorities, based on their respective roles and missions, and then develops procurement plans based on those priorities and available funding. The Army has previously determined that modern Abrams tanks were of sufficient priority to warrant inclusion in funding plans. The Navy and Marine Corps, however, have determined that procurement of additional tanks was not warranted based on overall priorities and funding constraints.

It seems pretty clear to me, Madam President, that if the Marines had such a dire need for tanks, they would have asked for some. But they have not.

Now let me turn for a moment to the issue of whether or not the Army has "excess" tanks. The proponents of this provision argue that the Army has over 7,000 tanks and that it certainly will not hurt them to give just a few to the Marines.

Well, that is true. The Army does have a lot of tanks, but most of them are older M1 tanks, not M1A1's, and certainly not the M1A1 common tanks specified in this provision.

Let me focus on that for just a moment. Section 1066 requires that the Army transfer M1A1 "common" tanks to the Marines. The word "common" is significant because it designates a version of the M1A1 with special characteristics, most notably heavy armor made of depleted uranium.

The Army has only 834 of these common tanks. Not 7,000. And all but a few of these M1A1 common tanks are currently deployed in the Army's first-to-deploy active-duty units. There are 327 in the 1st Cavalry Division at Fort Hood, TX. There are 87 more at Fort Hood with the 2d Armored Division, and 129 in the 3d Armored Cavalry Regiment at Fort Bliss, TX. And there are 267 in the 24th Mechanized Infantry Division at Fort Stewart and Fort Benning, GA.

These are the units that will deploy first the next time we go to war. And this provision would require that they give up their tanks to the Marines with the likely result that they would be replaced by less capable M1A1 tanks without the heavy armor.

The significance of these units can be illustrated by looking at the gulf war experience. The 24th Mechanized was the first Army Armored Division to deploy, arriving in Saudi Arabia in September. And the 1st Cavalry, another early deploying unit, played the key role of feinting a move up the middle of the front thereby allowing the VII Corps to make its now-famous "Hail Mary" sweep around the Iraqi forces.

So I just want to make sure that Senators understand that the tanks we are talking about here are not surplus tanks; they are not coming out of excess stocks in Europe; they are not coming out of the National Guard; they are coming out of the Army's contingency forces, the first to fight when we go to war.

So that is where we stand on the M1A1 common tank specified in this amendment. What about the basic M1A1? Once again, the Army does not have a surplus. In a June 22, 1994, letter to Chairman NUNN, Army Chief of Staff General Sullivan wrote, "The Army does not have any excess M1A1 tanks." That is supported by OSD which, in commenting on the GAO report, characterized the number of M1A1 tanks as "an insufficient quantity to meet current Army requirements." That is from the GAO report, page 13.

I would like now to turn to another issue that is raised by the language in section 1066, the role of the National Guard.

Section 1066 would prohibit the Army from transferring M1A1 tanks to the Guard until the Marine Corps has received its full requirement of tanks. Setting aside for a moment the fact that I am not sure there is currently

any validated requirement for Marine Corps tanks, the prohibition on transfers to the Guard is a major problem.

The President's Bottom-Up Review directed that there will be 15 enhanced readiness combat brigades in the Army National Guard which "will be organized and resourced so that they can be mobilized, trained, and deployed more quickly to the fast-evolving regional conflicts that we expect in the future." That is from the BUR, page 94. The report envisions that these enhanced brigades will reinforce active combat units by deploying within 90 days of the initial deployment.

These enhanced brigades are going to play a clear role in any future conflict. The simple fact is that we are cutting so much of the Active Army structure, that we will not be able to conduct significant military operations in the future without using the Guard. For that reason, it is essential that these enhanced brigades have the same first-line equipment and training as the active units with which they will serve. That means they need to be replacing older tanks with M1A1's. Section 1066 would delay that modernization.

The central point of all of this is that this measure, 1066, is not the right way to do business. If the Marines need tanks, they should request them as every service does for equipment it needs. That request should be considered by the Joint Staff and submitted to Congress. The whole process should be conducted in an above-board manner which gives all interested parties the opportunity to air their interests. Section 1066 did not do that, and for that reason, as I stated earlier, I had planned to move to strike it.

Over the past several days Senator FORD and I have been working with the chairman and the ranking member and the Senator from New Hampshire to try to find a way to address the concerns of all Senators. The compromise before us now is a result of those talks. Clearly, this is not a perfect compromise for my part. I continue to believe it is a sorry mistake to circumvent the judgment of the Joint Chiefs of Staff and substitute the opinion of the General Accounting Office. But like all compromises, it cannot make everyone happy. It can only split the difference. This compromise essentially does that.

I hope personally when this bill goes to conference, the conferees will see fit to recede to the language in the House bill. That language directs this problem to the Joint Chiefs of Staff where it belongs.

I express my thanks to the chairman of the committee, Senator NUNN, and to the ranking member, Senator THURMOND, for their efforts to work this issue out. I express my appreciation to Senator SMITH for his willingness to work with us, and I urge all Senators to support this compromise amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. NUNN. Madam President, could I inquire? Could we get a time limit on this amendment?

Mr. SMITH. I do not object to that, I say to my chairman. I anticipate at the most 30 minutes and probably less.

Mr. NUNN. Would that be equally divided?

Mr. FORD. Madam President, may I say to the chairman on my amendment that I believe the Senator from Missouri has concluded his statement. I am through with mine. So we would not need any time. The only time that would be necessary would be for the distinguished Senator from New Hampshire, whatever he thinks he needs; 30 minutes, and he may not use all of it.

Mr. SMITH. Yes. I would say to the Senator from Kentucky that if someone else wishes to speak, we have reached an agreement on this amendment. I am not rising in opposition to it, but rising in support of it. Therefore, I do not see any reason that we could not have a time agreement.

Mr. FORD. May I ask the floor manager? Could we have 30 minutes, 25 and 5 for Senator BOND and me?

Mr. SMITH. That is acceptable to me.

ORDER OF PROCEDURE

Mr. FORD. Madam President, I ask unanimous consent that a time agreement be entered into on my amendment of 25 minutes to the distinguished Senator from New Hampshire, Mr. SMITH, and 5 minutes equally divided to Senator BOND of Missouri and myself; and no second-degree amendments.

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

Mr. SMITH. Madam President, I did not have the opportunity to speak to the Senator from Kentucky. But I would like to have the yeas and nays on the amendment, even though we are in agreement, to help strengthen the position somewhat in the conference.

At this point, Madam President, I ask for the yeas and nays on the Ford amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There does not appear to be a sufficient second.

Mr. SMITH. Madam President, first of all, I want to thank Senator FORD, Senator BOND, Senator THURMOND, and Senator NUNN for working with me to work out a compromise on this amendment. I think the compromise is reasonable. Although I would prefer the committee language, I am not going to oppose the amendment offered by my colleagues.

I want to give a brief overview on what the issue is here so that my colleagues can understand the issue. The Marine Corps has a requirement for 443 M1A1 tanks. They currently only have 271 in their inventory. There is a shortfall of about 172 M1A1's against the requirement. The breakdown of this 172-tank shortfall is 84 for the deployment on maritime prepositioning forces, 40 for the sustainment, and 48 for the Marine Corps Reserve.

The total Army inventory of tanks, including active, Guard, and Reserve is more than 7,000 tanks. The Army intends to transfer 1,500 of these tanks to the National Guard by the year 2003, and plans to upgrade existing M1 tanks to the M1A2 configuration at the rate of about 120 per year. The Army is going to have ample tanks.

The Armed Services Committee bill directs, and this amendment would direct, that 84 of these M1A1 tanks will go to the active duty Marine Corps. This will be sequenced one for one—one to the Guard, one to the Marine Corps—until the 84 tanks are reached, and then the rest will go to the National Guard.

Under the DOD plan, the total Army inventory of tanks in 1997 will be 6,828. And under our plan, it will be 6,744, a very minimal difference. That is why I believe that the committee position, slightly amended by the Ford amendment, is reasonable.

Let me quickly go through the historical precedent regarding tank transfers. During the late 1970's when the Marine Corps was making a transition from the M48 to the M60 tank, the Marine Corps transferred approximately 400 tanks to Army for use in both the National Guard and for foreign military sales. Those tanks were purchased by the Marine Corps and transferred to the Army at no cost. So we do have some precedent the other way around.

In the late 1970's, the Marine Corps had a requirement for 1,078 M60 tanks. However, due to funding constraints, the Marine Corps was only able to procure 576 of the required 1,078. With the implementation of the maritime preposition concept in the early 1980's, the Marine Corps solicited the support of the Army to fulfill a portion of its short shortfall. From 1983 to 1984, the Army transferred 140 excess M60's to the Marine Corps to facilitate loading of the maritime prepositioning force.

The procurement of the M1A1 by the Marine Corps was approved in 1985. However, funding constraints and later the determination by the Chairman of the Joint Chiefs that the United States had enough tanks, prevented the Marine Corps from buying the full complement that they now required.

With the ongoing drawdown of Army forces in Europe, and the Army's identification of excess tanks available, the Marine Corps began negotiating with the Army about the potential transfer of M1A1s. To its credit, the Army agreed to the transfer of 50 of those

tanks to satisfy the Marine Corps frontline active requirement. However the Marine Corps still remains 172 tanks short of fulfilling its requirement.

The armed services bill with this amendment will simply continue the spirit of cooperation between these two forces. That is it.

Additionally, I would emphasize to my colleagues, the bill authorizes about $216 million over 2 years to upgrade existing M1 Army tanks to the M1A2 configuration and in return transfer M1A1s to the Marine Corps Reserves on a one-per-one basis to remedy the terrible tank shortfall in the Marine Corps Reserve. That is the history.

The first question that needs an answer is why did the Marine Corps not buy the tanks? Those who oppose the committee's position have said they should have bought them when they had the chance.

There are some good reasons why they did not buy them. First of all, 3 years ago the Chairman of the Joint Chiefs, then Colin Powell, stated clearly that the United States had enough tanks. Additionally, the Marine Corps did not have the money within their budget to purchase additional tanks at $3 million to $4 million per unit, especially when the chairman said the United States had enough already.

The Army has said that these tanks were bought with Army money, and for that reason the Marine Corps should not get them. This is not Army money. It is not Marine Corps money. It is taxpayer money. It is money for the national security of the United States. They were bought for use in repelling a massive Soviet attack in Europe.

That is no longer a realistic scenario. Future conflicts are likely to be regional, not global. And we are relying upon prepositioned forces out there ready to strike in a moment's notice or react in a moment's notice.

To its credit, the Armed Services Committee recognized this and made the tank issue an urgent priority. By transferring this modest number of tanks, 84, to the Marine Corps preposition force, the committee acted responsibly I believe. And the amendment, I think, although it is slightly different, supports that responsible action.

The committee position stands on its own merits. The reality is that within the current budget environment we simply cannot afford to base our defense policy on parochial considerations, be they National Guard, strictly Army, or strictly Marine Corps.

The point is the Army has literally thousands of tanks that are excess to their requirement. Transferring only 84 of these tanks out of 1,500 is not unreasonable, and will not affect the operational base of the Army.

The committee should be commended for its leadership on this issue.

It has been suggested that the Marine Corps does not need the tanks; that they do not need an M1A1 tank, and could instead turn all of its M1A1s over to the Army in return for the lesser M1 tanks. But again, this is a nonstarter. The Marine Corps decision to replace the M60 tank with the M1A1 came after careful analysis and years of research into alternative capabilities such as the M1 and the light armored vehicle.

It became clear that the lethality needed to support the Marine Corps was only available by increasing the size of the tank gun from the 105-millimeter gun to the 120 millimeter in the M1A1. The Marine Corps did not buy the M1 because it represented only a marginal upgrade from the M60, and did not include the 120-millimeter gun. The Marine Corps made a conscious decision to wait for the enhanced lethality and survivability of the M1A1 and its 120-millimeter gun.

The M1A1 tank is the Marine Corps' only survivable and sustainable offensive combat vehicle that can defeat enemy tank forces and survive in the full spectrum of potential combat. As long as the Marine Corps has the expressed directed mission to conduct forcible entry and operations against hostile and armed forces, the M1A1 is essential.

The 105 millimeter family of ammunition had reached its maximum potential in lethality because of the ballistics. The M1A1 transition was predicated on its lethality, and the additional antihelicopter and antibunker capability. These are facts.

Regarding the issue of a Joint Chiefs' study, we, in the Senate, have a responsibility to exercise our oversight responsibilities. I take those very seriously. Deferring this issue to the Joint Chiefs ignores the problem and leaves our troops deployed in harm's way without the equipment they need to protect themselves.

The role of Congress in equipping the Armed Forces to accomplish their missions is based on the U.S. Constitution, not the Goldwater-Nichols Act. The Senate routinely settles these types of issues for the Joint Chiefs—routinely we do this. Every year we exercise our constitutional responsibility to raise and maintain the Armed Forces. This year, for example, we are going to decide how many helicopters will be built for the Army, how many F-18's and Aegis destroyers for the Navy and C-17 aircraft for the Air Force. We decide the conditions to be met before ships can be transferred, before they are retired and whether they will be in the active or ready reserve. We make the decisions from a position above the fray of interservice rivalries. That is our job. I think the chairman of the Armed Services Committee and ranking member do that job very well.

The Chairman of the Joint Chiefs does not ask that we let him decide all of these issues. Why is a transfer of tanks any different? This bill includes $216 million over 2 years to buy an additional 48 M1A1's for the Army. The Goldwater-Nichols Act was as designed to streamline the command structure, make management more cooperative and efficient, and, increase the authority of the combatant commanders. It also increased the role of the JCS Chairman.

However, I can assure my colleagues it did not eliminate Congress' constitutional prerogative and role in this process. The issue is not whether we have the right to decide the issue. We do, absolutely. The issue is whether for political and parochial considerations we would want to abandon our responsibilities.

In February 1993, Colin Powell, chairman of the JCS, recommended to Congress that the Marine Corps retain enough tank battalions to support amphibious operations and fill three maritime pre-positioning squadrons. The Marine Corps requirement for these tanks, which was clear in the recommendation of Chairman Powell to fill these squadrons, has been pending 15 months. The new Chairman of the Joint Chiefs has never specifically endorsed the requirement, that is true. I daresay he has not specifically endorsed hundreds of existing service requirements. Does that mean we have to stop authorizing every procurement until he has formally certified it? I say no.

Over the last 3 years, the Marines transferred over 150 artillery pieces to the Army, self-propelled artillery pieces. The Marine Corps purchased them from their own budget. We have precedent for exchanging materials back and forth between the services.

Now, let me go to another point, Madam President. Some say, "why not let the Army provide all tank support?" It is a very good question. The Marine Corps is a synergistic force which consistently trains under the philosophy of maneuver warfare and operates in a combined arms manner. This synergism provides the Nation an expeditionary power projection, and if a Marine Corps maritime pre-positioning squadron is 2 days steaming from a conflict, with the equipment and supplies to sustain itself for 30 days, do we want to make them wait offshore for a period of who knows how long, before the Army can ship a brigade of tanks in? No. Should we tell the Army that their air defense and helicopter support should come from the Air Force and the Air Force only? I believe not.

The Marine Corps is the Nation's premier 911 force and principal forcible entry capability. Having an indigenous M1A1 capability within the Marine air-ground task force is essential to meeting those requirements. Subcontracting this out exclusively to the Army is not a realistic approach.

Let me go to the issue of the National Guard. I want to highlight how

many tanks the Guard will have under the Armed Services Committee recommendation and the amendment. The National Guard will have a total of 438 M1A1's and 1,489 M1's in their inventory in 1994. Even after the transfer of the 84 M1A1 to the Marine Corps, the National Guard will possess 717 M1A1's and 2,000 M1's by 1997. The bottom line is that we are not hurting the National Guard at all. I want my friends in the Guard to understand that. That is not the case.

Let us go to the bottom line. Those who go to battle first must have the equipment that they need to defend themselves and to execute their mission. That is essential in warfare. The Marine Corps forward-deployed forces are our Nation's 911 force, as I said. They must act on an emergency basis. They will certainly engage in conflict before the National Guard will. This is not a rap on the Guard. It is a fact. The Marine pre-positioned forces deployed today, right now, out in the fleet, have only 52 percent of the tanks they need—52 percent. They have 30 tanks in their squadrons, and they need 58.

I ask my colleagues, if it was your son or daughter out there in the Marine Corps who was forward deployed in harm's way, with only half the tanks they needed, would you like the tanks to go to the National Guard or to the Marine Corps MPF ships? I think that answer is pretty easy. The bottom line is that they only need 84 out of 1,500. That is all.

I do not think that is an unreasonable position for the Senate to take. We are only talking about 84 tanks. The Guard will still get 1,416 tanks, and the Army will still have nearly 7,000 in their total inventory. The Marines will get 84 tanks, and their forward deployed forces will have the equipment they need to protect our young men and women out there on the front line. These tanks, as I said earlier, Madam President, are owned by the American taxpayer. This should not be a battle between two services, and I regret that it somehow got to that point before the compromise. There is plenty of history where we have exchanged tanks in the past, and other military equipment as well, between the services.

I urge my colleagues to support the amendment offered by the Senator from Kentucky. It is a very reasonable amendment. I appreciate his willingness to work with me to develop this. I want to close on one point.

I will read from a letter I received from the former commandant of the Marine Corps during the Persian Gulf conflict General Gray, in a handwritten note at the bottom of a letter he sent to me yesterday, said this, and I ask my colleagues to heed his words:

Sir, I am often asked why the Marines need tanks. Your Marine tank battalions are the Nation's only tank battalions trained and equipped for forcible entry amphibious operations. In Desert Storm, Marine tanks helped destroy or capture 1,040 enemy tanks, 608 enemy personnel carriers, 432 enemy artillery weapons, and controlled 20,000 enemy POW's. They were vital to the breakthrough into Kuwait. Thanks again. Semper Fidelis.

Well, I cannot improve on that. He is the former commandant of the Marine Corps and was there when the Persian Gulf war broke out. I think he knows what he is talking about. This is a reasonable provision and a reasonable amendment. Again, I appreciate the cooperation of my colleagues.

I also encourage my colleagues to enthusiastically support it. I hope the chairman would vigorously oppose, along with the ranking member, any attempt to take this language out in the conference report. Again, Madam President, before yielding the floor, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. NUNN. Madam President, could I ask the Senator from New Hampshire to accept the word of the managers that we will work very closely with him in the committee on this? Of course, he will be on the conference, because he has worked very hard on it. I think he has lots of good ideas and a good sense of priority here.

Also, I would be working with the Senator from Missouri and the Senator from Kentucky, because I believe they have very strong feelings about the National Guard.

We have to make some sense out of this whole thing and some sense of priorities in the right way.

If we could avoid a rollcall vote, I think it would be very helpful. We have Senators around here who have amendments. We have Senators who want to make speeches. We have amendments we want to work out. If we take a rollcall vote, we are going to spend another 30 minutes. It will delay us.

I do not believe, I say honestly to the Senator, on a workout like this a rollcall vote is going to make any difference. I think we can stipulate among the three of us to work this out that, if there were a rollcall vote, it would be about 98 to nothing.

Mr. FORD. If there are 98 here.

Mr. NUNN. If there are 98 here.

But if we have a rollcall vote, there would probably be less people here in a few minutes. We just need the time.

I will abide by whatever the Senator from New Hampshire wants to do.

Mr. SMITH. Madam President, let me say to my chairman, who I have the greatest respect for, when he says he will enthusiastically support the matter in the conference committee, that is good enough for me. I look forward to being able to work with him in the conference, and I will accept the chairman's leadership on this point and retract my request for the yeas and nays.

Mr. NUNN. I thank the Senator from New Hampshire.

The PRESIDING OFFICER. Who yields time?

MARINE CORPS TANK ISSUE

Mr. SMITH. Mr. President, I wonder if the distinguished chairman of the Armed Services Committee would join me in a colloquy regarding the Marine Corps tank issue.

Mr. NUNN. I would be happy to accommodate the Senator from New Hampshire.

Mr. SMITH. The Armed Services Committee bill transfers 84 M1A1 common tanks from the Army to the Marine Corps to remedy a terrible shortfall within the Marine Corps Maritime Preposition Force Squadrons. This decision was based on a careful evaluation of the Marine Corps requirement, and a survey of the tanks which will come available for reissue as a result of downsizing and the Army modernization program.

Mr. NUNN. The distinguished Senator from New Hampshire is correct.

Mr. SMITH. Mr. President, during the course of the past week, our distinguished colleagues from Kentucky and Missouri have raised some very strong concerns over the issue of transferring 84 M1A1 common tanks out of the Army inventory. It has been suggested that the transfer of M1A1 common tanks, as opposed to other variations of the M1A1, could have the unintended affect of delaying the active Army's modernization program.

Senators FORD and BOND have suggested a compromise that would remove the reference to common tanks in this section, and authorize the transfer of 84 M1A1 tanks to the Marine Corps on a one-for-one basis as M1A1's are transferred to the National Guard.

Although I strongly support the position of the Armed Services Committee, as reflected in the pending legislation, I am sensitive to the concerns that have been raised concerning the issue of common tanks. Before deciding on this issue, I would like to solicit the input of the distinguished chairman and ranking member of the committee.

Since this amendment would modify the Armed Services Committee position, I would ask if the distinguished chairman supports this compromise?

Mr. NUNN. I am happy to respond to my colleague. I supported the Armed Services Committee position on this issue, and I think the Senator from New Hampshire has done our Nation a great service by focusing the Senate's attention on the Marine Corps tank situation. I believe that the compromise is consistent with the Armed Services Committee position, and strikes an appropriate balance between the Marine Corps needs and the ongoing Army modernization program.

Mr. SMITH. I appreciate the comments of my colleague from Georgia, and I thank him for his leadership. One

further matter, that I believe is absolutely essential, is the issue of conference. As we know from experience, it can often be very difficult to find common ground with our House counterparts during the defense authorization conference. This issue, in particular, will require our vigilant and unwavering attention.

If the Senate adopts this compromise, will they aggressively fight to preserve the tank transfer in conference?

Mr. NUNN. Let me assure the Senator from New Hampshire. I fully support the transfer of 84 M1A1 tanks to the Marine Corps. If the Senate includes this provision in the bill, I will do everything in my power to preserve it in conference.

Mr. SMITH. I thank my colleague for his assistance. I am absolutely committed to seeing this issue through and I appreciate the support of the distinguished chairman. With the assurance that the Senator from Georgia supports this transfer, and will do everything in his power to preserve it in conference, I will support this modification to the Armed Services Committee bill.

Mr. FORD. Madam President, I think that it is all right for Senator BOND, and under the circumstance we will have a vote. I am willing to yield back my time if he is.

I yield back the 5 minutes.

Does Senator SMITH yield back his time? Then we can go to the vote.

Mr. SMITH. I do.

Mr. FORD. All time has been yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2158) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado.

ADDITIONAL COSPONSOR

Mr. BROWN. Madam President, I ask unanimous consent to add Senator MIKULSKI as a cosponsor of the Brown-Simon amendment.

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

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2159

(Purpose: To require the President to submit to the Senate as a treaty any international agreement that modifies or establishes new legal obligations for the United States under the Anti-Ballistic Missile Treaty.)

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

Mr. NUNN. Is this the ABM amendment?

Mr. WARNER. Yes. And I would like to speak to that amendment, and at the appropriate time I would be glad to discuss it with the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. THURMOND, Mr. DOLE, Mr. WALLOP, Mr. SMITH, and Mr. KEMPTHORNE, proposes an amendment numbered 2159.

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

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

The amendment is as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY OR ESTABLISH NEW LEGAL OBLIGATIONS FOR THE UNITED STATES UNDER THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty or establish new legal obligations for the United States under the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) AGREEMENTS INCLUDED.—Among the international agreements covered by subsection (a) are the following agreements:

(1) Any agreement regarding the succession of the independent States of the former Soviet Union to the commitments of the former Soviet Union under the ABM Treaty.

(2) Any agreement that sets forth a demarcation between theater missile defense systems and antiballistic missile systems for purposes of judging compliance of theater missile defense systems with the ABM Treaty.

(3) Any agreement that imposes limitations on antiballistic missile systems or components more restrictive than the limitations already set forth in the ABM Treaty.

(c) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. WARNER. Mr. President, if I could do one thing, I ask unanimous consent that the Senator from Idaho [Mr. KEMPTHORNE], be added as a cosponsor.

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

The Senator from Georgia.

Mr. NUNN. Mr. President, I have not seen the amendment. I know the Senator from Virginia has been working on this amendment for some time. I do not know whether we can agree to the amendment or whether it is going to be objected to. I do not know what the view of the State Department is, or the Foreign Relations Committee.

This is an important amendment. It would be my intent, if we cannot work it out, to offer a second-degree amendment to that. Now, I know the Senator, if he gets the floor again, can offer a second-degree amendment to it. I would prefer not to get into that kind of situation. I would also prefer not to have to simply waste time here by putting in a quorum call.

So I would like to ask unanimous consent that I be permitted to offer a second-degree amendment to the Warner amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I believe, Mr. President, I had the floor.

In the nature of a parliamentary inquiry, I think I was recognized, Mr. President.

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

Mr. WARNER. All right.

Mr. President, I was not trying in any way to play a game with my good friend. I simply sent the amendment to the desk and asked for its immediate consideration, and what has happened has happened. It was my understanding I had lost the right to the floor and I had not intended to build a tree and thereby make it bulletproof.

What I am hoping to do is to persuade the managers that this amendment could be accepted without a vote, and that the Senator from Georgia, if he sees fit, could bring forth an amendment to his liking and that, likewise, could be accepted. And then, at an appropriate time, in a conference scenario, after we have had the benefit of consultation with other interested Senators and other interested committees, we might be able to resolve it in a conference format. That had been my hope.

I had been watching the floor and I sort of got the impression that the managers did not desire at this time rollcall votes. That was the intention of the Senator from Virginia.

Mr. NUNN. Mr. President, I say to my friend from Virginia, we do not mind rollcall votes where there is a disagreement. What I was trying to discourage was a rollcall vote where there was agreement. We are going to take more rollcall votes.

AMENDMENT NO. 2160 TO AMENDMENT NO. 2159

(Purpose: To provide a substitute)

Mr. NUNN. Mr. President, I believe the best way to handle this, Mr. President, if I have the floor, is to send an amendment in the second degree to the desk and ask that it be reported. I will be glad to consult with the Senator from Virginia to try to see if we can work this out.

But I have not seen his amendment. I have seen two or three versions of it, and I am not sure whether we can or not.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2160 to amendment No. 2159.

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 the first page, strike out all after the first word, and insert in lieu thereof the following:

CLARIFICATION OF SCOPE ABM TREATY LIMITATIONS WITH REGARD TO THEATER MISSILE DEFENSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Anti-Ballistic Missile Treaty limits the development, testing, and deployment of defensive systems capable of intercepting strategic ballistic missiles systems and prohibit the deployment of nationwide anti-ballistic missile systems.

(2) The ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles.

(3) In November 1993, the United States entered into discussions in the Standing Consultative Commission (SCC) with Russia and the other independent States of the former Soviet Union to differentiate between strategic missile defenses, which are strictly limited by the ABM Treaty, and antitactical ballistic missile technologies, which are permitted but not technically defined.

(4) The threat of proliferation of ballistic missiles to additional countries is a real threat.

(5) There is a shared interest among nations to be able to counter that threat.

(6) It is necessary that the ABM Treaty be clarified to make it clear that the treaty permits theater missile defenses that are capable of countering theater missiles already deployed.

(7) Executive branch officials have testified before Congress that it would not bypass Congress in clarifying for purposes of the ABM Treaty a differentiation between strategic and theater missile defense systems and that executive branch officials would consult closely with Congress before the United States agrees in the Standing Consultative Committee to such a clarification.

(b) SUBMISSION OF PROPOSED AGREEMENT TO SENATE.—The President shall submit to the Senate the final clarification to the ABM Treaty, agreed upon between or among the nations referred to in subsection (a)(3), that defines theater missile defense systems before the clarification becomes effective so that the Senate can make a determination on whether the agreed clarification would substantively modify the ABM Treaty or establish new legal obligations for the United States in a manner that would require the advice and consent of the Senate under section 2 of article II of the Constitution.

(c) TREATY DEFINED.—In this section, the terms "Anti-Ballistic Missile Treaty" and "ABM Treaty" mean the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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 know the Senator from Massachusetts has a very important matter he wants to discuss that does not directly relate to this bill. I hope he would be recognized. When someone has an amendment on this bill, he has assured me he would yield back so it may be considered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the chairman of the Armed Services Committee and, indeed, at the time somebody wants to proceed forward—I know we want to finish this bill—I will not tie up the floor.

REGARDING THE RTC

Mr. KERRY. Mr. President, I have come to the floor on a number of different occasions over the past few years to express my deep concerns about the operations of the Resolution Trust Corporation in handling various aspects of the savings and loan bailout that has cost us literally billions of dollars.

While there are many aspects of the RTC's operations that clearly have major deficiencies, I continue to believe that one of the biggest stories that has not been focused on, either by the media or by the Congress, lies in the RTC's handling of lawsuits against savings and loan wrongdoers in Texas.

Under two administrations, beginning in the last administration and continuing now, sadly, the RTC has failed to properly investigate and recover hundreds of billions of dollars lost by Texas savings and loans. Last year the General Accounting Office found that Texas savings and loans accounted for 41 percent of the Nation's entire savings and loan bailout cost. The GAO found that more than 57 percent of the estimated national losses from insider criminal fraud in to S&L's, or about $2.1 billion, occurred in Texas.

Yet, with $2.1 billion in outright fraud in Texas, the RTC has recovered less than $12 million from savings and loan officers, insiders and attorneys to reimburse the taxpayers. And the total reimbursement is about $90 million in all.

On the face of it those numbers sound like somebody is either negligent, taking a dive, avoiding responsibility, or dumb.

The GAO found in June of 1992 that staffing shortages and reorganizations at the RTC had disrupted the RTC's program for recovering money from S&L wrongdoers. But beyond the GAO's findings, people inside the RTC have continued to come forward to the Senate to warn us that the agency was wasting billions of dollars and not properly investigating cases—cases against people whose actions caused massive savings and loan losses.

In September, at a time when the national press seemed to have forgotten about the savings and loan debacle, in the days before Whitewater—which somehow made it interesting again for people to write about it—the Senate Banking Committee took testimony for about 5 hours from RTC whistleblowers. During that hearing the whistleblowers charged that the RTC was responsible for billions of dollars in negligence losses, waste fraud and abuse.

Several specifically alleged that the RTC's efforts to reclaim funds for taxpayers from the S&L insiders were woefully inadequate and even fraudulent.

The witnesses testified under oath that a series of reorganizations at the RTC had brought a collapse of the Government's ability to investigate major savings and loan wrongdoers. They testified that in case after case where collectively billions of dollars in losses were at stake, the Government never issued a single subpoena for records to enable them to determine whether someone had done something wrong.

I have been told by numerous RTC investigators in the months since that hearing that the results of this lack of subpoena were catastrophic. According to the RTC's own investigators, no attorney who recommended a professional liability case in Texas before 1993 is still handling a case. Every attorney who once handled such cases has been transferred, fired or has quit. They say that not one RTC professional liability case in Texas reached a jury in 5 years. They report that in 86 of the 137 RTC probes of failed Texas thrifts, no subpoenas were issued.

This apparent neglect took place despite Congress explicitly giving the RTC the power in FIRREA to issue those very subpoenas for the purpose of

following the money trail. As Gannett News Service Reporter John Hanchette recently noted, by comparison, Whitewater Special Prosecutor Robert Fiske has issued more than 160 subpoenas for his probe of the tiny Madison Guaranty S&L in Arkansas which lost taxpayers about $60 million—less than some individual loans in the Texas cases.

Now, $60 million is obviously a lot of money, but, unfortunately, in terms of the savings and loan losses, it does not even rank up there with the smallest of the big ones. And as I previously noted, there are 193 savings and loans that have been resolved by the Resolution Trust Corporation that were larger in terms of taxpayers' loss, and in some cases the losses were at the level of billions of dollars.

My concern, Mr. President, is not with the issue of whether or not we ought to investigate Whitewater. We already know that we ought to. We voted to do it, and we are going to do it. But I am still concerned that while the Senate is spending extraordinary resources and energy to duplicate a portion of an investigation already being conducted by Robert Fiske, we are failing to properly investigate something that is far more important to the Nation and to the taxpayers, which is the RTC's handling of lawsuits against S&L wrongdoers in Texas.

Now, last fall in response to these kinds of allegations, then RTC Acting Chief Roger Altman asked a team of Treasury, RTC, and Secret Service officials to go down to Texas and meet with the RTC investigators firsthand and find out what went wrong.

This April, the RTC released a report based on these interviews, which found that there had not been a failure to pursue these cases by the RTC. But within days of the release of the report my office began to hear from the very people who had been interviewed by the team from Washington. They said that the report released by the RTC did not reflect what they had told the team from Washington, and they alleged that the report was a whitewash and warned that materials provided to the Senate by the RTC constituted a cover-up. They alleged that the problems were continuing and that the failures to investigate savings and loan wrongdoers in Texas were costing the taxpayers a fortune.

The most senior and experienced of these contacting my office was a fellow named Bill De Pugh, the manager of the Dallas investigations office from mid-1992 to the end of 1993, a man with 37 years experience investigating white collar crime. De Pugh is a former chief of IRS Criminal Investigations in Manhattan. He was the IRS liaison to Interpol and Associate Director of Operations of the Department of Defense Criminal Investigations Service investigating defense contractor fraud.

De Pugh is a career Government investigator with no political ax to grind, who came out of retirement to work for the RTC as a matter of serving his country. Last month, De Pugh wrote to the Senate to report that having reviewed the RTC report, he believes the mission could only have been to cover up the situation. He begged the Senate to look into the Texas situation, contending that "it is far more important than Whitewater."

Since writing this letter to the Senate, De Pugh has been effectively relieved of his responsibilities by the RTC, transferred to another office, and told that his services are no longer needed by the agency. It is a pattern, Mr. President, that we have seen before, and it is one that other whistleblowers reported to us at our hearing. Once an RTC whistleblower has gone public with criticism of the RTC, the agency's next move seems to be to transfer them to another office, and put them in a warehouse doing menial work or otherwise punishing them for having dared to suggest that the RTC is not doing its job.

Beyond Mr. De Pugh, another dozen or so of the 50 people interviewed in Dallas—amounting to 25 percent of the total—have contacted my office by letter and telephone to warn that De Pugh, like those who testified before the Banking Committee, is telling the truth.

They have informed me that "the information presented to you in the administration's report on Texas recoveries is inaccurate and a major misstatement of the facts presented."

These RTC investigators claim that they identified claims where the RTC should have pursued cases against S&L wrongdoers, and they say that they were prevented from properly investigating cases. They say that lawsuits were not properly filed. They listed some 20 institutions where such claims could have been made and were not, in cases involving at a minimum hundreds of millions of dollars in potential recoveries for the taxpayers.

According to the Texas investigators, even in cases where initial investigations were adequate, cases were sometimes not brought because the statute of limitations expired before a case had been made properly.

For example, Mr. President, there is the case of San Antonio Savings Association, the 14th largest savings and loan failure in the Nation, which lost over $1 billion, according to the RTC. At San Antonio, RTC investigators wanted subpoenas to document the most important aspects of the case that they wanted to bring. And according to the investigators, the RTC's lawyers never responded to the requests of the investigators for the subpoenas and they wound up closing the case on San Antonio Savings, no subpoenas were issued, no funds were recovered.

To give the Senate and the public a better idea of the stakes involved, Mr. President, and of the kinds of losses involved, I wish to just mention a couple of these savings and loans involved.

The whistleblowers identified to us one institution, Meridian Savings & Loan of Arlington, TX. Meridian was an S&L smaller than Madison Guaranty in Little Rock, AR. Meridian actually managed to lose $455 million on a base of $51 million. In other words, Mr. President, Meridian lost 892 percent of its assets—892 percent of its assets. It lost almost nine times its assets—a staggering statistic—which suggests at least a minimum question of whether or not someone involved with the management or oversight was at least negligent. Yet the Government issued just three subpoenas in conjunction with Meridian, compared with 160 issued with respect to Whitewater. And those subpoenas that were issued, the three were in a subsidiary investigation of attorney malpractice, not against any of the officers or the directors. Not a penny was recovered from one of the officers or directors.

According to RTC investigators in Texas, the failure was not the RTC investigators' fault. The RTC investigators recommended issuing subpoenas. They say they wanted subpoenas. But they say their superiors in Washington did not want subpoenas, and so the subpoenas were not issued and the investigations were not adequately made.

Then there is the Gill Savings & Loan of San Antonio, the 10th largest savings and loan failure in the United States. It had almost $1 billion in assets, but according to the RTC it lost over $1.4 billion, or $400 million more than it had in assets.

How much money does that represent? Well, the equivalent of the annual budget of the entire Federal Bureau of Investigation was lost. That is a lot of money. But despite losing the entire budget of the Federal Bureau of Investigation, the RTC has not filed suit to recover one penny from an insider, an officer or a director.

Now, some might assert that that is because there was no claim that could be made against anyone connected to Gill. Well, maybe that is true. Maybe there was no claim. But Gill was the subject of a criminal case which the Government lost, after it was thrown out by a judge who said the Government had not come close to proving its criminal case. And it is true that a lot of information was certainly developed by the Government about Gill from a warehouse of files that were subpoenaed in the criminal case.

Maybe—just maybe—there was no civil case to be made, Mr. President, but that is not the point. The point is that the investigators of the RTC themselves are saying that there are serious questions about how the case was handled and about why there was

not an initial investigation into the matter.

According to them, an internal audit of the investigations regarding Gill showed that case reviews were written supporting negligence claims by the RTC, which were delivered to the public liabilities counsel in Washington. But despite the fact they argued in favor of bringing the case, no case was brought.

The RTC investigators say that the documents advocating the bringing of the lawsuit in the Gill case were then lost by the Washington staff, lost and did not resurface. They say that the RTC in Washington took the position that the case files were never sent to Washington at all, since the RTC in Washington had no record of them. They then say that the copies of the cases were not maintained by the investigative staff in Texas either.

So what is the end result? There are no records at all about one of the largest of the losses in the savings and loan industry.

I cannot personally verify this charge. I do not have the ability to do that personally. But I do know that these are the kinds of allegations that raise enormous doubts about the capacity of the RTC to turn to the American people and say that they have done this in a responsible and accountable manner.

I ask my colleagues where the RTC's policy of withholding documents regarding closed cases leaves this institution in terms of its ability to conduct oversight? What does it say about the state of accountability of this enormous agency that we specifically charged with accounting to the American people for the money trail?

Mr. President, the scandal regarding the RTC's handling of cases in Texas alleged by the RTC's own investigators is really worse than anything that I think we have heard with regard to any of the other public discussions of S&L's thus far. The problem began an administration ago but they continue today. I believe that even today far too little is being done to change the direction of the problem. Instead many of the very people who conducted the policies or made the policies that led to this catastrophe in the first place are still in place. Unfortunately, they continue to engage in what the investigators themselves say is an inadequate process of accountability.

I would turn my colleagues' attention to University Savings of Houston. This was the second largest savings and loan failure in the United States. Its failure cost the taxpayers $2.4 billion, or 93 percent of the assets of this savings and loan. How many subpoenas did the RTC issue to determine whether bad acts by officers or directors contributed to University Savings' $2.4 billion in losses? According to all available information that we have been able to accrue, not one subpoena, Mr. President, not one subpoena to find out what happened to 93 percent of the assets of a $2.4 billion savings and loan. How much money was recovered by the RTC to date from the insiders, officers, and directors who handled University Savings and permitted it to lose $2.4 billion? So far, Mr. President, not 1 penny, $2.4 billion lost, not one subpoena, not 1 penny recovered.

It is possible truly to go on and on. The Security Federal Savings of Texarkana lost nearly $500 million, more than 200 percent of its assets; no subpoena issued; not a penny recovered from officers or directors;

Universal Savings of Houston; this thrift lost more than $250 million, more than 200 percent of its assets; no subpoena issued; not a penny in recovery from the officers or directors;

First South Savings of Port Neches, TX; $.5 billion in taxpayer losses; some 167 percent of its assets; not one subpoena and no recoveries.

A member of the Dallas RTC legal department wrote to me this week to report the following. Let me quote. This is from an investigator in the Dallas RTC legal office:

> The laxness in pursuing cases borders on criminal negligence; the obfuscation when asked to produce records or respond to inquiries, [and] the attempts to quiet criticism by issuing gag orders * * * all are incidents which I have witnessed.
>
> Many statutes of limitations have run on cases that should have been better handled * * * One of the attorney's caseloads is so light that he spends the day reading a novel hidden behind a legal journal * * *. Three attorneys and five paralegals have left the RTC in recent months because of their absolute disgust * * * the degree of intimidation to which employees are subjected should never be tolerated, yet management seemingly operates with impunity accountable to no one.

Mr. President, that is really an extraordinary statement coming from one of the legal investigators.

This whistleblower advised me that the American taxpayers had sustained what is in the whistleblower's words "staggering losses" because of the "shoddy" methods used in the operation of the PLS program in Dallas. The whistleblower concludes:

> Just as tragic is the loss of the integrity and dedication of the many honest, hard-working employees who have fallen victim to the petty, abusive tactics of a management now caught in its shortcomings and which exerts all its time and energy in trying to bury the evidence and punish employees who have dared to voice concern when they witness such obvious wrong-doing.
>
> It is obvious that local [RTC] management, as well as their superiors on the highest levels, have a great deal to lose if you continue to investigate the real basis for the Texas S&L scandal.

These kinds of allegations from current Government employees suggest that we have a very grave situation in Texas in connection with the S&L cleanup.

They raise the question as to whether the RTC took a dive in these cases in 1992 because important people in Texas did not want to be sued, or did not want their friends to be sued, and they had the political clout with the RTC to make sure that outcome was achieved. They raise the question that if this took place then, others may still be trying to hide what happened in 1994.

Still other investigators say that some cases that were brought by the RTC which the Agency lost were lost because the cases were brought despite the fact that the RTC hadn't permitted its staff to properly investigate them first. So while real wrongdoers are escaping liability, some of those who have been sued have had to spend fortunes defending themselves against cases that weren't properly investigated and therefore should not have been brought. And when this happens, not only is injustice created to the individuals involved, but the Government spends a lot of money and recovers nothing.

Proper investigations are key to making decent cases. So when the investigators say they are being prevented from conducting proper investigations, this suggests a failing at the RTC which is fundamental.

I do not know that Presidential politics lead to what took place in 1992. I hope it didn't. It is possible that the failure to recover taxpayer funds in Texas is a result of incompetence at the RTC, and not outright wrongdoing. But I do know that the U.S. Treasury is taking a bath as a result of the outcome, and I know that I can't get to the bottom of it so long as the RTC continues to prevent me from obtaining the necessary documents to determine what happened.

The record will show that we have been trying for months to obtain from RTC the underlying documents, including the witness interviews, that would enable the Senate to reach an independent judgment about what went wrong in Texas. So far, the RTC has stonewalled us, claiming the Congress has no right to see the information we have requested.

The RTC has also refused to provide us information on closed cases. We sought to find out why the Government had not recovered a penny from insiders on some savings and loans with staggering losses, often amounting to many times the thrift's entire assets.

The RTC's response was that if it provided the information, it would be unfair to people who they didn't sue, by raising the question of whether they should have been sued. Accordingly, they told the Senate in effect to "go take a hike" with our questions.

Putting it all together, the RTC's handling of cases against S&L insiders

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over two administrations, one Republican, one Democratic, appears to constitute a far broader scandal than anything we have seen to date in connection with Whitewater.

If one looks only at the worst 50 savings and loans in Texas, those with a high loss ratio, low recoveries, and few subpoenas, we see institutions with total assets at closing of over $12 billion and total losses to the taxpayers of more than $11.7 billion.

The $11.7 billion in losses is an astonishing figure. It exceeds the combined 1992 earnings of 19 of the 30 Dow Jones Industrial companies, including Boeing, J.P. Morgan, Texaco, Eastman Kodak, Dupont, McDonalds, Disney, Allied Signal, American Express, Goodyear, Westinghouse, Woolworth, Caterpillar, Bethlehem Steel, ALCOA, International Paper, Union Carbide, United Technologies, and Minnesota Mining and Manufacturing, plus Ford Motor and Chrysler.

The loss ratio on these 50 S&Ls is 95 percent. The RTC will only net a nickel for every dollar on the sale of the assets of these thrifts, with the taxpayers paying the remaining 95 cents.

The RTC issued a total of 27 subpoenas over a 5-year period investigating the forgotten 50. That is less than one-fifth the subpoenas Robert Fiske has issued in 4 months in connection with the failure of just 1 S&L, Madison, whose losses amount to less than ½ of 1 percent of the 50 S&Ls involved here.

As of March 15, 1994, the RTC had recovered $42,000 from the S&L insiders who ran these 50 Texas savings and loans into the ground. That amounts to about 30 minutes interest on the cost of these 50 failed thrifts—interest the taxpayers will likely pay forever.

As President Bush's Commission on Financial Institution Reform, Recovery and Enforcement found in its report on the origins and causes of the S&L debacle:

> The situation was most out of control in Texas, which became the breeding ground for imprudent and abusive practices. The S&L's it chartered were allowed to engage in high-risk activities virtually without limit, and supervision and examination were essentially nonexistent for several years. It was no accident that over 40 percent of all taxpayer losses came from Texas S&Ls.

That is why Texas was responsible for more than 57 percent of the losses connected to criminal referrals made in connection with RTC losses—losses amounting to more than $2 billion lost to pure fraud and looting.

Yet despite having 57 percent of all the S&L insider criminal fraud amounting to over $2 billion, the RTC has only recovered $11 million from Texas insiders as of the end of March.

In conclusion, Mr. President, if you believe the RTC's own investigators, the handling of S&L recovering in Texas by the RTC has constituted a second looting of the Treasury, following the initial looting which took place in the S&L debacle itself.

The RTC's own investigators have written me and called my office to tell us that the real S&L scandal is not in Arkansas, but in Texas. I have struggled to get the RTC and the administration to recognize this and to respond appropriately. I regret that to date, my efforts appear to have failed, and too many of the people who have shared information with me and my office have suffered retaliation at the hands of RTC's management.

The biggest mistake this institution has made in a long time was in agreeing to fund the RTC's continued operations last year without insisting on comprehensive changes in its management and management structure first. What we received instead were promises of change, and legislative changes that mandated solutions, without guaranteeing that the RTC would actually implement the mandates.

In the case of Texas' liability recoveries at least, the promises of reform were not fulfilled. It is the taxpayers, as well as those at the RTC who want to do the job they were hired for, who have taken it on the chin.

In the days to come I would hope others in this institution would join with me in attempting to get answers on the billions in lost dollars at the RTC in Texas from those whose wrongdoing contributed to the S&L debacle, despite the continued frustrations we face in dealing with the RTC, we must continue to try to force the RTC to do a better job in recovering money for the taxpayers in its remaining months of existence.

Mr. President, I thank the distinguished chairman for letting me use this quorum call. I would simply say to my colleagues that there is an extraordinary story of lack of accountability and a major issue that we ought to consider if we are going to spend the kind of time that we have been spending with respect to other savings and loans.

Mr. BOND. Would the Senator yield for a question?

Mr. KERRY. I am happy to yield for a question.

Mr. BOND. Mr. President, I commend my colleague from Massachusetts. I had left with him yesterday a letter suggesting we jointly request the Banking Committee to hold hearings on what went on in Texas. I would just ask if my colleague agrees with me that we should have hearings in the Banking Committee on this matter which he has laid out so fully and eloquently today.

Mr. KERRY. Let me say to my friend that I have joined in signing a letter. I talked to the chairman previously. We have very few resources, as he well knows. But my hope is we would be able to pursue this. The American people deserve to have answers.

Mr. BOND. I agree with my colleague. I thank him.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. BROWN. Mr. President, I call up the Brown-Simon amendment.

The PRESIDING OFFICER. Is the Senator calling that amendment back before the Senate?

Mr. BROWN. I am.

The PRESIDING OFFICER. That is the regular order.

Mr. BROWN. Mr. President, I ask unanimous consent to withdraw the amendment and substitute a sense-of-the-Senate resolution dealing with the same subject with wording that I believe is acceptable to both sides.

The PRESIDING OFFICER. Without objection, amendments Nos. 2152 and 2153 are withdrawn.

The amendments, Nos. 2152 and 2153, were withdrawn.

AMENDMENT NO. 2161

Mr. BROWN. 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 Colorado [Mr. BROWN], for himself, Mr. SIMON, Mr. ROTH, Ms. MIKULSKI, and Mr. LEVIN, proposes an amendment numbered 2161.

Mr. BROWN. 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 new section—
>
> **SEC. . SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.**
>
> It is the Sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary and the Czech Republic who are making significant progress in working with NATO:
>
> (a) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Control Export Act;
>
> (b) Loan materials, supplies and equipment for research and development purposes;
>
> (c) Leases and loans of major defense equipment and other defense articles;
>
> (d) Cooperative military airlift agreements;
>
> (e) The procurement of communications support and related supplies and services;
>
> (f) Actions to standardize equipment with North Atlantic Treaty Organization members.

Mr. BROWN. Mr. President, the amendment is offered in behalf of myself and Senator SIMON, Senator ROTH, Senator MIKULSKI, and Senator LEVIN.

It is basically a sense of the Senate and expresses our strong interest in democracy and progress in those countries in Eastern Europe, specifically Poland, Hungary, and the Czech Republic; and, it also expresses our interest

in developing further contacts with NATO.

My understanding is that it has been cleared by both sides.

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

Mr. WARNER. Mr. President, I would like to ask the distinguished Senator to be listed as a cosponsor.

Mr. BROWN. I thank the Senator. I ask unanimous consent that Senator WARNER be added as a cosponsor.

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

Is there further debate?

Mr. NUNN. Mr. President, I thank the Senator from Colorado for sending this substitute amendment to the desk. This is a sense of the Senate, as he has observed. It is different from the original amendment that he submitted, and yet I think it carries out his overall objective in setting forth the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of certain types of assistance and cooperation in countries like Poland, Hungary, and the Czech Republic for making significant progress in working with NATO.

The reason I suggest this amendment be adopted is that it does express, I think, an important sense of the Senate relating to the partnership from these. It makes it clear that Hungary, the Czech Republic, and Poland are countries that are making significant progress. But it does not single out these countries. It says countries like these, because there are others also making progress. I think that the best way for the Partnership for Peace to work is for the countries within that partnership to all proceed in connection with NATO and not to have those countries right here on the floor of the Senate selected in terms of who is making the most progress. I think that has to be determined within NATO and be determined by the United States as well as our allies and determined in accordance with the criteria NATO and the Partnership for Peace are working on. There is very strong sentiment toward Poland, Hungary, and the Czech Republic here. We watch them with great pride as they move toward democracy and toward a free market. But we also are watching with pride other countries in terms of the Partnership for Peace that are making progress.

I think this is an amendment we should accept. I thank the Senator.

Mr. WARNER. Mr. President, if I could add a few words of endorsement. I think the President and the others made a proper decision with respect to the timing and hope for the eventual admission of these countries and others to the Partnership for Peace. However, those nations are at this point in time very short on resources with which to create within their own structure and nations armed forces such that they can become really full partners some day of the NATO alliance. This would be an interim record. I would hope this type of materiel, military equipment and so forth, would further strengthen the ability of our Nation and other nations to work with them in training exercises and to begin to recognize their inherent ability to create such security forces as they feel are necessary for their respective security and for eventual inclusion in NATO.

I thank the Chair.

Mr. BROWN. Let me add this: I deeply appreciate the support the sense of the Senate received. It does not diminish in any way, my enthusiasm for seeing that we reach out a hand of friendship and freedom to those countries in Eastern Europe.

I want to emphasize something here as well. While it may have been an inappropriate time to get a record vote on the original resolution, it in no way indicates that we do not intend to pursue that option. I am one that happens to believe that it is terribly important for us to not let this moment in history pass by and not do everything humanly possible to make sure they do not slip under the dark clouds of totalitarianism. I think prompt action on our part can preclude that. A delay on our part can encourage it. The last thing we want to do is see their freedom which has been so desperately fought for in this century slip under a cloud again.

To the extent we can move ahead with these measures, it is a step forward. These countries are anxious to develop communication systems compatible with us, equipment systems that are compatible with us, contacts that are compatible with us. I think it is one of the bright lights developing in world affairs.

Mr. NUNN. I urge adoption of the amendment.

Mr. PELL. Mr. President, I am sympathetic to the objectives of this amendment—to encourage the President to use existing authorities to provide excess defense articles and other benefits to our friends participating in NATO's Partnership for Peace. This amendment specifically mentions Poland, Hungary, and the Czech Republic as examples of countries eligible to receive certain types of assistance and cooperation. Each of those countries has made substantial progress in working with NATO. Poland, for example, where President Clinton will travel next week, will be the site of the first military exercise under Partnership for Peace later this year.

While I agree that those countries, all three of which are members of NATO's Partnership for Peace, are extremely deserving of military cooperation and benefits, I would point out that many other countries are actively working with NATO. This amendment does not limit the provision of assistance to other countries that are members of Partnership for Peace. In fact, it encourages the President to extend the same benefits to each of those other countries.

I believe it is important not to draw unnecessary lines in a newly undivided Europe. The administration has worked very hard to be inclusive in developing NATO's Partnership for Peace. For example, Russia joined the partnership with no special conditions—on the same terms as other countries. If we begin to differentiate now, we undermine the concept of a whole and free Europe. Accordingly, I welcome the inclusive spirit of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2161) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Before the Senator from Colorado leaves the floor, is this the NATO amendment that I had cosponsored with the Senator?

Mr. BROWN. Indeed, it is, and I ask unanimous consent that the Senator's name be added as a cosponsor on the sense-of-the-Senate measure.

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

Mr. DOMENICI. Mr. President, I would like to indicate that I totally concur in the remarks made by the distinguished Senator from Colorado. I think he is absolutely correct. I hope we move expeditiously in this regard as a nation.

Mr. President, shortly, I am going to offer an amendment regarding spousal and child abuse in the military. Before I do that, I want to indicate that I previously had filed an amendment, an intent to offer an amendment, with reference to the language in this bill on the single stage rocket technology. I do not intend to do that.

I will say to the distinguished chairman and ranking member that, obviously, the difference between the Senate bill on this and the House bill on this subject and the appropriations bill in the House seemed to be at different ends of the world, with the House clearly indicating they want to continue the program for single stage rocket technology within the Defense Department at a $40 to $50 million a year cost and not transfer it to NASA.

In this bill before us there is language both saying we will not spend the $40 million that is already appropriated for this program, and the program will go to NASA. I am very hopeful when conference ensues, between those two extremes, a reasonable compromise will ensue. It seems to me,

based on what I can find out from the House, that such a compromise will have to be the case and concurrence somewhere in the middle will have to result. Knowing that, I do not want to burden the Senate with a vote. We would need one because I do not believe the managers would accept it. That is my explanation on why I will not call that amendment up on behalf of myself and Senator BINGAMAN.

Mr. President, our Nation's ability to use space for national security, civil, and commercial purposes depends on the strength of our national launch systems. Other nations are focused on developing their own independent access to space, and they now lead in terms of responsive, economical, and competitive launch systems.

But what about the United States? I believe it is in the Nation's long-term national security and economic security interest to regain preeminence in the area of space launch technology and operations.

There are widely divergent views on what to be done; however, there seems to be a general consensus that reusable launch vehicle technology will provide the cheapest and most reliable form of transportation.

We have reusable vehicles for traveling on land, sea, and air, and we need them for traveling in space. Scientists and engineers all over this great Nation tell me the technology is now available and that it just needs to be demonstrated.

The Defense Department has already flown five successful test flights of a reusable test vehicle, called the DC–X, and I think we need to support this vitally important program with continued funding.

We are on the verge of opening a whole new frontier in the use of space including the new emerging market for vast constellations of low earth orbit communication satellites that will be an important part of the new information highway. Its companion program, a cheap, reliable, and reusable form of space transportation infrastructure, is an essential part of this new frontier.

The Defense Department has done an outstanding job of managing the single stage rocket technology program, and I believe they should continue this effort. The Air Force says they need to do a core technology program that includes unique technologies to single stage rocket technology. I believe that we ought to let the Department of Defense and the Air Force continue to manage this program.

The DC–X has given the United States a 3-year edge over our international competitors. To retain this lead we must continue to move ahead with this program of advanced technology flight demonstrators for reusable single stage to orbit launch systems, and I encourage those who want to regain American preeminence in space transportation to support maintaining this program within the Department of Defense.

Mr. President, let me indicate that while a great deal is being said in the United States these days by our citizens and our people about spousal abuse, about violence in the families, I hope everybody understands that the men and women in the military are not immune from these kinds of difficult problems.

As a matter of fact, just for the record, I, once again, want to speak to a serious situation we had in the military that is about two-thirds fixed. We need to fix an additional one-third today, and we will do that.

Frankly, until the fiscal year 1993 defense authorization bill, we had a situation in the U.S. military where if a spouse was beaten by her husband and she turned him in and he was found within the processes of the military to be guilty of that, her husband could be—as in a case I brought to the Senate floor—dishonorably discharged, and even if they had served together as a family for 20 years, before that dishonorable discharge, at the moment of the discharge, he is consistent with the history of our military understanding of dishonorable discharge, he is separated from any and all rights and privileges with the defense and military of the United States, which, incidentally, carried with it the situation where the spouse was thus entitled to nothing. If she had been entitled with her two children in a case I brought to the Senate, some kind of sharing in his pension rights, to hospital rights, perhaps commissary rights, the dishonorable discharge precluded her and her children from getting anything.

Frankly, that may have been years ago a good part of the military desire to keep their people only tied to the military if they were honorably discharged. But what actually is happening, and we knew it was, is that spousal abuse was not being reported because you can understand that if someone is abused and she knows that if she turns the abuser in and he is discharged, she will get nothing.

So what we had was a situation where we were almost inviting domestic violence to go unreported as to the children who might be abused or a spouse who might be abused. So in due course, after a lot of arm twisting, the Defense Department went along with language in the defense authorization bill in 1993 that essentially covers 20-year veterans and longer, such that if spousal abuse or violence occurs and they are discharged, the spouses and the children are entitled to a portion of the military members' retirement pay and other benefits. That is a good law.

I thank the committee for ultimately doing that in conference after a long and difficult effort to get the military to acknowledge that we ought to do this.

Now, in 1993 we also put in a study asking the Defense Department to study in detail the issues and to also tell us what was happening with reference to situations where the military member that is accused has not been in the service for 20 years but rather from 1 to 20 years because we do not have anybody covered there. In other words, at the end of 14 years, abuse could occur, a spouse could turn in the offending member who could be dishonorably discharged, and that 13-year military relationship would be totally severed with the spouse being entitled to absolutely nothing.

So what we are trying to do is to get the Defense Department to give us a total evaluation of this, including the evaluation of whether we should add health care and commissary and medical benefits to these 1- to 20-year service members who might be discharged dishonorably for child abuse or wife abuse.

I regret to tell the Senate that even though we have been urging the Department of Defense to complete the report that we asked them to do in the 1993 authorization bill, and I wrote Secretary Edwin Dorn, who was in charge of Personnel and Readiness on February 25, 1994, the indication was a followup letter. It took until May to get a followup letter, and then he said it would be ready near the end of May.

I also asked the Chairman of the Joint Chiefs at a hearing if he would expedite it, and I was told we would get it by May 27.

Mr. President, I ask unanimous consent that those letters be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 25, 1994.

Hon. EDWIN DORN,
Assistant Secretary of Defense, Personnel and Readiness, the Pentagon, Washington DC.

DEAR ASSISTANT SECRETARY DORN: I commend you and your staff on your efforts to comply with Public Law 102–484, which requires a study to provide statistics on abuse-related separations from military service and actions taken or planned to be taken by the Department of Defense to reduce or eliminate disincentives to report the abuse to the appropriate authorities.

Last Friday, my staff had the opportunity to discuss the status and direction of the study with Col. John Mollino of Legislative Affairs and Col. Will Hatcher. My staff informs me that they are well on their way to producing a meaningful study that will greatly assist in illustrating where the problems lie, what the disincentives are, and what can be done to correct the current situation.

I have one concern that I bring to your personal attention. The study, which is being prepared, will not be ready in its final form until mid-to-late June. Unfortunately, this gives us little time to adequately analyze the findings during the fiscal year 1995 Defense Appropriations hearings process.

Anything that you might do to expedite this process would be greatly appreciated.

Once again, thank you for your dedication and support on this issue. I look forward to continuing our work together on the behalf of military members, spouses and dependents.

Sincerely,

PETE V. DOMENICI,
U.S. Senator.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, 21 April 1994.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Based on your recent inquiry to me on the Secretary of Defense's report regarding benefits to family members following the separation of the service member for spouse or child abuse, my staff has been working with the Department of Defense study director. Through allocation of additional resources and speeding the coordination process, we have been able to expedite delivery of a final report from the original June 30 delivery date to May 27.

Because of your interest in this matter, my staff will ensure that you get a personal copy of the report as soon as it is available. Your continuing concern for our people and their welfare is appreciated. If I can be of any further assistance, please don't hesitate to call. With best wishes,

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

UNDER SECRETARY OF DEFENSE,
PERSONNEL AND READINESS,
Washington, DC, May 4, 1994.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: I have taken the following actions to expedite the abuse victim study the Department is conducting to reduce or eliminate disincentives to reporting abuse of family members:

First, the contractor has agreed to accelerate the analysis of the Task II data from the intake victim abuse surveys and of the Task III personnel records analysis, once the collection phases from these two tasks are completed. Second, this coordination process will be completed concurrently with the Services as each task report is completed rather than waiting for the final report of the three task reports. This will require more staff effort, but will shorten the time required for the coordination process.

Together these actions will move the completion date up to the end of May, rather than the end of June as originally planned. I look forward to continuing our work together on behalf of military members and their families.

Sincerely,

LABERT V. CONTE
(For Edwin Dorn).

FY93 DOD AUTHORIZATION BILL, PUBLIC LAW 102–484

Covers Abused Military Spouses and Children whose member has served at least 20 years and is eligible for retirement benefits.

Up to 50 percent of retirement benefits can be claimed by abused spouse or child when the 20-yr. military member is dishonorably discharged from the service for the abuse.

Health care, commissary, medical, and dental benefits covered.

Requires broad study of all issues (including the under 20-yr. members).

FY94 DOD AUTHORIZATION BILL, PUBLIC LAW 103–160

Gives Secretary "authority" to cover all abused military spouses and children whose member is dishonorably discharged for abuse, regardless of time in service.

Provides up to three years of transitional benefits (based upon present Dependent Indemnity Compensation pay scale).

No health care etc.

Ensures spouses and children receive retirement pay and other benefits during the military member's appeals process. (PVD Amendment)

FY95 DOMENICI AMENDMENT

Directs Secretary to implement program to cover all abused military spouses and children whose member is dishonorably discharged from the service for abuse.

Directs same.

Provides health care, commissary, dental, and medical for transition period.

Ensures spouses and children whose member has under 20 years service receive transitional benefits during the appeals process.

Mr. DOMENICI. Mr. President, I tell the Senate we still do not have the report today. I really believe unless there is some absolute necessity not to do this that we ought to get it and we ought to get it soon.

Mr. President, I ask unanimous consent to print in the RECORD two additional accounts that relate we do have child abuse and wife abuse and domestic violence in the military. Time magazine has an article, and I would like it to be made a part of record, where they do go through the increases that are occurring in these particular problems in the military and a story found that I think is quite accurate on domestic violence on the rise in the military. This comes in a New York Times article. I ask that those two follow the letters that I just asked to be made a part of the record.

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

MILITARY STRUGGLING TO STEM AN INCREASE IN FAMILY VIOLENCE

(By Eric Schmitt)

Washington, May 22—In a trend that has Pentagon officials deeply worried, domestic violence in military families has increased steadily since the late 1980's, according to Defense Department figures.

The number of confirmed spouse abuse cases climbed to 18.1 per 1,000 spouses last year, from 12 cases per 1,000 in 1988. At the same time, substantiated cases of child abuse have increased slightly to 6.6 per 1,000 children, from 6 per 1,000.

In a grim illustration of the most severe problems, an average of one child or spouse dies each week at the hands of a relative in uniform. Over the last six years, an average of 37 children have died each year as a result of abuse in military families. In 1993, the figure was 38 deaths.

Last Wednesday, in the most recent incident of such violence, Master Sgt. David W. Reynolds, a 20-year Army veteran and member of the Army's Old Guard ceremonial unit, fatally shot his estranged wife, Denise, in a parking lot in Falls Church, Va., and then shot himself to death.

Shaken by this troubling trend, the armed forces are rushing to add more aggressive prevention programs to existing treatment, and to conduct detailed surveys of military families to pinpoint early signs of trouble. But Pentagon officials argue that budget constraints are hampering their ability to address the problem fully.

Military experts say the increase in cases of domestic violence can be attributed in part to heightened awareness of the problem throughout society and to improved reporting techniques. But the mounting stresses of life in a military buffeted by shrinking numbers, wrenching social changes, more frequent deployments and nagging uncertainty about careers have also fed family tensions, these officials say.

"There's no question that the downsizing has had a real impact on the active-duty military and their families," said Peter J. McNelis, a former Army colonel who now heads the Military Family Institute at Marywood College in Scranton, Pa. "You can't talk to anyone without getting the sense they're tense and feel that the system is letting them down."

Congress has also expressed concern. At a closed meeting last week to address the equality of women in the military and steps to prevent sexual harassment, female Senators and the senior leaders of the armed forces traded concerns about domestic violence in military families.

NEEDS TO BE REALISTIC

Part of the problem is that "there's a let's-sweep-it-under-the-rug attitude about all this," said Senator Barbara Boxer, Democrat of California. "The military needs to be realistic and admit there is a problem."

The rate of child abuse in the military is less than half of that in the general population, largely because drug and alcohol abuse is less prevalent in the military and because military families are shielded from the kind of abject poverty that is also associated with child abuse.

Trends in reported spouse abuse are more difficult to compare because there are no reliable national statistics on the problem. But an Army survey of 55,000 soldiers at 47 bases indicates that one of every three families has suffered some kind of domestic violence, from slapping to murder. That was twice the rate found in groups of civilians the Army surveyed for comparison. The results of the survey, a continuing study started in 1989, were first reported last week by Time magazine.

Delores F. Johnson, head of the Army's Family Advocacy Program, said the Army was startled by the figures, but she cautioned against drawing definitive conclusions from them. "The one-in-three figures certainly are alarming," she said. "But before we go off the deep end, we want to do further analysis of the data."

The military services have had programs in place to deal with domestic violence since the early 1980's, for the practical reason that stresses at home tend to spill over to the battlefield, hurting military readiness, recruiting and retention.

With family violence cases continuing to rise, despite an increase in budgets for treatment to $79 million this year from $15 million in 1989, the military is now trying to improve its prevention programs with these efforts:

In June the Army will begin assigning trained civilian counselors to hundreds of units, down to the battalion and company level.

The Pentagon has established a panel that is reviewing child deaths at three major military hospitals in Colorado, California and Washington State. It will eventually investigate child deaths in all military families for signs of abuse.

The Defense Department has commissioned a yearlong study of 7,000 adolescent children

of service members at 25 bases to identify stress-creating family problems.

But just as in civilian life, spouses in the military are often reluctant to report abuse, fearing even more violent attacks or that revealing abuse could imperil the service member's career and the family's finances. Congress has ordered the armed services to investigate disincentives to reporting domestic violence.

Sandra G. Rosswork, manager of the Navy's Family Advocacy Program acknowledged, "It's a tough marketing job to get the word out to families that help is available and there are no negative consequences to careers."

Military and civilian social workers say child abuse in military families, as in the civilian population, ranges from neglect to battering, while spouse abuse often involves yelling and pushing, assaults and threats.

The majority of the reported cases involve mid-level enlisted personnel like sergeants in the Army, Marine Corps and Air Force, and petty officers in the Navy. But social workers say abuse also reaches into the officer corps.

AN EQUAL OPPORTUNITY PLAGUE

"We see people of all ranks because domestic violence crosses all lines," said William Duke, director of the family violence care center for Cumberland County, N.C., which includes Fort Bragg. "It's an equal-opportunity plague on our society."

Today's military has more married couples and more children than at any other time in its history. The percentage of married service members has increased to 58 percent this year from 47 percent in 1980.

"The combination of high work demands, separation from an extended family, many times in a foreign country, and financial stress is a formula for family stress and sets up a formula for family violence," said Gary Bowen, a professor of social work at the University of North Carolina and an expert on military families.

CONCERNS IN MARINE CORPS

It was such concerns that led the Marine Corps to try last year to phase out enlistment by married men and women, a policy that was rescinded almost as soon as it was announced to widespread criticism. The policy directive said that an inordinate number of Marine Corps marriages were failing under the pressures of military life, in "an all too familiar pattern" that could "result in decreased performance and require command attention."

Both the Marines and some other experts point in particular to the youth of both partners in military marriages. When a 19-year-old marine marries a 17-year-old and then they get moved around the country, trouble is more likely.

"A lot of spousal abuse is the result of people getting married young and not knowing their partners well," said Rita Campbell, the director of a shelter for battered women near Fort Stewart, Ga.

Ginny Powell, a clinical social worker at the Navy's family advocacy center in San Diego, said: "In many cases the parents themselves were abused or neglected. Many of them are now immature parents."

ARMY TRAINING CITED

Although some family specialists, both civilian and military, say that troops trained for combat often bring combative behavior home with them, military officials deny any link. "While we train soldiers to be aggressive, they're not trained to be abusers," said Col. Jim Schile, an Assistant Deputy Secretary of the Army for Morale, Welfare, Recreation and Family programs.

At any rate, overt violence is not the only type of abuse found in military families. In San Diego last June, a neighbor reported a case of child neglect involving the 4-month old daughter of a 22-year-old petty officer and his 20-year-old wife. By the time civilian authorities arrived, however, it was too late.

"The child looked like someone from the Sudan who just starved to death," said Lieut. Comdr. Norma Jones, director of the Navy family advocacy center in San Diego. "It was a family that fell through the cracks."

The parents were convicted of second-degree murder earlier this month and face prison terms of 15 years of life.

This summer, the Navy will train family counselors in a new program to help children who have witnessed spouse abuse in their home.

"It's becoming clear," said Ms. Rosswork of the Navy's Family Advocacy Program' "that if we want to prevent domestic violence, then we need to start doing something pro-active with children currently in homes where there's domestic violence."

[From Time, May 23, 1994]

THE LIVING ROOM WAR

(By Mark Thompson)

(As the U.S. military shrinks, family violence is on the rise. Can the Pentagon do more to prevent it?)

WASHINGTON.—Jeromy Willis, an Air Force enlisted man and ex-Army marksman, had been trained to kill the enemy. But when the cold war ended and his base faced closure and his career began looking less secure and his marriage came under strain, the enemy started looking a lot like his wife Marie. First he tried to kill her with a flaming propane torch. Weeks later he tried to strangle her. She fled to her mother's home in Rhode Island, and the Air Force confined Jeromy to his base in Myrtle Beach, South Carolina. But when Marie returned to press charges against her husband, he had somehow learned of her supposedly secret appointment. Outraged that she was ruining his career Jeromy confronted Marie inside the waiting room of the base legal office early last year. He fired a pawnshop pistol into her chest. As horrified witnesses watched her yellow dress turn crimson, she screamed, "Jeromy, no!" And then he fired a second round into her brain.

Marie Willis became another victim of an alarming increase in domestic violence on America's military bases. The rise in abuse of spouses and children, researchers and the Pentagon believe, may be connected to the painful reduction in U.S. fighting forces following the end of the cold war. In 1986, there were 27,783 reported cases of violence in military families; last year there were 46,287. Now, a confidential—and unprecedented—Army survey obtained by Time suggests that spousal abuse is occurring in one of every three Army families each year—double the civilian rate. Each week someone dies at the hands of a relative in uniform, and nearly 1,000 formal complaints of injury are lodged against family members in the service. Untold thousands may suffer in silence.

Over the past year there has been gory evidence of the home-front carnage. A soldier in Washington state killed his wife, packed her body into a suitcase and threw it off a bridge. In Southern California a Marine who was a hero in the Persian Gulf War shot and killed his newly divorced wife and their five-year-old daughter. In North Carolina an airman hacked his wife to pieces, wrapped her remains in plastic garbage bags and stored them in the refrigerator. In Hawaii a sailor killed his baby daughter, stuffing her into a duffel bag and tossing her into Pearl Harbor. A soldier in Germany, angered at his wayward spouse, decapitated her G.I. lover and placed the severed head atop his wife's nightstand.

The new Army survey offers an unvarnished and quantifiable look at the problem. "The rates of marital aggression are considerably higher than anticipated," declared the researchers, who have questioned more than 55,000 soldiers at 47 bases since 1989, and continue to do so.The growing number of victims seeking help "is soon likely to exceed treatment resources." And the problem isn't restricted to low-level or poorly performing soldiers. "Often those in the most responsible and stressful positions," the report says referring to noncommissioned officers, "appear to be more likely to be involved in abusive episodes." The violence ranges from kicking, biting and punching to attacks with knives and guns.

The Army's efforts to curb such violence—through counseling and other help—are rarely mandatory. That, says the study, leads to two critical failings: few soldiers take advantage of the help, and the worst abusers don't participate. Researcher Peter Neidig, whose company, Behavioral Science Associates in Stony Brook, New York, is conducting the Army survey, believes similar levels of domestic abuse exist in the other services. While Neidig believes the Army is ahead of the civilian world in confronting the issue, Army officials admit they are only starting to understand the extent of the problem. "We were being very reactionary, explains Delores Johnson, who heads the service's program to combat such abuse. Rather than trying to prevent it, the Army emphasized medical and legal help after the violence occurred. "We're just beginning to take a look at what prevention means," says Johnson. The Army study, which is designed to identify groups at high risk of domestic violence, found evidence that abuse tends to escalate at bases scheduled to shut down. "We're very interested in that," Johnson says, "because we're in the middle of downsizing." Pentagon officials also say their efforts to encourage military families to report such abuse has played a role in the rising number of reported cases.

But the military is spending only $80 million of the $120 million it says it needs this year to fight domestic abuse. That $40 million gap is less than the price of one of the three dozen F/A-18 fighters the Navy is buying in 1994. The shortfall, officials concede, means most of the money will still go toward the medical and legal bills of those already ensnared in domestic terror, instead of focusing on prevention.

Gail McGinn, a top Pentagon personnel official, says the military family's nomadic existence contributes to the problem. Most move every three years, ripping the military family from the support network of relatives and friends that civilian families count on when times get tough. The long absences of the breadwinner—on lengthy cruises, battlefield exercises or peacekeeping missions—add to familial stress. The military drawdown, from 2.2 million troops in 1987 to 1.5 million in 1997, compounds the problem. Soldiers and sailors who once dreamed of a secure, 20-year career and a handsome facing a trunicated career, no pension and bleak employment prospects in the civilian world.

"Everybody is wondering about what their own careers and their own finances will be, and of course, financial issues are major contributors to family violence," McGinn says. "There's a lot of tension." Outside experts point to other factors. Compared with civilian society, the military population is younger and drawn from lower socioeconomic ranks, and consequently more violence prone. Alcohol abuse is relatively high, pay tends to be poor and the military attracts men who have authoritarian tendencies.

Also boosting the opportunity for such violence is the fact that nearly 58 percent of the military are married, perhaps the highest proportion in history. According to Pentagon figures, abuse is largely confined to midlevel enlisted personnel like Air Force, Army and Marine sergeants and Navy petty officers. They're old enough to be married and have children—and the resulting debts—but often earn less than $20,000 a year.

Some military training contributes to a misogynist attitude, says Joan Zorza, director of the National Battered Women's Law Project in New York City. "A man is criticized by being told he's acting like a woman—a 'pussy'—to humiliate him and make him tougher," she says. "That often translates into seeing women as not being important and therefore easier to oppress."

An earlier study had already found a correlation between combat jobs and domestic violence. Troops trained to fight are more likely to batter children than their uniformed colleagues in noncombat jobs, according to a 1979 study of 985 case of child abuse among Air Force personnel by the University of New Hampshire. "There's a spillover from what one does in one sphere of life in one role to what one does in other roles," says Murray Straus, a University of New Hampshire family-violence expert who worked on the study. "If you're in an occupation whose business is killing, it legitimizes violence."

The inherent lack of autonomy in a military job also sets the stage for abuse. "It's all about control," says Cindy Zamora, the wife of an Army tanker. She now lives in a shelter for battered women in Killeen, Texas, just outside huge Fort Hood. She moved there after her husband bit her, beat her and threatened her with a knife. "There's a lot of women in here married to soldiers whose sergeants protect them if they're good soldiers," she says. "They can't control their superiors on the job, so they control us." Although her husband admitted under oath last month in a Texas courtroom that he is married to two women, he remains in the Army. "He was under a lot of stress and was nervous about being kicked out," she says. "He said if he didn't get his sergeant's stripes, I was going to get hurt." She's angered that he remains in the Army in good standing even as it investigates his bigamy. "The military knows he has two wives, but he's still in the Army," she says. "They just sweep it under the rug."

Katherine Coleman was married to an Army major and psychologist. "It's a myth that domestic violence doesn't happen in officers' families," says Coleman, now divorced and living in San Antonio, Texas. Her husband went so far as to draft a prenuptial pact detailing sexual obligations and rules governing outside friendships. She recalls him cornering her in the kitchen or bathroom and not letting her leave until she gave in to his demands. "We argued once for four hours in the kitchen, and he wouldn't let me out," she says. "I had to urinate on the kitchen floor." But she had power over him too. "He hit me a couple of times until I told him his career would be over if he did it again," Coleman says. He remains in the Army, training its mental-health workers.

The men involved in such episodes aren't eager to discuss them. But some acknowledge that the prospect of watching lifelong dreams shatter as the military shrinks can make them lash out in rage and frustration. "It stresses you out, but you can't hit the officers," an Army man says. "So you wait till you get home and take out on her and the kids." Another soldier will only say of his wife that "we abused each other." In fact, the Army survey suggests that spousal abuse usually involves violence by both partners. But women, it notes, are far more likely than men to be injured.

The military has reacted to the problem by creating counseling programs and discipline boards. Military families are told to report any instances of domestic violence they witness, even if it occurs outside their family. But few abused spouses are willing to risk their family's financial future by seeking help through Army channels, because such complaints often end up on the desk of the abuser's commander. "The military needs to do something to ensure the confidentiality of spouses so the wife can go and get help without hurting his career," says Phyllis Lonneman, a Kentucky attorney representing a woman charged with the slaying of her Army husband in August after years of alleged abuse. "It doesn't matter how good or bad the military's programs are if the spouses are afraid to use them."

And the abuser's commander often isn't sympathetic to the battered spouse, according to Sadonna Polhill, who is the top caseworker at the Killeen shelter. "They'll tell the wife, 'This is a bunch of bull—quit making these accusations because you're ruining your husband's career,'" she says. "They try to make the one who's being battered at fault." Anxiety over their husbands' careers has led to a sharp drop in the number of women—from 85% to 50% over the past two years—who permit the shelter's staff to alert military officials to the women's visits. "A lot of that has to do with the pressures on the soldiers and their families," Polhill says. "And many are deathly afraid of their husbands."

While many civilian domestic-violence experts praise the strides the military has made in dealing with the problem, they say follow-through is often lacking. A Pentagon investigation last year surveyed 13 Pentagon prisons to see how many were complying with a 1982 federal law obligating them to alert crime victims, including abused spouses, when perpetrators are released. Not a single one was. In a 1990 case, a Kentucky woman, Andrea Turner, was murdered by her husband three days after his release from a military prison. The killer, who had been locked up for abusing her, said he shot her five times in the back because she ruined his Army career. She had made plans to move secretly to a new home before his official release date, but the military neglected to tell her that he was getting out two months early because of accumulated military leave. "It was a nightmare," one Army official involved in the case says. "Nobody told her."

The problem isn't limited to spouses. Child abuse is also on the rise, leading the Pentagon to create a child death-review task force that will eventually probe all child deaths in the U.S. military to determine if abuse is to blame. "After a child dies, people say it was an accident," says Army Colonel Will Hatcher, who is helping to launch the program. "But we want to go back and check." For several months the task force has been examining child deaths at the Fitzsimons Army Medical Center in Colorado and at hospitals at the Bremerton naval base in Washington and Travis Air Force base in California.

Despite the Pentagon's intentions, its sometimes haphazard efforts offer little comfort to victims and their families. Jeromy Willis, for example, was sentenced to life imprisonment for the murder of his wife and is now serving time at Fort Leavenworth, Kansas. Yet Marie Willis' family remains bitter, because the military ignored so many warnings that a tragedy was afoot. Her family says Jeromy was confined to base twice because he tried to kill Marie, but he was allowed to roam freely on the base when the Air Force invited and paid for her to return there and testify against him. "Abused people should not rely on the military for protection" says her father, Eugene Mello, himself an Air Force veteran. Her mother, Marie Mello, puts it more simply: "The Air Force was an accomplice in my daughter's death."

Mr. DOMENICI. Now, Mr. President, I have discussed the amendment that I am sending to the desk at this moment and ask that it be immediately read. It has been discussed with Senator NUNN and Senator NUNN's staff and Senator THURMOND and Senator THURMOND's staff.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

AMENDMENT NO. 2162

(Purpose: To require the establishment of the program previously authorized for payment of transitional compensation to dependents of members separated for dependent abuse and to improve the benefits provisions)

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2162.

Mr. DOMENICI. 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 128, between lines 2 and 3, insert the following new section:

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(A) REQUIREMENT.—subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103-160 (197 Stat. 1663), is amended—

(b) COMMENCEMENT AND DURATION OF BENEFITS.—Subsection (e) of such section is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable

discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense) may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is approved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Section (e) is further amended—

(1) by redesignating subsection (j) and (k) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

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

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103–160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

Mr. DOMENICI. Mr. President, I rise today to offer an amendment that will significantly contribute to the efforts I have made over the last 2 years, which the Senate Armed Services Committee have supported, relative to the issue of military spouse and child abuse. My colleagues will recall in 1992 I introduced the "Abused Military Dependents Protection Act." This legislation was adopted in the fiscal year 1993 Defense Authorization Bill, Public Law 102–484.

Prior to my legislation, abused military spouses and their dependents whose military member had served the requisite number of years to earn retirement benefits, but was dishonorably discharged from the service for spouse or child abuse, were not eligible to receive any of the retirement benefits the military member (and in my view the spouse and family) had earned. Section 653(e) of Public Law 102–484 ensures that abused military spouses and their children whose military member is dishonorably discharged for spouse or child abuse will have access of up to 50 percent of the member's retirement benefits, as well as access to health care, commissary, and other privileges which they would have otherwise maintained if the member was not dishonorably discharged.

As important, I included language in Public Law 102–484 requiring a comprehensive study by the Department of Defense to provide statistics on abuse related to separations from military service on a force-wide basis and without regard to the number of years of military service of the member. In addition, the study will examine the entire scope of family violence and the actions taken or planned to be taken by the Department of Defense to reduce or eliminate disincentives, including the socioeconomic impact on a force wide basis, for dependent members of the Armed Forces abused by the member to report abuse to the appropriate authorities.

Regretfully, Mr. President, the Department of Defense has not yet submitted its report. In a letter dated May 4, 1994, the Assistant Secretary of Defense for Personnel and Readiness informed me that I would have the report in late May. Unfortunately, and while I understand it should be delivered momentarily, I have yet to see it. Frankly, I am disappointed. I have tried very hard to obtain this report because I knew that it would be very helpful in answering more completely the full scope of the problem and possible future remedies.

Nevertheless, Mr. President, I rise today to take another step forward in the fight against military spouse and child abuse. Admittedly, this amendment is limited in scope, but I know it will be helpful to hundreds of abused spouses and their children.

Mr. President, the amendment I am offering today will authorize health care, commissary, and other benefits that are authorized by the original legislation I introduced in fiscal year 1993 that is now part of Public Law 102–484. Unfortunately, the legislation that was passed last year in section 554 of Public Law 103–160 does not contain these benefits. My amendment will make last year's section of Public Law 103–160 consistent with my original legislation, now section 653 of Public Law 102–484.

Mr. President, military spouse abuse is a serious problem. At this point, I would like to ask unanimous consent to place in the RECORD articles from Time magazine and the New York Times entitled, "The Living Room War: As the U.S. military shrinks, family violence is on the rise. Can the Pentagon do more to prevent it?," and, "Military Struggling to Stem Increase in Family Violence." These articles make it clear that spouse abuse continues to increase, and we need to do more about it. Time magazine reports:

> In 1986 there were 27,783 reported cases of violence in military families; last year there were 47,287. Now a confidential—and unprecedented—Army survey obtained by Time suggests that spousal abuse is occurring in one of every three Army families each year—double the civilian rate.

The New York Times reports:

> In a grim illustration of the most severe problems, an average of one child or spouse dies each week at the hands of a relative in uniform. Over the last six years, an average of 37 children have died each year as a result of abuse in military families. In 1993, the figure was 38 deaths.

Mr. President, the amendment I am offering today is critical to ensuring that the fear factor associated in reporting domestic violence cases in the military is significantly reduced. Too often in the past, abused military spouses and their children have had no option but to endure the abuse. My legislation provides them with a "way out" without risking financial ruin.

The soon-to-be released study will provide us the information we will need to make additional changes in the system next year, but the time for delay has passed. We can no longer afford to wait. Military spouses and children are

dying. We must direct the Department of Defense to implement this program so that we can continue our responsible efforts to deal with this problem. I have gratefully, appreciated the Senate Armed Services Committee's support on this issue over the last 3 years, and I look forward to their continued support, and the support of all of my colleagues.

Mr. President, this amendment says for those situations of 1 year to 20 years of service and a dishonorable discharge during any of those periods for any military member convicted of domestic violence, either spousal or child, that the spouse, the nonoffending child and children will receive benefits.

It also says that those benefits will add to them health care, commissary, dental, and medical for this transition period.

The law right now says that we will have a 3-year payment to them for 3 years of benefits for the transition. We are adding these new covered items—health care, commissary, dental, and medical—to the existing law.

Frankly, I was going to try to make this mandatory in the original amendment, but I am not doing that because I have the assurance of the chairman that he is going to join me here on the floor urging that the military take care of this responsibility.

Clearly, it is something they ought to do and ought to do as quickly as possible. They have not yet started the program for the 1- to 20-year military members that was adopted last year in the defense authorization bill. The DOD authorization conference report that passed the Senate last year included language that gives the Secretary authority to cover abused spouses and children of 1- to 20-year military members who were discharged because of these violations, and it gives their spouse and their children some benefits. They are not even carrying that out yet.

We add a few benefits here today, and perhaps this colloquy on the floor of the Senate will cause them to take it serious enough to get it started as quickly as possible.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, first, let me congratulate the Senator from New Mexico for addressing his amendment in a very consistent and, I think, very effective way on this problem which he has identified and which he has taken the lead in legislative activities to try to deal with, the problem that the Senator from New Mexico is addressing, the disincentive that has been built into the overall military benefits package for spouses and children.

When a spouse is being abused or children are being abused by a military member, there is a disincentive that has existed for them reporting that and having it dealt with.

I think the whole Nation has seen in the last several weeks a great deal of attention on this question of spousal abuse, without referring to any case, the need to deal with it at the very beginning, and to have it reported when it takes place or when children are abused.

Yet in the military there has been a disincentive because immediately if your spouse is reported for any kind of abuse, then basically your transitional benefits have not been there, you have not had benefits because that individual may be kicked out of the military, and then the spouse and the children also suffer.

So this amendment reemphasizes the dedication of the Senator from New Mexico and the importance the Senate of the United States attaches to this problem.

It is my understanding that the military is about to come out with their full implementation of this. But this amendment makes it clear that the Senate of the United States is going to follow this closely and insist that it be done.

I join the Senator in expressing my support for this concept. This amendment, as I understand it, authorizes certain additional transition assistance for spouses and children that are found in this situation, so that the bottom line is they are not discouraged from making timely reports of spousal or children abuse.

This amendment does not make this program mandatory. I think the Senator from New Mexico perhaps more than anybody in the Senate understands that we do not need new entitlement programs no matter how worthy they are. So this keeps it out of the entitlement or mandatory program category. But it does, I think, merit the support of the U.S. Senate.

So I urge its adoption.

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

If not, the question is on agreeing to the amendment of the Senator from New Mexico.

So the amendment (No. 2162) was agreed to.

Mr. DOMENICI. 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.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while Senator NUNN, the chairman, is on the floor, let me say to him a few hours ago there was a very difficult vote here on the floor with reference to a cost-of-living index and the way we would treat some of our veterans with reference to cost-of-living index versus the way we were paying civilians or how we were handling civilians or others.

I did not know that we had finished the debate last night but just for a few minutes this morning. So I did not have anything to say. But I want to say to the Senate I believe the Warner amendment, in principle, is absolutely right. So I voted for it.

In fact, I have never thought we should treat the men and women—those who are discharged from the military and get pensions of any type or VA benefits—I did not think we should treat them any differently than civilians or even Social Security recipients. I thought they all should be treated the same.

In fact, I have introduced legislation to that effect and have had many, many supporters for it years ago.

So in principle, we were right in voting it in. But I also want to say that to create a new entitlement and not call it one, but rather say we will pay it out of appropriated accounts, is just not the way to conduct business here.

For many, and this Senator is one, I am worried when we take a $300 million or $400 million cut in defense. In fact, I think we all came to the floor, I say to Senator NUNN, on the so-called Exon-Grassley amendment. We did not want further cuts in the allocation of defense. And even when that amendment went through in its fullest, it probably would have been a half a billion dollars or maybe $750 million that we would have taken out. But here in one fell swoop we are going to have to fund about $360 million, which is what I understand this entitlement is worth.

I want to pledge to the Senate and to all of those concerned about defense that I am going to use every bit of my available knowledge and information about these processes to find a way to pay for that COLA addition, but not to pay it out of the ongoing annual defense program, because I think it will affect the personnel and operations and maintenance in a very, very dramatic way.

We have to find a way to pay for entitlements like entitlements are paid for out of the entitlement pools that the U.S. Government is paying for entitlements in this country. We cannot let this precedent, which is a bad precedent, now take hold, and actually pay for it out of the operating accounts of an appropriation budget.

So I will spend as much energy and effort and as much of my staff's talent, working with others, seeking to find a way to do this without further decimating the defense operations, and maintenance, and the personnel of the military who are living day by day defending us.

I think the veterans would tell us to do it another way. So we owe it to them to try.

I thank Senator NUNN for his efforts and I hope together we will be able to find a way to do it.

Mr. NUNN. Mr. President, I welcome the remarks of my friend from New

Mexico. I hope, too, there are alternative ways to accomplish this purpose.

I agree that there should be equity in these COLA's I do not agree that the military should be singled out. And they have been, and that is regrettable.

I made a very long speech on the subject last night and I will not repeat it today. If the Warner amendment had failed, I did have an amendment that I was going to propose which would equalize the COLA sacrifice between military and civilians. That, too, might have failed, and probably would have failed. But it is clear, after the Senate adopted the Warner amendment, that the amendment I was going to propose was not consistent with that amendment. So there was no need to go back over the same ground again.

But what we have done here is we have taken an entitlement restraint that was in last year's budget bill and we have decided that we are going to compensate that, make it whole, for the people on military retirement. And we have done it by taking it right out of the defense bill. That is what has been done in this authorization bill.

What has not been done is the money has not been found.

I have seen some of the letters put out by the national organizations. They say it can come out nonreadiness accounts. I went through that very clearly today. It either comes out of readiness, or it comes out of procurement, or research and development, or it comes out of force structure. No one has identified where this money is going to come from. So it has not been appropriated. It has not gone through the appropriations.

The amendment I would have proposed would have taken care of this for 4 years with some sacrifice, but about half the sacrifice the American people are now being asked to undertake.

This amendment only calls for 1 year, if they find the money. So the money has to be found for 3 more years. There is a total of $2.2 billion. We only dealt with $370-some-odd million this time.

In order to get $370 million out of procurement, you do not want to do it to programs that are already underway, so you do it out of the front-end of procurement programs just getting started. In order to do that, because of the slow spendout rate on initial programs like ships, to get $376 million in outlays, which is what we are talking about, expenditures this year, you have to cut about $8 billion in procurement. So if we do this every year we are talking about astounding cuts in the overall defense of our country.

We already are on a downslide. We are already cutting defense too much. So I welcome the comments of the Senator from New Mexico and I welcome his help. I hope this program can be worked out.

I have managed, I am sure, to offend every group around town during the course of my opposition to this amendment. But that is all right, too, because at some point you have to tell the facts as they are. And the people out there in the field who contact me, military retirees, are astounded when they find out what they are advocating has to come out of the defense budget. That is not what they want. The organizations here in town, like every other organization—and they are certainly no different in this respect—are seriously guarding every single penny in entitlement programs.

It is no mystery why entitlement programs are running away from us. It is not just health care. That is the main culprit. But the reason is because people are very vigilant in protecting those programs.

It is no mystery why we have the kind of deficits we have. All you have to do is look at the charts—and I will not go back through those again. But I think the exercise we have been through in the last 24 hours on this particular matter is as clear a demonstration as anyone will find about why we have the fiscal problems we have in this country today.

So I welcome the assistance of the Senator from New Mexico here. I am sure, if anyone can find a way to do this without damaging the defense of the country, and maintaining the equity and fairness to the military retirees, and without increasing the deficit, I am sure he will find a way. But that is not an easy path to probe. I will be working with him to try to accomplish that.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would just add to this.

As you look at what is being contemplated between now and the end of the year, or now and the end of the year for health care, and maybe 6 months into next year for welfare reform, I do not have the exact numbers, but you see we have a law that if you want to add to an entitlement, you have to subtract from an entitlement, or you have to pay for that increase with taxes.

My best estimate over the next 5 years, between welfare reform and health care reform, is that we probably are going to cut entitlements of one type or another in excess of $150 billion between Medicare, Medicaid, and those that we want to either cut or end as part of welfare reform.

Frankly, it seems to me, if we are going to reduce entitlements that much for those programs, maybe a small portion right off the top ought to go to pay for the COLA's for veterans. That might be one way to look at it. And I will explore that before too much more time expires.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. 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. PRYOR. Mr. President, what is the pending business on the floor of the Senate, if I might inquire?

The PRESIDING OFFICER. The Nunn amendment to the Warner amendment is the pending business.

Mr. PRYOR. Mr. President, I ask unanimous consent the pending amendment be set aside temporarily so I may proceed with an amendment which I am sure is going to require some debate—I hope not much debate.

I am going to make a very short opening statement. I know Senators are trying to leave for the Fourth of July break, and I will be very brief.

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

AMENDMENT NO. 2163

(Purpose: To prohibit government-to-government transfers of the Airborne Self-Protection Jammer [ASPJ], or any related software, abroad)

Mr. PRYOR. Mr. President, today I rise to offer an amendment with Senator ROTH of Delaware to prohibit the U.S. Government-sponsored sale of the very troubled airborne self-protection jammer. This is known as the ASPJ, and Senator ROTH and I do not want to see the foreign military financing program go forward with this sale abroad.

The Senate has heard me on this issue on several occasions with my colleague, Senator ROTH. I originally intended to offer an amendment banning any sale, either FMS or commercial, of the ASPJ but, Mr. President, today I have a much more modest proposal that I hope will be accepted by the Senate. Our amendment that we offer today simply forbids any use of the FMS to export the ASPJ.

The ASPJ dates back to the 1970's, when our country first decided we needed to update and improve our radar jammer technology. After years and years of problems, the system actually failed its operational tests. Then-Deputy Secretary of Defense Atwood wrote, in July of 1989, that the ASPJ "* * * has not satisfactorily passed the test relative to cost, performance, or reliability. This is a clear case of not meeting the exit criteria for a transition from the full-scale development phase to the production phase." That was by Deputy Secretary Atwood.

In subsequent investigations by the inspector general, the Pentagon Operational Test Director, and the General Accounting Office, all found that the

ASPJ was tested fairly, the jammer badly flunked its operational test, and that the ASPJ should not be produced. The U.S. Air Force came forward and said: We no longer desire to have this particular radar jammer on U.S. Air Force planes.

In December 1992, the Defense Secretary killed this entire $2 billion program. Despite the fact that the ASPJ has failed operational tests, and despite the fact that the DOD terminated production of the ASPJ in December of 1992, the ASPJ is one of those weapons systems that refuses to die.

We have heard about a cat with nine lives. Mr. President, this is a turkey with nine lives.

The latest episode in the ASPJ saga involves the potential sale of the ASPJ to foreign countries, specifically Switzerland and Finland. Are these sales from the manufacturer or the contractor to the Governments? No, these are Government-to-Government sales. FMS sales, if I may be more specific.

Originally, I was told that the ASPJ would not be sold abroad. I received two letters from the then Under Secretary of Defense assuring me that the ASPJ would not be approved for sale under the FMS program. Last September, Mr. Deutch wrote, and I quote:

> I am not approving ASPJ for the Foreign Military Sales Program.

In March 1994, Mr. Deutch again wrote me, and I quote:

> The department's position remains that foreign military sales funds will not be used to cover sales of ASPJ to foreign countries because the department does not want to apply a warranty on a system that will not be procured for U.S. aircraft.

I repeat that, Mr. President, because I think it encapsulates what our Department of Defense's position was in March 1994.

> The department's position remains that foreign military sales funds will not be used to cover sales of ASPJ to foreign countries because the department does not want to apply a warranty on a system that will not be procured for U.S. aircraft.

Only a few months later, it now appears that the Department of Defense has changed its tune. At a hearing that I held on March 22 of this year, I was assured that while sale of the ASPJ abroad would be allowed, I was also assured at the same hearing that these exports were so-called commercial sales, not Government-to-Government sales. This means that the contractors, and not the U.S. Government, would become the exporter of these units. I was told by Miss Colleen Preston, the Deputy Under Secretary of Defense for Acquisition Reform on March 22 before the Federal Services Subcommittee of the Governmental Affairs Committee:

> What we have done is said to foreign customers that the ASPJ may be sold as a commercial item by the company to the contractor or another Government.

This is our own Deputy Under Secretary of Defense for Acquisition Reform, Colleen Preston. She concludes:

> However, because the system did not pass operational testing, DOD will not allow a purchase of the ASPJ system as an FMS sale.

Frankly, Mr. President, this amazes me. This radar jammer that costs $2.5 to $3 million per system, this jammer that failed operational tests, this jammer that the Air Force says it does not want, this jammer that is so bad that the Pentagon canceled it, is being sold now by our Government to foreign countries.

I was not happy to hear that a failed system was being sold abroad. I originally intended to offer an amendment to block all commercial sales. I am not doing that today. I must say that I was relieved that at least the U.S. Government was not providing the jammer to these other particular countries.

However, DOD has changed its tune again. In direct contradiction to this testimony before our subcommittee, as well as a contradiction to the letters from Deputy Secretary John Deutch assuring me that ASPJ would not be sold through the FMS program, the Pentagon now plans to sell the software component, which is the heart of the system, of the ASPJ, and integrate the ASPJ through the FMS system. Contractors will export only the ASPJ hardware, which is basically nothing more than the box that the software is in.

In short, Mr. President, while the ASPJ contractors are going to be responsible for exporting the hardware on the ASPJ, the U.S. Government will be the exporter of the all-important ASPJ software. And this software, which is the brains and the heart of the ASPJ, is what could not pass muster, it could not pass tests, it could not get by the operational testers in all of the tests conducted between 1989 and 1992. This jammer simply does not work. It has never worked.

According to the General Accounting Office in a report entitled "Use of FMS in Proposed Commercial Sales of Airborne Self-Protection Jammer," I quote:

> While the United States is relieved of any legal or financial liability for problems occurring under a foreign military sale, it would be expected to resolve contract disputes. Foreign Government officials state that they expect items to meet the specifications included in the LAO [letters of offer and acceptance] to look at the United States rather than the contractor to ensure performance.

Mr. President, who is going to be holding the bag if these systems do not work, according to the General Accounting Office? My interpretation is the old U.S. taxpayer. If we sell the ASPJ through the FMS system, the U.S. Government has a long-term obligation. GAO goes on to say:

> Use of separate procedures for hardware and software sales might make such disputes more contentious because experience has shown that it is often difficult to trace system performance problems to a discrete hardware or software problem.

Our simple amendment, offered by the distinguished Senator from Delaware, Senator ROTH, and myself, does nothing to stop the export of the ASPJ systems to foreign countries. While I personally think that we would be better off selling this system to our enemies and not our friends, this comes down to a case, I think, of caveat emptor: "Let the buyer beware."

What this amendment does say in its simplicity and in its directness and, hopefully, speaking to a theme of common sense, is that the ASPJ contractors—Westinghouse and ITT—and not the U.S. taxpayers should bear the full burden of this particular export.

We know that the jammer does not work. It has never worked. Our amendment says that the Government should not be in the position of selling a failed weapon system to other nations. I am urging my colleagues to support this amendment offered by Senator ROTH and myself.

Mr. President, in conclusion, let me state a suggestion. We today have 95 of these $3 million radar jammers stored somewhere in a warehouse. It would be my suggestion that Westinghouse and ITT—who I think have hired almost every high-paid lobbyist in Washington, DC, to defeat this amendment—it is my suggestion that we call up Westinghouse, we call up ITT and we say, "Ladies and gentleman, we have 95 of these systems. We would like to sell them back to you. We will discount these systems 15, 20, 30 percent." We have already paid them a good price for them. They made them; they manufactured them. They have gotten their money. So let them buy them back, let the taxpayer recoup some money, and then if Westinghouse and ITT want to go to the State Department and get a license that costs $200, then they can go to Finland, Switzerland, South Korea or wherever, and they can sell these 95 ASPJ's. The taxpayer will have recouped some money and we will be rid of this system that has not worked now for over 20 years.

A second suggestion, Mr. President, if that suggestion is not accepted by Westinghouse or by the Department of Defense, ITT, and all the other parties. If you want to create some jobs and think the ASPJ is good, that it works; you think our allies will buy this system even though it does not work, that is fine and good. Go out and start manufacturing these ASPJ's. Build all you want. But the conractors should take the risk. Do not burden the American taxpayer further. We have already spent well over $2 billion for a system that does not work.

The amount of money we have spent on this system Mr. President—and I just left the Finance Committee where we are about to be arguing about long-term health care—could begin to fund

long-term health care, what we have spent on this system that has never worked and is not going to work, that our own Air Force says they will not put on an Air Force plane.

Mr. President, I hope our colleagues will not vote to continue to make the Government party to selling this system abroad to friendly nations, making the taxpayers potentially obligated for the obligations or troubles that are going to occur relative to these foreign military sales. Let us stop the Government's involvement in this matter and let us return to common sense.

Mr. President, at this point I am going to yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in very strong opposition to this amendment. I am mystified by this continuous fixation on the part of some Members of this body with the ASPJ. It is really the ardor of the zealot that is involved here with respect to this amendment, and let me go through and just try to detail why.

Also let me say to my good friend from Arkansas, I do not know where these high-paid lobbyists he referred to are. None of them have come to see me. The people we talk to from Westinghouse are the Westinghouse people. I know that it makes for good rhetoric and a lot of theater on the floor of the Senate to make that allegation. But to the best of my knowledge, there is no substance to it I want to say to the distinguished Senator from Arkansas. I know it is a nice rhetorical debating flourish to make that assertion, but as far as I know there is no substance to it, and I certainly have not encountered it. People we have been talking to are the Westinghouse people, of course, a significant employer and a very responsible corporate citizen in our State and in many other States in the country.

Now, the Senator from Arkansas has in effect knocked the ASPJ off the American procurement list. Some of us differ with him on that. We think the testing was inadequate, that it was not accurate, and that it needed to be redone. We think the ASPJ is a state-of-the-art system which could serve our own forces very well indeed. But that issue is not the issue that is now before us.

What we are now faced with is not the question of the U.S. procurement of the ASPJ. It is, rather, the question of whether this system can be sold to friendly countries that are fully aware of all of the things that the Senator from Arkansas is asserting on the floor. In fact, to be certain that they are aware of them, he has been in touch with them himself in order to make sure it is brought to their attention.

Now, the two countries involved here are Finland and Switzerland, both neutral countries but both close friends of the United States.

The Department of Defense has adopted a policy which they have adhered to prohibiting foreign military sales of the ASPJ until the system passes U.S. operational testing.

However, Westinghouse was granted a license by the Department of Defense to market the ASPJ hardware under a direct commercial license, with the software and integration remaining eligible under FMS.

Now, I must say to the Senator, I resent this reference to the hardware as just a box. It is a very sophisticated box. It takes a lot of technical skill in order to put it together. And it represents a significant technological achievement, I would say to my colleague.

Now, the Senator may want to put it down, but I do not think it is fair to a lot of highly skilled engineers and scientists and technical people who produce that item. Now, operating in good faith under DOD's marketing license, Westinghouse and ITT have been negotiating with Switzerland and Finland, both neutral nations but with longstanding friendly relations with the United States, for the sale of the ASPJ and its integration software under the limits imposed by the Department of Defense.

In fact, it has been a very difficult political decision on the part of both Finland and Switzerland to buy fighter aircraft made in this country and to reject their European counterparts.

Let it be very clear. One of the things that is at issue here is where is this acquisition going to be made—in the United States or in Europe? At the moment at least, if the distinguished Senator from Arkansas does not prevail here, the acquisition is going to be made in the United States. If he prevails, I think it is pretty clear it is going to be made in Europe. One would think that given that an acquisition is going to be made, you would want to market U.S. products abroad. But that is not the case with the proposer of this amendment.

Now, I know that behind it lies an assumption, well, if this line keeps producing, they may come back and try to get U.S. sales—I assume that is the motivation here—hence the effort to block this sale, although I think there is really no argument whatever against this sale.

However, the question here is simply are we going to prevent U.S. companies that have developed state-of-the-art systems from selling them competitively abroad? Why would we drive Finland and Switzerland to make their acquisitions in Europe rather than make them in the United States?

Now, Finland and Switzerland are aware of all of the goings on that have surrounded the ASPJ. They are aware of the test results, which many of us think were erroneous and should be redone. The Senator from Arkansas thinks not, and he used those test results to kill the U.S. procurement. Nevertheless, these countries want to go ahead. They know the history of this system. There is no concealment or deception here. In fact, the Senator from Arkansas has been in touch with these countries in order to make sure they know about it.

The system meets their needs. If we now block the sale, these countries will go to a foreign supplier.

Mr. PRYOR. Mr. President, if my friend from Maryland will just yield for one quick observation, I am not even going to ask him a question.

My friend from Maryland has mentioned on two occasions in his speech, Mr. President, that the Senator from Arkansas has been in touch with these countries. The Senator from Arkansas has never been in touch with any country about this sale. The General Accounting Office I think has put them on notice as to the test results. And I would appreciate the Senator taking that——

Mr. SARBANES. Did the GAO do that at the Senator's instance?

Mr. PRYOR. I do not know. I have no knowledge. I do not recall asking the GAO to contact these countries. I imagine they did it on their own. I do not know who asked the GAO to contact these countries.

Mr. SARBANES. It was not at the Senator's instance?

Mr. PRYOR. No.

Ms. MIKULSKI. Will the Senator yield? Did the Senator not write letters to these countries? Did the Senator write letters to these countries?

Mr. PRYOR. This Senator did not request GAO that these countries be contacted by the General Accounting Office.

I would be glad to read into the RECORD—and I apologize for interrupting my friend.

Mr. SARBANES. No, no. If the Senator is being misrepresented, he ought to interrupt and we ought to get it straight. Our report is that the GAO contact with these countries to bring these matters to their attention was in effect at the instance of the Senator from Arkansas.

Mr. PRYOR. That GAO planned interviews to respond to a letter from Senator ROTH and myself which included questions such as: "Did the Department of Defense violate the policy of our own Defense Department in attempting to go forward with these sales?"

I do not know how the Senator from Maryland draws a conclusion that I contacted these governments or that I suggested that GAO contact them. The Senator from Arkansas did not do that.

I just wanted my friend from Maryland to be aware of that.

Mr. SARBANES. Mr. President, both of these countries are aware of the

ASPJ test results. They want to buy it. They regard it as the best system in the world. They see the system meeting their needs.

If this sale is blocked, it is going to go to European competitors. The net result is that system will not be allowed to be marketed anywhere. Our allies are the friendly neutral countries, such as Finland and Switzerland.

The GAO recently finished a study—yet another study at the request of the ASPJ opponents—which concluded that the software sale done through the FMS program is consistent with the U.S. Department of Defense standard practice and would not present either a national security problem or a problem of U.S. financial liability.

Here is what you have. The hardware is not going to be done through FMS; that will be on a commercial basis. The software and integration will be done through FMS. Because of the sensitivity of the mission computer software source code, that has to be done that way. It cannot be done on a commercial basis. But that is because of the sensitivity of the computer software source code.

As the GAO said, this is being done consistent with the Department of Defense standard practice. It does not present a national security problem. It does not present questions of U.S. financial liability.

The Finns and the Swiss undertook to purchase the F-18's with the understanding they would get a complete weapons system package including the key equipment to identify, prioritize, and jam enemy threat signals. They want the ASPJ. They know all the facts about the ASPJ, facts which the Senator from Arkansas has laid out on the record time and time again, and which have influenced the decision in this country about the acquisition. Despite all of that, they want to go ahead. They perceive it as a state-of-the-art system, and they want to proceed with it. It is being done consonant with U.S. law and FMS restrictions.

This amendment which would terminate the negotiations over this sale would be ill-advised. It would merely shift hundreds and hundreds of jobs out of this country and into Europe.

I very strongly urge my colleagues to defeat the amendment.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I, too, join with my colleague, my senior Senator from Maryland, in rising to oppose the Pryor amendment.

I oppose the amendment of the Senator from Arkansas because it is bad for the security of our country, bad for our allies, and a bad business decision for our country.

The Senator from Arkansas wants to prevent the sale of ASPJ through foreign military sales. He says his amendment will not prevent commercial sales but, Mr. President, it most certainly will. The U.S. Government for security reasons will not permit the sale of defense systems software commercially. Our Government requires that all software for security systems like these be sold as foreign military sales. Do you know? We do this for good reason. Why? Because it will ensure that the United States of America keeps control over the software and the secrets contained in the software. Our allies insist that software be sold and integrated as foreign military sales. They want the assurances provided by a foreign military sale that the system is integrated properly, that it is updated to meet the threat posed by potential foes, and they want their equipment to have the same characteristics as ours so they can operate with us.

Integration of the foreign military sales does not guarantee ASPJ system performance. But it does verify aircraft safety issues. It has been a long-term U.S. policy to provide hardware commercially. But for national security and for safety of flight reasons, integration in software is provided by way of the FMS program.

Why does the Pryor amendment single out the ASPJ, Mr. President? It makes no sense to restrict the sale of software and the integration of the ASPJ to foreign military sales. But we do not do that for other electronic warfare systems.

This amendment hurts the ability of American business to compete. If a foreign government cannot purchase the software from the U.S. Government government-to-government, then they are going to turn to software manufacturers outside the United States.

Who are these foreign governments? They are not evil empires. They are not Darth Vaders. They are Switzerland. They are South Korea where just a few weeks ago we were terrified that we could be going to war. We voted in this body on the fact that we should be ready to repel any invasion of South Korea.

Let me tell you. If we are out there flying on the 38th or 39th parallel, I would like the South Koreans to have the jammer.

Much has been said about how flawed the jammer is; that it is a "Heck, no, turkey," and that this debate would be portrayed as we Senators standing up for the taxpayer, and then two Senators from Maryland, hacks advocating pork barrel for some corporate guy. That is not the case. All you need to do is read Aviation Week and Space Technology, which I know many of the Senators do. On January 4, 1993, they wrote an editorial on this.

I ask unanimous consent that this editorial and the subsequent article by Phil Klass that talks about the jammer also be printed in the RECORD.

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

[From Aviation Week and Space Technology, Jan. 4, 1993]

DON'T KILL THE ASPJ JAMMER, FIX IT!

On December 10, most U.S. Navy combat flight crews probably were focused on the holiday season and therefore oblivious to the fact that death warrants may have been issued for some of them. On that day, the Navy notified ITT and Westinghouse it was terminating the ALQ-165 Airborne Self-Protection Jammer program. Intended to protect F/A-18s and F-14Ds against modern antiaircraft missiles, the ASPJ development effort was dropped "for the convenience of the government." This is a serious mistake that needs to be corrected.

The Navy said it terminated ASPJ because it had failed its operational test and evaluation and that provisions in the Fiscal 1993 Defense Authorization Act left no alternative (see p. 27). In reality, it seems Navy and Pentagon officials abandoned the ASPJ ship to avoid further antagonizing Sen. David Pryor (D.-Ark.), and his close friend, President-elect Bill Clinton. Pryor, who has waged a long vendetta against ASPJ, chairs the Governmental Affairs Committee's subcommittee on federal services, post office and civil service. He opened subcommittee hearings on ASPJ last March by characterizing it as a "faulty radar jammer" and "an embarrassing example of Pentagon mismanagement, blatant inconsistencies and internal deception."

After spending $1.5 billion and 15 years to develop the world's most capable airborne self-protection jammer, after several limited-production contracts to demonstrate the system could be built and after the most rigorous testing and debugging any EW system has undergone prior to full-scale production, the program was killed because it failed to pass operational tests.

Did ASPJ fail to detect or respond properly to simulated enemy radars on the Air Force and Navy test ranges? Hardly. Those who have seen the data say the system detected 98% of nearly 300 threat-emitters it encountered. And each time, ASPJ correctly identified the type of threat, selected the proper countermeasures and radiated appropriate jamming signals.

ASPJ's problems arose when actual flight test data were used in simulations intended to model a variety of real-world combat scenarios. This permitted more threats to be generated than the Navy and Air Force could afford to install on their EW ranges. But, did this make the simulation unrealistic enough to skew the assessment of ASPJ effectiveness? We think it may have.

During the simulations, ASPJ-equipped aircraft had to demonstrate a 30% greater survivability than aircraft without jammers. But in one simulation scenario, 90% of the "naked" aircraft survived, which meant 117% of the ASPJ-equipped aircraft had to survive if ASPJ was to achieve the required Measure of Effectiveness.

Through nearly 500 hrs. of operational flight tests, the ASPJ hardware had nine failures. There were an additional 12 "no-fault-later-found" removals attributed to loose connections in aircraft mounting racks. During operational tests, ASPJ's built-in-test (BIT) experienced some false alarms, but the latest BIT software was not installed. Operational testers also complained they lacked instruction manuals, but the contractors had delivered the manuals two years earlier.

Pryor notwithstanding, it would have been more logical to analyze deficiencies identified during the tests, correct them and delay fullscale production of the system for a year. This more sensible approach would have enabled the Navy to outfit a substantial portion of its F/A-18 fleet and F-14Ds before the end of the decade.

The Navy now is back at square one. Several alternatives exist—such as the Loral ALQ-178 or Raytheon ALQ-187—but time will be needed to adopt them to the F/A-18 and F-14D. And because neither has the broad capabilities of ASPJ, the Navy will have to downgrade its requirements. In the meantime, F/A-18s and F-14Ds will have to depend on the Lockheed Sanders ALQ-126B, which was developed more than 20 years ago to meet the less sophisticated threats of the 1970s.

If the U.S. faces another Desert Storm situation in the coming decade and Navy combat crews have to cope with modern threats, Pryor's comments at this hearing could haunt him: "The public should be mad at government today," he said. ". . . when a failed system like the ASPJ is put into a jet fighter, it risks the life of the brave American pilot who it is supposed to be protecting. The Pentagon should be ashamed." If Navy pilots fly into another Desert Storm situation without an ASPJ-type jammer, others will share the Pentagon's shame.

There still is time for Defense Secretary Richard B. Cheney—who has demonstrated his willingness to bite the bullet by terminating the Navy's A-12 program—to delay the ASPJ termination, convene an expert panel to assess corrective actions and get on with fixing ASPJ.

[From Aviation Week and Space Technology, Jan. 4, 1993]

ASPJ CUT LEAVES FIGHTERS EXPOSED

(By Philip J. Klass)

The U.S. Navy's decision to terminate the AN/ALQ-165 Airborne Self Protection Jammer program leaves its F/A-18s and F-14Ds vulnerable to recent-vintage radar-guided missiles until the end of this decade or later.

The action was triggered by a report from the Pentagon's director of operational test and evaluation that ASPJ failed to demonstrate the required "measure of effectiveness" (MOE) in combat simulation studies. Other, less consequential short-comings also were cited.

However, during the flight test portion of the operational evaluation at USAF and Navy electronic warfare ranges, ASPJ reportedly detected 98% of the nearly 300 enemy radar-type emitters it encountered. Every detected threat was correctly identified by type, and the system reacted by transmitting the intended jamming/deception signal, according to one electronic warfare specialist.

The decision to terminate the program, on which the Pentagon has spent about $1.5 billion—rather than defer full-scale production until simulation results could be independently evaluated and minor deficiencies corrected—resulted from provisions in the Fiscal 1993 Defense Authorization Bill.

By the time the bill emerged, Senate and House conferees had learned the preliminary results of operational tests. The bill said that if ASPJ failed to pass operational tests "none of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before Fiscal 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts * * *."

ITT Avionics and Westinghouse, which jointly developed ASPJ starting in 1981, have nearly completed delivery of 100 systems under Lot 1 of a Limited Rate Initial Production (LRIP) contract and were about to start delivery of Lot 2 for 36 more systems. Pentagon lawyers interpreted the authorization bill language to mean that they could not pay for Lot 2 systems.

The termination order, "for the convenience of the government," was issued Dec. 10. The action is expected to result in layoffs of 400-500 employees at ITT and a comparable number at Westinghouse.

The Senate-House conference report said, "The conferees continue to believe the Navy needs a jammer system" and recommended that the Navy should "determine if the existing ASPJ program might be restructured to provide an effective and suitable system, or if elements of the ASPJ program might be adapted for use in a new jammer program. If such a course proves impossible, the Navy should * * * procure an alternative jammer system."

The General Accounting Office is surveying electronic warfare manufacturers for potential ASPJ replacements. Two leading candidates are the Loral ALQ-178, a version of which is used in Israeli and Turkish air force F-16s, and the Raytheon ALQ-187, an advanced version of the Aspecs system developed for Greek F-16s. But neither system presently offers the full capabilities of ASPJ, such as being able to counter coherent pulse-Doppler interceptor radars.

According to one former Pentagon EW specialist, "by the time the Navy develops specifications for an ASPJ replacement, holds a competition, flight tests the contenders and selects a winner, five years will have elapsed. Add another two years to get into production and modify F/A-18s in the fleet to accept the new jammer, and it could be well into the 21st century before the fleet is equipped."

Critics of the simulation scenario and criteria note that an ASPJ-equipped aircraft was required to demonstrate a 30% increase in survivability over a "naked" (unequipped) aircraft. In one simulation scenario, where the naked aircraft came in at very low altitude and all enemy early warning radars were assumed to have been countered by standoff-jammer aircraft, the naked aircraft achieved 90% survivability.

If ASPJ were to meet its specified 30% increase in survivability, "117% of the aircraft had to survive the mission. In other words, 17% more aircraft had to return than were launched to attack the target—which obviously is impossible. Thus, ASPJ had failed to meet the specified MOE," according to one observer.

One of ASPJ's harshest congressional critics has been Sen. David Pryor (D.-Ark.), who has held several hearings on the jammer. Last spring he accused top Pentagon officials of violating an earlier commitment by authorizing follow-on Lot 2 LRIP production for $89.3 million before receiving the results of operational tests (AW&ST Apr. 13, 1992, p. 62).

At the hearing, Under Secretary of Defense for Acquisition Donald J. Yockey defended the Lot 2 contract award. However, he restated his earlier commitment not to approve full-scale production until ASPJ had successfully completed operational tests.

When the results of the operational evaluation, conducted by the Navy's VX-5 test squadron at China Lake, Calif., were circulated in the Pentagon, the Navy's ASPJ program office requested an opportunity to challenge test report conclusions. But this request was rejected. When word of possible termination reached commanders of the Atlantic and Pacific fleets, both reportedly sent in messages confirming their support for ASPJ.

Acting Navy Secretary Sean O'Keefe, in his previous position as Pentagon comptroller, had not been an ASPJ supporter. It was recognized that Pryor, a close friend of President-elect Bill Clinton, would be an influential voice with the new Administration. One industry observer speculates that "top Navy brass decided that the service, whose image had suffered because of the Tailhook scandal and its handling of the A-12 program, needed to placate Pryor to enhance its relations with the new Administration."

In response to a request by the Korean air force, which earlier expressed interest in buying ASPJs for its F-16s, the USAF's F-16 System Program Office has evaluated the recent ASPJ test report. Based on Navy operational test data and the results of current USAF tests of ASPJ in an F-16 the F-16 SPO reportedly has endorsed the system's operational effectiveness. ITT and Westinghouse are expected to try to sell ASPJ to Finland and to Switzerland for use on their F/A-18s.

Ms. MIKULSKI. What did they say? They say:

On Dec. 10, most U.S. Navy combat flight crews probably were focused on the holiday season and therefore oblivious to the fact that death warrants may have been issued for some of them. On that day, the Navy notified ITT and Westinghouse it was terminating the ALQ-165 Airborne Self-Protection Jammer program. Intended to protect F/A-18s and F-14Ds against modern antiaircraft missiles, the ASPJ development effort was dropped "for the convenience of the government."

This editorial goes on to say:

This is a serious mistake that needs to be corrected.

They said:

The Navy said it terminated ASPJ because it had failed operational test and evaluation and that provision in Fiscal 1993 Defense Authorization left no alternative. In reality, it seems Navy and Pentagon officials abandoned the ASPJ ship to avoid further antagonizing Sen. David Pryor of Arkansas.

This is the editorial from Aviation Week and Space Technology. This is not Senator BARB MIKULSKI who has never, ever been in the pocket of some high-paid lobbyist. The people are my advisers. And I turn to the technical people.

What do they say? They say this:

Did ASPJ fail to detect or respond properly to simulated enemy radars on the Air Force and Navy test ranges? Hardly. Those who have seen the data say the system detected 98% of nearly 300 threat-emitters it encountered. And each time, ASPJ correctly identified the type of threat, selected the proper countermeasures and radiated appropriate jamming signals.

So this technology is able to play offense and defense.

They say further that:

ASPJ's problems arose when actual flight test data were used in simulations intended to model a variety of real-world combat scenarios. This permitted more threats to be generated than the Navy and Air Force could afford to install on their EW ranges. But, did this make the simulation unrealistic enough

to skew the assessment of ASPJ effectiveness? We think it may have.

During the simulations, ASPJ-equipped aircraft had to demonstrate a 30% greater survivability than aircraft without jammers.

But in one simulation scenario, 90 percent of the "naked" aircraft survived, which meant 117 percent of the ASPJ-equipped aircraft had to survive if ASPJ was to achieve this measure of effectiveness.

I could go on about this, but the editorial says:

Pryor notwithstanding, it would have been more logical to analyze deficiencies identified during the tests, correct them, and get full-scale production of the system for a year.

Why do they say that?

If the United States faces another Desert Storm situation in the coming decade and Navy combat crews have to cope with modern threats, PRYOR's comments at his hearing could haunt him: "The public should be mad at Government today," he said. ". . . when a failed system like the ASPJ is put into a jet fighter, it risks the life of the brave American pilot it is supposed to be protecting."

Those who analyzed the technology say that putting it in will protect those Navy pilots as in Desert Storm. It will protect the Norwegian pilots, it will protect the Swiss pilots, and it will protect the South Korean pilots. But only if the foreign military sales are allowed to go forward.

And the sham, the smokescreen, this illusion of compromise by doing it commercially is there. Every Senator here knows that we cannot lose control of our software because of the secrets it contains. I hope that we will defeat the Pryor amendment and that we will settle this issue once and for all. I hope one day the jammer is back on American aircraft. But, for God's sake, allies, knowing the history of this Senate debacle and debate, derailing, and obstructionism, I think they ought to be able to buy it according to the same rules of the game we have established for everyone else.

I could go on with GAO reports and so on. I know the hour is late. I did not pick this fight. I want to yield the floor now and see what the chairman of the committee wants. If they want a longer fight, I am prepared to do it. For the people who work here and at Westinghouse and at ITT, for the Navy pilots having to rely on this, I am willing to stand here all night and all day tomorrow to jam the Pryor amendment.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I think it is time for the Senate to go home and celebrate the Fourth of July. I want to say to my good friend Senator MIKULSKI and my friend Senator SARBANES from Maryland that I, too, feel the pain when they are talking about a loss of jobs. If they are talking about Westinghouse or ITT, wherever the facilities are located, I understand and share the pain. I remind the Chair and our colleagues today that in the State of Arkansas, the county that has been hardest hit by defense cutbacks has been the County of Ouachita, my hometown, my home county. We have been hit so hard that our unemployment rate is the highest in the State of Arkansas.

Mr. President, this cannot become a jobs program, and I hope it will not become a jobs program. I want to repeat once again the statement from Mr. John Deutch in a letter sent to Senator ROTH and myself on the 15th of March this year when he concluded his list with regard to the ASPJ by stating finally:

The Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of Defense systems prior to the successful completion of OT&E and the specific approval of the Under Secretary of Defense for Acquisition and Technology.

This policy, according to Mr. Deutch, of March 15, 1994, remains in effect today.

Mr. President, also, I would like to answer our colleagues from Maryland, our very good friends, I might add, by stating that as of March of this year, the Department of Defense said the ASPJ could be sold through commercial sales. They did not think FMS was necessary. Software codes can be scrambled and, according to the GAO report, the Swiss and the Fins will buy the F-18's from the United States regardless of the ASPJ purchase.

Also, I think it is worth noting that my friends from Maryland have both questioned whether or not the testing was fairly done or whether the results were fair. Let me state for the benefit of our colleagues that our own independent Office of Operational Testing has said, "No, this system does not work." Our own inspector general of the Department of Defense said, "No, this system does not work." The arm of this great institution, the General Accounting Office, has stated time and time and time again that, "No, this system does not work."

Once again, Senator ROTH and I are not trying to ban commercial sales. If ITT and Westinghouse want to reengineer these lines and continue manufacturing the ASPJ software and hardware and sell these systems overseas, this amendment would do nothing to impede the free enterprise system. But it would remove the American taxpayer, who has already been out well over $2 billion for these systems that do not work, it would remove the American taxpayer from further liability in this particular area of the radar jammer.

Mr. President, one final word, and it is somewhat of a personal word. This is to my friend from Maryland, Senator SARBANES, who implied on the floor a few moments ago that this Senator from Arkansas had become a zealot on this issue. How many times, Mr. President, have I watched my good friend in his eloquence; how many hours with charts and graphs and a pointer stick has he eloquently stated what the deficit situation is, our budgetary situation, our fiscal situation, the international monetary problems. And I have listened to him, I have watched him, I have admired him, I have respected him, and I have followed him time and time and time again. But I have never—never once—thought he was a zealot. I might have thought he was a passionate individual, a caring Senator, but never a zealot for taking the floor of the U.S. Senate and expressing that passion on what he believes in so deeply. I just hope my colleague and good friend will allow the Senator from Arkansas that same passion to express himself on an issue that he feels as deeply about as the Senator from Maryland feels about his issue.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I have great respect for the work my good friend from Arkansas has done in the area of defense procurement. He has been a crusader for the "fly before you buy" principle which saves our Government time, money and, most importantly, lives.

More than anyone else, Senator PRYOR is responsible for creating the position of the Pentagon's Director of Operational Test and Evaluation [DOT&E], which has helped ensure objective evaluation of new systems independent of undue influence of industry, the military services, and weapons developers in DOD's acquisition community.

But in this case we disagree. Mr. President, what I argue for is the American manufacturer's right to market and export its product as long as prospective buyers have access to enough information about the test results to make an informed decision.

I understand Finland is very interested in the ASPJ for its new United States-supplied F-18's. Finland is well aware of the ASPJ's test results and has been consulting with both DOD and the contractors prior to making their final decision. I also understand Switzerland and South Korea are potential customers.

Mr. President, DOD's longstanding position has been to approve marketing and commercial sale of systems which have completed OT&E—successfully or not—to qualified customers. Such is the case with Finland and the others. I believe my colleague from Arkansas has no more interest in thwarting this legitimate American business than I do.

Where we part ways is on the question of whether the integration of the hardware and software into U.S.-origin aircraft should be accomplished via a Foreign Military Sales [FMS] case—in

other words, government to government.

As then Under Secretary of Defense for Acquisition Deutch wrote to Senator BRADLEY and me in February:

It has long been the DOD view that when significant modifications or integration efforts on U.S. military aircraft are made, we should control and/or oversee that process. Crucial issues involving safety of flight, aircraft performance and security strongly recommended DOD involvement.

Mr. President, I think these are sound reasons for maintaining control over system integration via the FMS process. As Navy officials point out—and I now quote from a draft GAO report on the ASPJ requested by Senator PRYOR and ROTH:

The F-18 is a highly integrated aircraft in which all systems such as radars, avionics, mission control, navigation, and jammers are linked together through the aircraft's operational flight program. These systems undergo continuous updating and modification due to changes in threat or technology. A change in one system could have a cascading and possibly negative effect on the others. As a result, close government oversight of both the aircraft and ASPJ's software components is required.

The GAO preliminary report goes on to agree that authorization for FMS transfer of the ASPJ software is a standard practice.

If I understand my friend from Arkansas' concerns correctly, I believe he is worried that even this peripheral U.S. Government involvement implies some form of warranty or official support for a failed system. I can fully understand and sympathize with that concern.

But I accept the word of current Deputy Secretary of Defense Deutch, who wrote to Senator PRYOR in March, saying:

The Department's position remains that Foreign Military Sales (FMS) funds will not be used to cover sales of ASPJ to foreign countries because the Department does not want to imply a warranty in a system that will not be procured for U.S. aircraft.

With regard to integration, Deutch goes on to say:

Consideration of any FMS support for integration of a commericially purchased system into an American FMS item will be made on a case-by-case basis. The intention is not to promote the sale of any commercial system—on that the Department's policy is quite clear.

Instead, the integration of any commercial procurement will be considered only if such support is essential to support the FMS American aircraft. Practical considerations of safety of flight, aircraft performance, and security can also affect the decision to integrate commercially procured systems under FMS.

Mr. President, the GAO report requested by Senators PRYOR and ROTH did not find any violation of U.S. policy in the decision to allow FMS integration of ASPJ. Specifically, GAO found no breaching of what is commonly called the Yockey policy, which requires specific approval of the Under Secretary of Defense for Acquisition before the foreign military sale of any major weapons system that has not successfully completed operational test and evaluation. To again quote the GAO report:

DOD's decision to permit the sale of the ASPJ software through FMS procedures * * * does comply with the Yockey policy because the Office of the Under Secretary of Defense for Acquisition approved the sale. In implementing this decision, Navy officials noted that national security, safety of flight concerns, and the interactive nature of the jammer and aircraft software components dictated the need to sell the ASPJ's software and integration into the aircraft through the FMS process.

This decision was consistent with longstanding DOD policy on the need to protect classified information and address all safety-of-flight concerns.

If the DOD is prevented from integrating the ASPJ software via FMS, Finland and other prospective buyers are almost certain to look elsewhere for their jammers. I understand that the Finns' second choice is produced overseas.

Mr. President, Senator PRYOR's amendment would thus take business away from an American business in New Jersey and drive it overseas. I applaud the Senator's principles regarding procurement, but in the case of software integration, I think the DOD makes a compelling case. I also accept Dr. Deutch's assurance that such integration does not imply official warrenty or support for the ASPJ. I urge my colleagues to vote against this amendment.

Mr. BRADLEY. Mr. President, I rise in opposition to the Pryor amendment to restrict overseas marketing of the airborne self-protection jammer [ASPJ].

The manufacturers of the ASPJ have played by the rules in marketing their product abroad. They have provided full information on the system's performance to potential buyers and have accepted the Defense Department's ruling that FMS funds could not be used to purchase the system. Despite these obstacles, several foreign countries are interested in purchasing the ASPJ for their F-18 aircraft.

These countries legitimately want assurances they will be able to secure FMS for integrating ASPJ into their F-18 aircraft, for the reasons I have already described. They do so knowing that the U.S. Government bears no responsibility for their choice, even with FMS funding for integration. Indeed, under the contract, it is the contractor, not the U.S. Government, that bears responsibility for any problems.

I can, therefore, see no justification for Congress now to try to insert itself into the process and prevent foreign sales of the ASPJ by banning use of FMS.

The Department of Defense has posed no obstacle to exporting the ASPJ. In a letter to me of February 2, 1994, then-Under Secretary of Defense for Acquisition John Deutch stated:

After the status of the U.S. ASPJ program was determined, munitions licenses were approved for foreign commercial sale of the ASPJ. * * * to have refused to approve them after that determination would have unfairly penalized your constituent, particularly in light of strong international interest in the system.

The ASPJ has not been a trouble-free program. I needn't go into the details of the disputed tests. The point is that the manufacturers have successfully marketed the ASPJ, foreign governments are interested in buying it, DOD has no objection, and we have an obligation not to impede a legitimate sale.

Mr. ROTH. Mr. President, live fire and operational testing are keys to the Congress' fly-before-buy policy. The policy states that a weapon should not be produced until testing shows that it works. Independent operational and live fire testing are objective checks and balances on the Defense buying system. In a system where bureaucratic interests carry more weight than results, realistic tests are vital to making sure weapons work before they are given to those who must depend on them in battle.

I am concerned about the office of operational testing not having a director since the Clinton administration took office. Without a director, there is no one in the Pentagon to fight against those that want to procure weapons even if they do not work. Almost every month last year, the GAO identified weapons programs that are being produced even though they have not proven their worth, and in some cases have failed, in operational tests.

Mr. President, too many systems have been circumventing the congressional policy of fly-before-buy. There are 183 weapons that currently require operational testing to determine whether they can fulfill their mission requirements and are suitable for fielding. I asked the GAO to give me an accounting of the commitment represented by those programs. The GAO obtained data for 107 of those programs. The 107 programs represent $872 billion in taxpayer dollars.

Unfortunately, many of these programs are entering production, and continuing to be produced, before they have proven their worth. Recently, I received a new GAO report on a special computer system that the Army is buying despite the fact that it failed operational testing. Current Pentagon practice allows anywhere from 25 to 100 percent of the production to be completed before the Pentagon knows if a system works. This is clearly at odds with the Congress' policy of fly-before-buy.

Mr. President, it has been over 10 years since Senator PRYOR and I first joined forces to convince our colleagues to adopt the policy of fly-before-buy. Throughout the 1980's, we

were successful in getting testing legislation put into law. We were able to get the Congress to establish an independent office of operational testing and evaluation to implement the fly-before-buy policy. Now, it is time to make improvements in that legislation.

Earlier this week, I received a new General Accounting Office report that Senator PRYOR and I commissioned. This report recommended ways to streamline the operational testing statutes, while preventing the production of weapons that do not work. Senator PRYOR and I had hoped to use the GAO's findings in an amendment prepared for the fiscal year 1995 defense authorization bill. Unfortunately, there has been insufficient time to fully develop the legislative proposal. However, I intend to continue to work with the Senator from Arkansas to improve the operational testing laws.

I still believe that live and operational testing are the keys to judging results. Several provisions of the Federal Acquisition Streamlining Act that I authored would integrate such testing early in the acquisition process. The legislation that Senator PRYOR and I are working on is needed to more fully implement that approach. Adopting this approach would reduce the difficulties associated with finding problems late in the acquisition process. It would reveal serious design problems before money was wasted producing systems that do not work and have to be fixed.

There is a strong push for Congress to enact procurement reform legislation, and the administration has endorsed a bill that includes proposals to weaken the testing statutes. The Senate's procurement reform bill contains provisions developed by Senator PRYOR and me, with the help of our colleagues on the Armed Services Committee. However, the House versions of the defense authorization and procurement reform bills contain provisions that will weaken the bill.

In March, Senator PRYOR held hearings on the testing legislation, including the proposals made by the House bills. At that hearing, which I attended, we received testimony strongly opposing the provisions in the bill. In other hearings on procurement reform, the General Accounting Office and the Defense inspector general strongly opposed the provisions relating to operational and live fire testing.

I intend to watch these legislative proposals very closely. In this regard, we have had a good working relationship with our colleagues from Armed Services. Accordingly, the Senate passed several important testing reforms as part of the Federal Acquisition Streamlining Act.

Mr. NUNN. Mr. President, in just a moment I will be asking —in fact, I think I will do it right now because I think the question is pertinent at the moment.

Do we need a rollcall vote on this amendment? Senator SMITH, a little while ago, was gracious enough not to ask for a rollcall. Of course, that amendment was being agreed to. I am not sure who is going to prevail in this amendment if it is a voice vote. We are trying to expedite this bill. I ask my colleague from Arkansas whether he needs a rollcall vote?

Mr. WARNER. If I might add a word, I say to my chairman and others listening that I have talked to Mr. SMITH, and indeed he did, as a matter of convenience to the Senate, forego the clear option he had to have a rollcall vote. And if there is a necessity to have it here, I would like to state that it seems to me he has a right to reinstate his amendment and consider a rollcall vote.

Mr. PRYOR. Mr. President, I certainly have no objection to the Senator from New Hampshire having a rollcall vote on his amendment—I have been told we are going to be here all night, so I have been in the Finance Committee markup—if he wants to have a rollcall vote. Looking at the geography and lay of the land, I think if I had a voice vote, I do not think the Senator from Arkansas would prevail. I do not know what would happen if we had a rollcall vote, but I think my chances would be better. I do not want to inconvenience the Senate, and I hope I am not one who is being an obstructionist.

But I would like for a rollcall vote to be had on this particular amendment.

Mr. NUNN. Mr. President, the Senator is certainly not an obstructionist. He has a right to have a rollcall vote. I think based on that we should have a rollcall vote.

I will speak only 1 minute on the amendment.

Mr. President, I agree with the Senators from Maryland on this amendment. It is, of course, important from my point of view in terms of the precedent because the F–18 aircraft software is classified as secret. The U.S. Government under classified materials needs to maintain control of both the F–18 and ASPJ software for security reasons.

Because of that, the FMS process is the appropriate mechanism to handle it. I think the U.S. Government should basically not be precluded from handling these foreign military sales under FMS.

I do not believe we should arbitrarily deny sales of defense products that our allies in their own opinion want to buy. The potential foreign customers have been provided, as far as I know, full disclosure of the operational test results. The contractors agreed to accept full liability for any problems of maintenance or performance.

As far as I am concerned, this is a legitimate business proposition that we should not interfere with on the floor of the Senate. I see no reason to. If foreign countries wanted to buy another jammer commercially, we would manage that sale through FMS even if it had not passed the full operational evaluation.

I agree with the Senators from Maryland on this one, and I have to disagree with my friend from Arkansas.

I am prepared to move to table the amendment after the Senator from South Carolina makes a comment, or I would give the Senator an up-or-down vote on the amendment.

Mr. THURMOND. Mr. President, I will take 1 minute.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to oppose the Pryor amendment to restrict the transfer of airborne self-protection jamming equipment to foreign purchasers of American fighter planes, such as the F–18.

Mr. President, the ASPJ passed its developmental tests, and foreign buyers of American-made aircraft want to acquire the system to provide protection for those aircraft. We should let them buy it. In some cases, such as Korea, we have made agreements to let them buy the equipment. We should not cancel those agreements because we disagree over American test standards.

I urge my colleagues to oppose the Pryor amendment to restrict the transfer of airborne self-protection jamming equipment, to foreign governments.

I yield the floor, Mr. President.

Mr. PRYOR. Mr. President, have I properly sent the amendment to the desk? The amendment has been sent to the desk, is that correct?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] for himself and Mr. ROTH proposes an amendment numbered 2163.

Mr. PRYOR. 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 200, between lines 8 and 9, insert the following new section:

SEC. 1017. PROHIBITION ON GOVERNMENT-TO-GOVERNMENT TRANSFERS OF AIRBORNE SELF-PROTECTION JAMMERS (ASPJ) (AND RELATED SOFTWARE) ABROAD.

Notwithstanding any other provision of law, the Airborne Self-Protection Jammer (ASPJ), or any software or other component thereof, may not be sold or financed under the Arms Export Control Act to any foreign country.

Mr. PRYOR. Mr. President, I ask for the yeas and nays on No. 2163.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I move to table the amendment.

The PESIDING OFFICER. The Senator from Georgia moves to table the amendment.

Mr. PRYOR. I believe the yeas should be ordered.

Mr. NUNN. 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. PRYOR. Mr. President, Senator ROTH and I planned to offer an amendment that would at long last truly bring "Fly Before You Buy" to fruition. However, due to the time constraints in considering the fiscal year 1995 DOD authorization bill, we will offer the amendment today.

Our amendment, called the Fly Before You Buy Act of 1994, would ensure that major weapon systems are tested and proven before they are purchased and sent to our troops. Fly Before You Buy would be accomplished by conducting operational testing earlier in the life of new weapons, and by ensuring that we limit the number of units produced until testing has been successfully completed.

Fly Before You Buy is not a new concept. It was first promoted in the wake of the Vietnam War, after thousands of American soldiers lost their lives because of weapons that failed to perform as expected.

Mr. President, the Congress and the Department of Defense have taken steps to promote Fly Before You Buy. In 1983, Congress passed legislation creating an independent operational testing office in the Pentagon. This office has been charged with making sure weapons are tested and proven before they reach our fighting forces. The DOD's operational testing office has become the internal champion of Fly Before You Buy.

Operational tests are specifically designed to prove that military hardware will perform as expected in combat. There is one major problem, Mr. President. Our acquisition community is waiting too long to conduct operational testing. In fact, many new weapons are currently being built and sent to our troops before any operational testing can be conducted. Mr. President, this is not Fly Before You Buy.

Mr. President, current law allows weapons to be sent into combat without any operational testing. We will never be able to truly practice Fly Before You Buy until we change the law that guides the acquisition of new weapons.

Operational testing is of little or no use if it is conducted after the weapon system has been purchased. We simply cannot afford to buy now and fix later. Time and time again, DOD has purchased weapons before operational testing has shown that they work.

Mr. President, 100 percent of the Air Force's B-1B bombers were purchased before operational testing for a total cost of $23 billion. Sixty-four percent of the Air Force's ALQ-135's, a radar jammer, were bought before operational testing was completed. Mr. President, let me repeat that: the Air Force planned to buy 514 jammers. 331 or 64 percent were produced before operational tests proved that they work. The total cost of the ALQ135 is $1 billion. The list goes on: The Navy purcahsed 37 percent of its T-45 trainer aircraft before operational testing (total cost $2.7 billion); the Air Force purchased 33 percent of its C-17 airlift plane before operational testing (total cost $15 billion). Mr. President, this cannot be allowed to continue.

The General Accounting Office has prepared a report on the use of operational testing at DOD, entitled "Low-Rate Initial Production Used to Buy Weapons Systems Prematurely." GAO found that DOD allows low-rate production to begin without the performance of any operational testing. In other words, under current law, we can buy all the weapons that we want without ever triggering operational testing. GAO says that this has resulted in the procurement of substantial inventories of unsatisfactory weapons requiring costly modifications to achieve satisfactory performance and, in some cases, the deployment of substandard systems to combat forces.

Mr. President, I mentioned earlier that 37 percent of the Navy's T-45 plane were bought before operational testing. This plane needed major design changes. Tests showed it needed a new engine and new wings, Mr. President. These planes are sitting on an air field waiting for the contractor to come back, take the original wings off, and attach new, improved, workable wings to these planes.

I also mentioned that 33 percent of the Air Force's C-17's were purchased before operational testing. GAO found that the C-17's reliability is significantly less than expected and it does not meet its payload and range specifications. In other words, Mr. President, it cannot carry as much or go as far as the Air Force thought it would. GAO also noted that while the wings, flaps, and slats are all being fixed, other problems continue to be identified.

The GAO recommends that Congress require that certain operational testing requirements be met before low rate production begins and that Congress put a limit on the number of units produced during low rate production.

Mr. President, that is exactly what the Fly Before You Buy Act does. It contains two simple but important changes to the way DOD conducts its business: First, it says that an early operational test must be done before low-rate production begins and second, that no more than 10 percent of the total number of weapons to be built can actually be produced before final operational tests are completed.

Our amendment would force earlier operational testing. If the acquisition proponents believe the system is ready for low-rate production, they first have to check the initial operational test results. If the operational test results are favorable and the system is allowed to move into low-rate production, then our amendment would allow the establishment of a production line but at a slower, lower rate of production. We should not be producing most or all of the weapons in low-rate production, before operational testing is complete.

One of the questions that has been asked of me regarding this amendment is how can operational testing go forward if the production line is not up and running? The answer is quite simple. Production units are not necessary for initial operational testing. Currently, operational testing is almost performed on "production verification units", what you and I would call a prototype, Mr. President. In other words, the system that is developed and used during developmental testing can be used for the early phase of operational testing.

Another concern has been raised: will this amendment slow down the process of getting weapons to our troops? The answer again is simple: No. 1, I admit our amendment might slow down the access to flawed, unproven weapons. Our amendment would force early operational testing before low-rate production begins and weapons start rolling off the production line. It would prevent another C-17 or T-45, where planes sit and wait for new wings and in the end will speed up getting good weapons into the field.

This amendment could save money by identifying flaws in the system design before most or all of the weapons have been produced. It could eliminate many of the costly and time-consuming retrofitting that we currently see in so many of our weapon systems.

Two of our best known military experts, the Chairman and the Ranking Minority Member of the Senate Armed Services Committee both supported this concept in statements made in 1990. Senator SAM NUNN said:

> In the past we spent billions and billions of dollars because we rushed weapons systems into production before they had been tested. We now have time to do it: We have time to do it right. I support a fly before you buy policy.

Senator STROM THURMOND stated:

> Fly before you buy will provide us more capable equipment at less cost. It will enhance the credibility of the procurement process and will give us more bang for the buck.

Mr. President, this amendment would put real teeth in Congress' commitment to Fly Before You Buy. Meaningful, early operational testing would finally be a reality.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia to lay on the table the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. DOLE. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

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

The result was announced—yeas 68, nays 14, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—68

Akaka	Exon	McConnell
Baucus	Faircloth	Mikulski
Bingaman	Feinstein	Mitchell
Bond	Glenn	Moseley-Braun
Boren	Gorton	Moynihan
Bradley	Graham	Murray
Breaux	Gregg	Nickles
Bryan	Hatch	Nunn
Burns	Heflin	Packwood
Byrd	Hollings	Pell
Chafee	Hutchison	Pressler
Coats	Inouye	Reid
Cochran	Jeffords	Riegle
Conrad	Kassebaum	Robb
Coverdell	Kempthorne	Rockefeller
Craig	Kennedy	Sarbanes
Danforth	Kerrey	Specter
Daschle	Kerry	Stevens
DeConcini	Lautenberg	Thurmond
Dole	Levin	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wofford
Durenberger	Mack	

NAYS—14

Biden	Hatfield	Roth
Bumpers	Kohl	Sasser
Feingold	Leahy	Smith
Grassley	Mathews	Wellstone
Harkin	Pryor	

NOT VOTING—18

Bennett	Dodd	McCain
Boxer	Ford	Metzenbaum
Brown	Gramm	Murkowski
Campbell	Helms	Shelby
Cohen	Johnston	Simon
D'Amato	Lieberman	Simpson

So the motion to lay on the table the amendment (No. 2163) was agreed to.

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

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

The motion to lay on the table was agreed to.

The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I know Senators want to know what the best estimate is, and the best estimate I have now is that we can finish this bill in another couple of hours if we get cooperation and if we do not get bogged down on a long debate on an amendment.

There are two or three amendments out that people disagree on, and even if the managers were to agree with them they would still be disagreed to. One of them involves the gulf war problem and the Veterans' Affairs Committee is now working with Senator RIEGLE on that. Senators ROCKEFELLER and RIEGLE are working on that, and I believe we would be best served by letting them work for a few minutes on that one because they may be able to come to some agreement.

In the meantime we have a number of amendments that have been agreed to on both sides—both sides, Democrats and Republicans. I propose we bring those up now. But I do not want to interfere with anyone who may want to bring up an amendment, particularly one that may be contested, because everyone would like to get the rollcall votes over with as soon as possible, including the managers.

So it would be my intent to begin going through some amendments that have been agreed to on both sides. But if anyone has an amendment they feel compelled to offer at this point in time we certainly would be amenable to that.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND, is recognized.

Mr. THURMOND. Mr. President, if anyone has an amendment and desires a rollcall, I wish they would let it be known now so we can make plans. A great many Senators want to catch planes. I have to catch a plane at 7:10, if we are not going to have any more rollcalls. I am sure the others feel the same way. We can take up these amendments with no contests after that. But if nobody else wants a rollcall we will go ahead now with these amendments.

The PRESIDING OFFICER. The Chair will inform the Senate that the question that next occurs, unless set aside, is the Nunn second-degree amendment, No. 2160, to the Warner amendment No. 2359.

The Senator from Delaware, Mr. BIDEN, is recognized.

Mr. BIDEN. Mr. President, the Senator from Massachusetts, Mr. KERRY, and I, and others I suspect, have been somewhat unprepared for an amendment by our distinguished friend from Virginia on the ABM Treaty. I understand there has been an attempt to work out the amendment of our friend from Virginia, Senator WARNER. But I have just seen the language of the amendment, as has the distinguished Senator from Massachusetts. Clearly I do not speak for him, but I suspect he feels as I do.

We have a serious, serious problem with what seems to be an amendment of the ABM Treaty on the floor at this moment, from our perspective.

I am delighted to attempt, along with the Senator from Massachusetts, to try to clarify this matter. Maybe we have misunderstood it. But if it is as it appears—although it has been years and years and years; I have been here 22 and I do not think I have ever done this in a late hour—I would be very reluctant to go to a vote on this amendment tonight.

I may be mistaken about how I read this amendment. So what I would like to do, if the Warner amendment is the pending business, is maybe move on to something else for a few minutes and give the Senator from Massachusetts and myself, and others who may have an interest, an opportunity to confer with our friend from Virginia.

Again, I want to move this along as rapidly as anyone else. One of the paragraphs seems pretty profound, but I may be mistaken.

I thank the Senator. I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent that the Warner amendment be temporarily laid aside so we can take up amendments that have been cleared on both sides.

Mr. WARNER. Reserving the right to object.

Mr. NUNN. I urge the Senators from Delaware and Virginia to get together to see if we can work this out.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, momentarily I would like to reserve the right to object so I can address my colleague from Delaware.

The Warner amendment was not intended in any way to be an amendment to the ABM Treaty. This is a subject which I and a number of other Senators, particularly the Senator from Wyoming [Mr. WALLOP] and the Senator from New Hampshire [Mr. SMITH] and others have been working on for some period of time.

It is a very simple principle which we are endeavoring to achieve. The Senator from Virginia sent an amendment to the desk. The Senator from Georgia, quite properly, second degreed it. We have worked with the Senator from Georgia and have reached a new draft

which the Senator from Virginia is prepared to accept.

In the course of preparing ourselves to bring it to the Senate, it was discovered, in a very objective and fair way, that there could be a constitutional issue in the revised amendment respecting the rights of the executive branch versus the legislative branch. I was endeavoring to say to Senators that we would leave the revised amendment with this constitutional question, and in good faith, I and others would try to work it out in the context of a conference between the House and the Senate, at which time customarily, members of the Foreign Relations Committees of both branches of Congress participate in those conferences.

In that way, we would convenience the Senate so as to not bring up at this late hour an issue which I feel is very important and one on which I feel very strongly.

Having said that, in a few sentences, the purpose of the Warner amendment, now amended by the Senator from Georgia, is simply to guarantee that this body in no way forgoes its authority under the Constitution—namely, the advise and consent clause—to have such review as this body determines is necessary of any revisions to the ABM Treaty now being negotiated between the United States and Russia with two of the other new countries participating as if they were partners. But, nevertheless, primarily between the United States and Russia.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. Momentarily. As it relates to the theater ballistic systems, in 1972, when the ABM Treaty was adopted, no one—and I repeat, no one—had in mind theater ballistic missiles.

At that time, quite properly, the full concentration of all involved was on the strategic systems.

Each Senator now understands fully the evolution of technology where today we have theater ballistic systems. We saw it in the gulf. The Scud missile inflicted the greatest degree of damage of any weapons systems on our troops and, therefore, it is imperative, in my judgment, that this country move forward, as it is, with a series of systems to ensure that we have a deterrence and, indeed, a defense against future theater ballistic systems.

The purpose of the amendment is to preserve the right of the U.S. Senate to review any agreement, particularly that one now being negotiated within the framework of the SCC, known as the Standing Consultative Commission. That is the purpose of the Commission.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. I saw the distinguished manager seeking recognition. Perhaps he would like to speak, and then I will be glad to address the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will just suggest to my colleagues on this amendment that they have a discussion, because I believe if they have a discussion, we have a chance of working something out. I do not think we are going to get it worked out in dialog.

The Senator from New Jersey has an amendment and has to go back to the Finance Committee in just a few minutes for their markup. I believe he would be willing to enter into a 30-minute time agreement equally divided with no amendments—we may want to reserve the right to a second-degree amendment on that. Anyway, we can work that out. I would like to be able to go ahead with that amendment, if we can.

Mr. KERRY. The Senator from Virginia reserved the right to object, and I am not sure whether he said he would not object at this point in time.

Mr. WARNER. Mr. President, I would not object. I simply wish to express to the Senate as a body the subject of the discussion which will now take place between myself and other Senators who are interested.

Mr. KERRY. Mr. President, I would just like the Senator from Virginia to note that neither the Senator from Delaware nor I disagree about the interpretation with respect to theater defenses and, obviously, we want them. The danger is that the language, as currently framed, embraces the notion that the Senate might be codifying an actual breakout from the treaty because it, in fact, embraces the notion, referring to currently deployed missiles.

And because China has sold some missiles to Saudi Arabia, which currently pushed the envelope of what is theater versus strategic, you run into a possibility of ratifying the notion that those missiles are, therefore, within our interpretation of the ABM treaty which would, in effect, nullify the ABM Treaty or present enormous problems of interpretation.

So it is our hope that we can articulate what the Senator from Virginia wants without doing violence to the ABM Treaty itself.

Mr. WARNER. Mr. President, I am quite agreeable to meet with all Senators on this subject who are interested.

The PRESIDING OFFICER. There is a unanimous consent proposal that is pending before the Senate to temporarily set aside the Nunn amendment. Is there any objection? Without objection, it is so ordered.

Mr. NUNN. Mr. President, the Senator from New Jersey, I believe, has an amendment. Could the Senator just very briefly describe the amendment so I can determine if we need to reserve the right to a perfecting amendment?

Mr. BRADLEY. The amendment would eliminate the Selective Service System.

Mr. NUNN. Pure and simple. It is elimination.

Mr. President, I ask unanimous consent there be a 30-minute period of time, equally divided, on the Bradley amendment on Selective Service, with no second-degree amendments in order; and that the vote occur at the expiration of 30 minutes on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Will the Senator yield? I have an amendment in the Finance Committee at 7 o'clock. I need 3 minutes. I wonder if the Senator from New Jersey would be willing to——

Mr. NUNN. If we can get the unanimous consent agreement, we can yield to the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection to the unanimous consent proposal propounded by the Senator from Georgia? Without objection, it is so ordered.

The Senator from West Virginia, Mr. ROCKEFELLER.

Mr. NUNN. I ask that the Senator from West Virginia be recognized for a time equally divided between the two.

Mr. ROCKEFELLER. A period which might exceed slightly more than 3 minutes, but not by much.

Mr. President, I want to give my thanks to the Senator from Virginia for working this out. It is an excellent amendment.

This is an amendment that the ranking Member, Senator MURKOWSKI, Senator JEFFORDS, and Senator DODD support. It has the support of the VFW, the American Legion and the AmVets, and these are the only Veterans Service Organizations we have contacted so far. So it has good support.

As the Presiding Officer knows, thousands of Persian Gulf war veterans are ill as a result of being over there.

This amendment would support two comprehensive studies, one an epidemiological study, and, secondly, research on something called pyridostigmine bromide, an experimental drug which was given to 400,000 Persian Gulf war troops. It will also support research on the causes, treatment and possible transmission of gulf war illnesses.

We had a hearing back on May 6. On that day, my own veterans committee staff, which has been working for 9 months on this, promised that we would follow this through.

Senator RIEGLE has also been active on this issue and his suggestions are incorporated in this amendment.

In any event, what we know is that in the gulf war we had toxic chemicals which when combined with other chemical agents can be dangerous. Some of these are insecticides which are commonly used by U.S. soldiers all across this world, and they are used in homes all across America.

New research, which is not yet published, shows that the use of this experimental drug pyridostigmine could

have made commonly used insecticides, which were used in the Persian Gulf war, potentially 10 times more lethal. DOD should do this research as soon as possible, and they want to. Since these insecticides are found everywhere, we need to move forward quickly.

The $20 million for this amendment will help us learn how to treat the soldiers who were affected by this and also will teach us more that we absolutely need to know.

I hope that the amendment will be accepted by both sides.

That would conclude my remarks.

It is my understanding that Senator RIEGLE, who has been an integral part of working out this arrangement, is not here at this point. Unfortunately, I have to leave at this point because I have to get back to the Finance Committee.

I will take the advice of the Senator from Georgia, the Chairman of Armed Services Committee, and I will simply postpone the vote on this.

AMENDMENT NO. 2164

(Purpose: To prohibit registration under the Selective Service System and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System.)

The PRESIDING OFFICER. The Senator from New Jersey is recognized pursuant to the previous unanimous consent agreement.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself, Mr. HATFIELD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KERRY and Mr. BUMPERS, proposes an amendment numbered 2164.

Mr. BRADLEY. 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 128, between lines 2 and 3, insert the following new section:

SEC. 522. TERMINATION OF ACTIVITIES UNDER SELECTIVE SERVICE SYSTEM.

(a) TERMINATION OF REGISTRATION REQUIREMENT.—

(1) TERMINATION.—Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) is amended by adding at the end the following new subsection:

"(c) After September 30, 1994, no person shall be required to present himself for and submit to registration under this section.".

(b) TERMINATION OF ACTIVITIES OF SELECTIVE SERVICE SYSTEM BOARDS.—Section 17 of the Military Selective Service Act (50 U.S.C. App. 467) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, after September 30, 1994—

"(1) the President may not appoint a person as a member of a civilian local board, civilian appeal board, or similar local agency of the Selective Service System; and

"(2) any such board established as of that date may not meet.".

Mr. BRADLEY. Mr. President, I offer this amendment on behalf of myself and the distinguished Senator from Oregon, Senator HATFIELD, Senator FEINGOLD, Senator KERRY, Senator FEINSTEIN, and Senator BUMPERS. It is an amendment that would prohibit draft registration and terminate the activities of the Selective Service boards.

Last year, 41 Senators voted for an amendment we offered to the fiscal year 1994 VA/HUD Appropriations Act which would have eliminated all but termination funding for the Selective Service System. The arguments we made then are every bit as relevant today. I will not repeat them in detail, but it is still worthwhile to review them briefly.

I yield myself 8 minutes.

The Selective Service System is a dinosaur in the post-Soviet world. It is made obsolete by two welcome developments—the All-Volunteer Army, and the end of the Soviet threat.

Our All-Volunteer Force is a remarkable success story. Backed by reserves, it is capable of handling the types of conflicts we are likely to see, the Somalias, the Bosnias, and yes, the Desert Storms of the foreseeable future. Desert Storm provided that our volunteer force backed by Reserves, can put a half-million men on the ground and support them, without resorting to conscription.

We will not need a flood of draftees for any conflict we are likely to fight in the foreseeable future. I do not ask you to take my word for this; the Pentagon's own "1993-1999 Defense Planning Guidance Scenario Set" found that only 1 to 7 scenarios lasted long enough to require—or allow for—conscription. This was a scenario involving a reunified, rearmed Soviet Union.

Such a conflict is simply not on the horizon. Were this scenario to develop we would have a long lead time, both to try to counteract this development by diplomatic and economic means, and to develop a system to identify our 18 year olds, without paying millions of dollars per year in the meantime.

Finally, the Selective Service System is not performing well. A November 1992 study by the U.S. Army Forces Integration Agency uncovered severe overstaffing, poor morale, and overgrazing in the work force. It found employees reading newspapers and magazines, and freely admitting that they had no meaningful work to perform while on duty.

In last year's debate, opponents of our effort to cut funding for the Selective Service System cited a number of arguments. Let us look at these arguments in light of another 9 months' experience.

One argument was "civic responsibility." According to this line of reasoning, we should encourage our young men to register as an act of patriotism. Mr. President, if we define good citizenship by the one-time act of filling out a card on our 18th birthday, we are in deep trouble.

Civic responsibility is voting. It is paying taxes. It is being informed about the important issues shaping our communities, our country, and our world. I would argue that it lies for us in voting only for responsible spending.

Mr. President, civic responsibility means participating in our communities and taking responsibility for ourselves and our fellow citizens. I might note that this type of civic responsibility is not limited to young men turning 18 years old, but is open to every adult, man and woman, every day.

Another objection we heard last September was the quite legitimate concern that, if the unthinkable did come to pass and we needed to identify our 18-year-old men, we would need the Selective Service's records. Well, the Defense Department itself has put that concern to rest. In a report to the President and Congress dated last December, DOD noted that the Selective Service System already identifies young men who do not comply by obtaining names from records kept by State drivers license bureaus, high schools, country voter registrars, Social Security, DOD, HHS, Department of Transportation, INS, the Office of Personnel Management, and the Postal Service. Given these sources of information, we do not need to spend millions of dollars every year collecting postcards.

A more serious concern we heard last year was that, while draft registration might not be necessary, we should wait for the administration to review the issue. Well, the administration has spoken—twice—and the result only confirms what we have been saying. We do not need the Selective Service.

The Secretary of Defense's December 1993 report, provides a wealth of evidence that draft registration serves no useful purpose. In the interests of time, let me just quote one passage:

> Peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment. * * * suspending peacetime registration could be accomplished with limited risk to national security.

That is the DOD's own document.

The May 18, 1994, letter from President Clinton following an NSC review of this issue falls into the same trap. After finding that "tangible military requirements alone do not currently make a mass call-up of American young men likely," it tries to justify continued registration with three weak arguments: First, registration is a

cheap insurance policy; second, abolition would send the wrong signal to potential adversaries; and third, registration provides a link between civilians and the All-Volunteer Force.

Mr. President, I do not think these arguments fly. The DOD report that I have quoted demolishes the insurance policy argument. Not only does it conclude that registration is not necessary for military mobilization requirements, but it also lists alternative ways to identify draft eligible men that I mentioned earlier.

The administration's resolve argument is also off the mark. America does not demonstrate its resolve by asking its young men to fill in a postcard on their 18th birthday. America shows its resolve through vigorous goal-oriented foreign and security policy.

Finally, I simply do not believe that civilian support for our military depends on draft registration. If that were true, that would be a sad commentary on our society. No. I believe that civilian support for our brave servicemen and servicewomen comes from an understanding and appreciation of the vital job that they do. It does them a disservice to claim that draft registration is a significant underpinning of America's support for its military.

Mr. President, I know I have gone on too long. But there are so many arguments against wasting our money on the Selective Service System that I would like to close with one more direct quotation from the Department of Defense report:

> The end of the cold war and the dissolution of the Soviet Union have permitted downsizing the military and reducing its demands on the Federal Treasury. With reduced force levels, combined with two decades of successful experience with raising and maintaining an All-Volunteer Force, improved total force policy, recent victorious wartime experiences, and the quality of active and reserve personnel, it is highly unlikely that we will have to reinstate the draft in the foreseeable future. Consequently, peacetime draft registration could be suspended without irreparable damage to national security.

Mr. President, let us on the Senate floor stop temporizing and show some leadership and prove to our constituents that we can eliminate at least one outdated program.

Mr. President, I reserve the remainder of my time.

How much time remains?

The PRESIDING OFFICER. Four minutes and 48 seconds under the control of the Senator from New Jersey.

Mr. BRADLEY. I would like to yield 3 minutes to the distinguished Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. HATFIELD. Mr. President, after considerable footdragging, the Pentagon in February finally completed its study of peacetime draft registration.

To quote from the Pentagon's report:

> Peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment. Suspending peacetime registration could be accomplished with limited risk to national security considering the low probability of the need for conscription.

Despite the fact that the Pentagon told the President and Congress that there is no military requirement for draft registration, the President announced that he has decided to continue this requirement.

President Clinton's decision is deeply disappointing. In his letter to Congress the President argues that taxpayers should continue to pay $23 million a year on an unnecessary program because it is an insurance policy against underestimating a threat our Armed Forces may face.

The United States of America retains the finest-equipped, best trained military in the world. Our Nation spends one-half of its total discretionary budget on defense and spends over $30 billion more on its military than the combined defense budgets of the other 15 NATO countries, Japan and Russia.

The war with Iraq proved that our All-Volunteer Force works and the Pentagon expects minimal or no effect on mobilization or recruiting if draft registration is eliminated.

And yet the President tells us that "terminating the Selective Service System and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve."

I do not understand this logic. How does forcing America's 18-year-old men—men only, not all Americans—to the post office to register for the draft send a signal to a potential enemy? And who is this enemy?

The President's transmittal to Congress goes on to argue that, "as fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large."

Like many fellow Senators, I am a veteran. I volunteered for duty during World War II. Yet I find abhorrent the message that the threat of conscripted service is somehow the best way we, as a nation, can instill patriotism. Our Nation was founded upon the principles of individual liberty and our Nation has responded with honor and duty when our national security was threatened.

Mr. President, I am deeply disappointed with the notion that once again this program is being promoted as a symbol of national security and an integral part of our military manpower system. It is not. The draft will not aid our Nation in times of crisis. We do not send men from the recruiting station to the battlefield. They must have training.

Our insurance policy in times of crisis are the Guard and the Reserve. The Pentagon report to Congress calculated that suspension of draft registration would increase the induction period from 13 to 43 days. That report concluded that such a delay is acceptable. And our experience in the war with Iraq was that the total force structure is sound.

Yet the President has turned aside the military's own analysis and ignored the fact that draft registration is a relic of the past. He has embraced weak and subjective justifications for continued registration at the expense of our children's liberty. Many young Americans will be punished for their failure to register, whether they forget or whether they purposely fail to sign up.

In testimony before the Senate Appropriations Committee, an official from the American Civil Liberties Union warned that draft registration is a "heavy intrusion into the lives of Americans when the government requires them to sacrifice years of their lives, and possibly their lives themselves, against their will. This intrusion cannot be taken lightly even when the country is involved in a large-scale conflict."

As testimony to Congress has indicated, there exists grave constitutional concerns, including the argument that compulsory service violates the prohibition of involuntary servitude and the possible violation of the first amendment guarantee of freedom of association.

In the many times I have debated this issue, I also have raised the matter of equity. We know that during the Vietnam War, minorities were drafted disproportionately. We know that men and women are not treated equally by the draft. And those who do not choose to register for reasons of conscience are either deemed lawbreakers or must go through a rigorous or sometimes onerous process to prove their belief.

The fate of the Selective Service program, which is not even funded by the Department of Defense, is indicative of our unwillingness to see our national security needs as they really are. Are we really so vulnerable that it is better to continue to run roughshod over the rights of our young men than to end a program which even the Pentagon says is unnecessary? I think of the words of the late Senator Robert Taft, who spoke eloquently about individual liberty and against compulsory service. Just before America entered World War II, Senator Taft said:

> If the emergency is as great as alleged, then we should adopt a completely socialized state and place ourselves and our property at the disposal of the Government. This is fascism. It could only be justified if it were the

only possible alternative to the subjugation of the United States by fascism from without.

Even when considering our most important task, the retention of our national defense, we, as Federal representatives, should be vigilant against the creep of authoritarianism. Our Nation is separated from those under the fist of totalitarianism by our freedom and by our long history of voluntary support of our national defense structure.

Only when we have become mired in an insupportable war have we turned to conscription. The Vietnam war remains one of the most tragic examples of the use of the draft to continue an action which failed to have the support of the American people. Draft registration is not a symbol of national strength. The draft is a symbol of weakness: Either a weakness of purpose or weakness of our willingness to safeguard our liberty above all else.

I urge my colleagues to join me and Senator BRADLEY in ending this wasteful program.

Mr. President, let me highlight two or three points.

The Pentagon itself has indicated peacetime draft registration could be suspended without any military mobilization requirement impact. In effect, they said we could have the induction period extended from 13 to 45 days if it had to be indicated later on.

This is an opportunity to save some $23 million in our appropriations because here is the Pentagon saying it is not necessary. Second, I do not understand the President's logic when he says it is an insurance policy against underestimating a threat our Armed Forces may face.

Mr. President, this actually carries no basic logic to it for the simple reason of who our enemies are. Who are our adversaries? Today, if we want to look at what we are spending, we are spending over half of our discretionary funds in our budget for military purposes. We are spending $30 billion more for military and defense preparation than all of the NATO allies, plus Japan.

So I do not understand this logic. Plus the fact: How are a few recruiting people going to have an important message to our so-called adversaries of registering at the Post Office?

It is not an insurance policy for emergencies. We do not send recruits or draftees from the draft station to the battlefield. There has to be a period of training. So what we rely upon in emergencies are the Guards and the Reserve.

So this idea that somehow a draft system is an answer to emergencies is just not valid.

Mr. President, lest we think that this is a matter of philosophy, let me suggest that the most powerful statement ever made on the question of the draft was made by the high apostle of conservatism, the late Robert Taft of Ohio, one of the truly great Senators who is honored out there today in our reception room.

Listen to what Robert Taft said as we were getting ready to go into World War II, and all those arguments about the draft and so forth. He said:

If the emergency is as great as alleged, then we should adopt a completely socialized state and place ourselves and our property at the disposal of the Government. This is fascism. It could only be justified if it were the only possible alternative to the subjugation of the United States by fascism from without.

Those are pretty strong words.

Mr. President, I submit that this is not needed at this time. It is a time to save money.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland.

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

Ms. MIKULSKI. Mr. President, I oppose the amendment offered by the Senator from New Jersey, and I do it because the President of the United States is for Selective Service. The House of Representatives voted recently in behalf of Selective Service. They defeated a simpler amendment offered by Congressman DELLUMS that paralleled the Bradley amendment. It was defeated 273 to 125.

This time last year, the distinguished Senator from New Jersey offered in my Appropriations Committee, the VA, HUD, Independent Agencies, which appropriates the funds for the Selective Service an amendment to strike Selective Service. It was defeated 58 to 41. In respect for him, I asked—and others who felt the same way, the distinguished Senator from Oregon, the distinguished Senator from New Jersey, and 39 others—for the President of the United States to make a determination whether he felt it was in our national security interests to continue the Selective Service in light of the end of the cold war.

The answer came back from the White House in a letter addressed to the House of Representatives and to all of us on May 18, 1994 in which the President of the United States asked that Selective Service be continued, and that we fund it at the request of $23 million.

He says it is important to our defense needs and "Maintaining the SSS and draft registration provide a hedge against unforeseen threats and a relatively low-cost insurance policy."

The President believes that "Terminating the SSS and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve."

And he says, "As fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large."

I will not read the entire letter of President Clinton, but I ask unanimous consent that it be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, May 18, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER, on February 18 of this year I transmitted then Secretary of Defense Aspin's report on the continued requirement for peacetime draft registration. At that time, I advised you that peacetime draft registration. At that time, I advised you that draft registration and the Selective Service System (SSS) would be continued while the National Security Council conducted an interagency review of the SSS.

That review has now been completed. I have decided that it is essential to our national security to continue draft registration and the Selective Service System. While tangible military requirements alone do not currently make a mass call-up of American young men likely, there are three reasons I believe we should maintain both the SSS and the draft registration requirement:

Maintaining the SSS and draft registration provide a hedge against unforeseen threats and a relatively low cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.

Terminating the SSS and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve.

As fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large. The Armed Forces must also know that the general population stands behind them, committed to serve, should the preservation of our national security so require.

As part of this decision, I am directing the Secretary of Defense to update our mobilization requirements and timeliness for the SSS based upon current threat scenarious, re-examine the timeliness for how quickly manpower must be provided, consider the possibility of selective call-up of skilled personnel (such as medical personnel) and continue to review the arguments for and against continuing to exclude women from registration now that they can be assigned to combat roles other than ground combat.

I believe our FY 1995 request of $23 million is essential to our defense needs and urge Congress to approve this request. At the same time, we will continue to seek additional economies and operating efficiencies at the Selective Service System.

Sincerely,

BILL CLINTON.

Ms. MIKULSKI. Mr. President, therefore, the Pentagon and the task force chaired by the National Security Council, and now the President of the United States, endorse the maintenance of Selective Service for the reasons that the President has outlined.

The Selective Service involves over 11,000 volunteers and considerable infrastructure. If peacetime registration is terminated, the Selective Service should not be dismantled until a better, efficient use of those resources could be determined.

The Selective Service does more than register 18-year olds for the draft. It also keeps other forms of registration and data in which we call up, for example, health personnel so that in the event of a national disaster, a catastrophic situation, possibly another earthquake or several hurricanes affecting the east coast, we would be able to mobilize much needed health personnel and emergency management people.

We need the personnel and Selective Service to be fit for duty for our military needs and other ancillary materials that they keep that would help mobilize us for other risks affecting the United States of America.

Let me conclude on the night before the Fourth of July when we celebrate the Declaration of Independence: We ask so little and we give so much as a nation. We no longer convey the sense of patriotism, a sense of civic obligation that for every opportunity there is an obligation, for every right there is a responsibility, and calling people forth to register for the draft says that somewhere along the line you have to know that there is a United States of America, and maybe someday you will be called upon to defend not only the Constitution but the very territory of the United States of America.

The registration is an important tool for conveying citizenship.

Probably on another issue, we will talk about women registering. This is not the time for debate on that issue.

But registration is such a modest, modest request to be able to convey, number one, a readiness, the ability to mobilize, the ability to organize, that I encourage the Bradley amendment be adopted, that the Selective Service System continue to stand, and for those who have given so much, we should also say: Of those to whom much has been given, much should be asked.

Mr. GLENN. Mr. President, I yield 4 minutes to the Senator from Indiana, Senator COATS.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Indiana is recognized for 4 minutes.

Mr. COATS. Mr. President, if Senator BRADLEY's amendment were adopted, we would effectively end the registration under Selective Service on September 30, 1994. Selective Service has been serving the Nation since it was established in 1940, although conscription goes all the way back to the Civil War.

Since 1940, the Selective Service System has been allowed to lapse several times. Each time, Congress and the American people have recognized later that when faced with a crisis, we needed a system which could support the transition from peace to war when the country was thrust into a world crisis.

In the event of full mobilization or national emergency, the Selective Service System will have the first registrants reporting for duty within 13 days and would provide an additional 100,000 inductees within 30 days. The purpose of peacetime registration is to provide a capability for rapid augmentation of the total force.

Mr. President, last year, the Secretary of Defense completed a study of the continued requirement for draft registration. The bottom line was that the registration should be continued pending a further review. That further review was undertaken and completed in May of this year, and the bottom line conclusion was the same: continue the Selective Service System. Quotes from the review are going to be made on this floor, but the conclusion needs to be stated.

The conclusion is: retain the system.

Mr. President, I do not often quote favorably the President of the United States from this floor, but he sent a letter to us dated May 18, 1994, which says:

> That review has now been completed. I have decided that it is essential to our national security to continue draft registration and the Selective Service System for three reasons:
>
> 1. Maintaining the Selective Service and draft registration provides a hedge against unforeseen threats and a relatively low-cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.
>
> 2. Terminating this Selective Service System now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve.
>
> 3. As fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large.

Mr. President, for reasons stated here this evening, for the fact that the House of Representatives, by a more than 2-to-1 margin, has concluded we should retain the system. For the reasons stated by the President in his letter to this body, I believe we should reject the amendment offered by Senator BRADLEY.

The request that is made for continuation of Selective Service is essential to our defense needs, and I urge Congress to approve the request submitted to us by the President of the United States, and I urge rejection of the Bradley amendment.

Mr. GLENN. I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, Senator BRADLEY's amendment would terminate the Selective Service System and the requirement for any person to register for the draft effective on September 30, 1994.

Mr. President, the Selective Service System is needed to undergird the national military strategy. It is consistent with the concept of service to the Nation. It is an important backstop against an unexpected need for large numbers of military personnel. In the President's words,

> Maintaining the Selective Service System and draft registration provide a hedge against unforeseen threats and a relative low cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.

The Selective Service System is just one of the signals this country sends to potential adversaries around the world that we are ready and able to protect our vital national interests. It also represents a responsibility to rally to the defense of the Nation for our young men, if needed. This is a small part of the responsibility of full citizenship in a free nation. A full 97 percent of America's young men comply with the requirement to register. I am not surprised that our young men accept this important responsibility. It is the American way.

The Secretary of Defense studied the continued requirement for the Selective Service. The study concluded that the Selective Service System should be continued in order to provide the infrastructure necessary to reestablish the capacity to garner age-eligible personnel in a timely manner, when necessary. I also concluded that the Selective Service has a symbolic value beyond its practical value. This symbolic value demonstrates to friend and foe, as well as our own youth, that America is willing to make broad sacrifices to maintain freedom. On February 18, 1994, the President concurred with this study and ordered an interagency review of the requirement for peacetime draft registration.

On May 18, 1994, the President announced the results of this second review. He decided that it is essential to national security to continue draft registration and the Selective Service System. The President cited three specific reasons for his decision. First, he said the Selective Service System is a low-cost insurance policy against unexpected threats. Second, he said terminating the Selective Service System would send the wrong message to potential enemies. Last, it is important to maintain a link between the All-Volunteer Force and our society at large. This last reason is the responsibility of full citizenship of which I spoke earlier.

Mr. President, there are many examples of Government waste. Any Member of the Senate can point to several without detailed study. The Selective Service is a valuable part of the national defense team and is certainly not a waste of taxpayer dollars.

I urge my colleagues to vote against the amendment.

Mr. GLENN. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Ohio has 39 seconds remaining.

The Senator from New Jersey has 1 minute 36 seconds remaining.

Mr. BRADLEY. Mr. President, if we cannot eliminate this program, I do not know what program we can eliminate. The Selective Service System is overmanned, overgraded. People in levels 13, 14, and 15 are performing jobs that levels 7, 8 and 9 can perform. There is poor morale and antiquated equipment. There are 267 full-time jobs. That is what this is all about.

The arguments offered in support of it—civic responsibility? If we are reduced to having a Selective Service System where somebody 18 years old fills out a card and that is the limit of his civic responsibility, where are we in terms of being a hedge against the future, when the only possible hedge it could be against, that the All-Volunteer Army could not counter, is a rejuvenated, hostile, reconstituted Soviet Union? It is not in the cards.

In terms of a signal, I do not really think filling out postcards sends a very threatening or ominous signal to anyone.

There was a remark made that it was on the eve of July 4; on the eve that we celebrate the Declaration of Independence we do not want to eliminate the Selective Service System.

Mr. President, July 4 celebrates not only the Declaration of Independence but the Revolutionary War. There was no draft in the Revolutionary War.

On the eve of the battle of Princeton, George Washington with the troops in tattered clothes, he did not have a draft. He asked them would one good man step forward. One did. Another did. And enough stepped forward to win the Revolutionary War.

We do not need the draft. It should be abolished. Save the money.

Mrs. FEINSTEIN. Mr. President, I rise today as an original cosponsor of Senator BRADLEY'S amendment to terminate the Selective Service System.

While I believe that maintaining a strong and prepared military must be a top priority for this country, I do not believe that it is necessary to continue spending millions of dollars each year to preserve a cold-war relic that requires all young men to register for the draft. This is particularly true during this time of tight budgets. It is crucial that we invest our scarce defense dollars in cost-effective, versatile programs that are vital to U.S. national security in the post-cold-war world.

In a December 1993 report issued by the Defense Department, the Secretary of Defense stressed that

> Because of the reduced global threat together with improved total force readiness and the Department's proven ability to maintain a quality volunteer force, the effects of eliminating draft registration on our ability to meet mobilizations requirements are expected to be minimal.

The report goes on to say that

> Peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment.

In the case of a national emergency, the Defense Department report lists several alternative ways to identify draft-eligible men that are already in use and that will ensure greater compliance. For example, Social Security records, driver's licenses, DOD records, INS documents, and the U.S. Postal Service are all viable options that will cut Government bureaucracy and save U.S. taxpayers over $20 million in fiscal year 1995 alone.

Just as I see this amendment as one way to reinvent Government into a more efficient and cost-effective entity, I also see it as a chance to follow through on the efforts of the Defense Department, the President, and Congress to reinvent out military into a strong, modern-day force. We should spend our defense dollars on higher Defense Department priorities to ensure the readiness of our troops and modernization of our weapons.

I urge my colleagues to support this amendment to terminate a draft registration system no longer needed in today's world, one that costs the U.S. taxpayer tens of millions of dollars annually.

Mr. GLENN. Mr. President, I yield myself the remainder of our time.

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

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

THE WHITE HOUSE,
Washington, DC, May 18, 1994.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: On February 18 of this year, I transmitted then Secretary of Defense Aspin's report on the continued requirement for peacetime draft registration. At that time, I advised you that draft registration and the Selective Service System (SSS) would be continued while the National Security Council conducted an interagency review of the SSS.

That review has now been completed. I have decided that it is essential to our national security to continue draft registration and the Selective Service System. While tangible military requirements alone do not currently make a mass call-up of American young men likely, there are three reasons I believe we should maintain both the SSS and the draft registration requirement.

First, maintaining the SSS and draft registration provide a hedge against unforeseen threats and a relatively low cost "insurance policy" against our underestimating the maximum level of threat we expect our Armed Forces to face.

Second, terminating the SSS and draft registration now could send the wrong signal to our potential enemies who are watching for signs of U.S. resolve.

Third, as fewer and fewer members of our society have direct military experience, it is increasingly important to maintain the link between the All-Volunteer Force and our society at large. The Armed Forces must also know that the general population stands behind them, committed to serve, should the preservation of our national security so require.

As part of this decision, I am directing the Secretary of Defense to update our mobilization requirements and timelines for the SSS based upon current threat scenarios, re-examine the timelines for how quickly manpower must be provided, consider the possibility of selective call-up of skilled personnel (such as medical personnel) and continue to review the arguments for and against continuing to exclude women from registration now that they can be assigned to combat roles other than ground combat.

I believe our FY 1995 request of $23 million is essential to our defense needs and urge Congress to approve this request. At the same time, we will continue to seek additional economies and operating efficiencies at the Selective Service System.

Sincerely,

BILL CLINTON.

Mr. KERRY. Mr. President, I congratulate Senators BRADLEY and HATFIELD for this amendment to abolish the Selective Service System and end the anachronistic requirement for all 18-year-old men to register for the draft. This outdated program costs U.S. taxpayers millions of dollars a year while doing virtually nothing to enhance our national security.

Arguments that the draft provides a low-cost insurance policy, or that ending the draft would send a signal of weakness to our enemies, or potential enemies since we no longer have a superpower adversary, simply do not hold water. The Secretary of Defense, in a December 1993 report, concluded that draft registration could be suspended with "no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment." The National Security Council also reviewed the registration process and concluded that current military requirements make a mass callup unlikely.

As for sending a signal of weakness, it is our real military capabilities that will impress our potential enemies, not an expensive list of names. We should concentrate our efforts on maintaining the most capable, highly trained, and well equipped fighting force in the world. And we have built exactly that with the All Volunteer Force, not by conscripting young men as do many other countries. Ensuring that we keep our military strong and capable is exactly what the Senate is doing in acting on this bill.

Instead of contributing to the readiness of our military, the current Selective Service System siphons off precious dollars that could be used to support our troops in the field. This amendment will save an estimated $23 million a year that can then be channeled into the active duty military to meet real national security requirements.

I should point out that I have no opposition to the concept of using the draft in a national emergency. I would strongly support the swift reactivation of a registration process if the world situation pointed toward a possible prolonged conflict. But such a likelihood is so remote at this point as to be almost unimaginable. However, if such a scenario were to arise in the next few years the Defense Department has already explored various other effective ways of identifying draft age men, such as Social Security records and drivers license applications.

Once again I commend the sponsors of this amendment for challenging the status quo and moving to eliminate the needless expenditure of millions of dollars a year.

Mr. GLENN. Mr. President, I was in the Senate gallery, as a young teenager, when they passed the draft act many, many years ago.

I remember being very impressed with it then. It served us well through the years.

It may have some problems, as the Senator from New Jersey indicates but, by and large, I think it serves us pretty well, and we have some 11,000 volunteers in it.

I can also remember the pride I took in signing up under the Selective Service. Maybe we decry such feelings today. But I felt that and carried that card with me and was quite proud of it.

So, I think for all the reasons that have been given by my colleagues on this side we should oppose this, and I move to table the amendment of the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. DOLE. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

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

The result was announced—yeas 50, nays 30, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—50

Akaka	Exon	Mikulski
Biden	Faircloth	Nunn
Bingaman	Glenn	Pell
Breaux	Gorton	Pressler
Bryan	Graham	Pryor
Burns	Gregg	Riegle
Byrd	Hatch	Robb
Coats	Heflin	Rockefeller
Cochran	Hollings	Roth
Conrad	Hutchison	Sarbanes
Coverdell	Inouye	Sasser
Craig	Kassebaum	Smith
Danforth	Kempthorne	Stevens
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Dorgan	Mack	Warner
Durenberger	McConnell	

NAYS—30

Baucus	Harkin	Mathews
Boren	Hatfield	Mitchell
Bradley	Jeffords	Moseley-Braun
Bumpers	Kennedy	Moynihan
Chafee	Kerrey	Murray
Daschle	Kerry	Nickles
DeConcini	Kohl	Packwood
Feingold	Lautenberg	Reid
Feinstein	Leahy	Wellstone
Grassley	Levin	Wofford

NOT VOTING—20

Bennett	Dodd	Metzenbaum
Bond	Ford	Murkowski
Boxer	Gramm	Shelby
Brown	Helms	Simon
Campbell	Johnston	Simpson
Cohen	Lieberman	Specter
D'Amato	McCain	

So the motion to lay on the table the amendment (No. 2164) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENTS NUMBERED 2160 AND 2159

Several Senators addressed the Chair.

Mr. WARNER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas, Mrs. HUTCHISON.

Mr. KERRY. Parliamentary inquiry.

Mr. WARNER. Parliamentary inquiry. What is the pending matter before the Senate?

The PRESIDING OFFICER. Does the Senator from Texas wish to make an inquiry?

Mrs. HUTCHISON. I yield, Mr. President.

The PRESIDING OFFICER. Yield for an inquiry?

Mrs. HUTCHISON. Yes.

The PRESIDING OFFICER. The pending questions are amendments No. 2160 and No. 2159.

Mr. WARNER. Mr. President, if I could clarify through the Chair, the pending business as I understand it is the Warner underlying amendment as amended by the second-degree amendment of the Senator from Georgia. That is the pending business before the body?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I wish to accommodate other Senators in their inquiry to the Chair. However at a certain point in time I would like to clarify the status of the pending business for the benefit of the Senate.

Mrs. HUTCHISON. Mr. President, will the Senator from Virginia yield for a question?

Mr. WARNER. Mr. President, absolutely.

Mrs. HUTCHISON. Will the Senator from Virginia be willing to lay the amendment aside for a quick amendment that is acceptable to both sides?

Mr. WARNER. Mr. President, I will be delighted to accommodate the distinguished Senator from Texas. I would, however, wish to advise the Senator that there are about four Senators at the moment focusing on the pending business. In deference to them, I would like to know what their wishes were before I acceded to that request.

Mr. President, my understanding is I believe several Senators, namely myself, the Senator from Delaware, the Senator from Massachusetts, and the Senator from Georgia, and such others who may be interested—and I know the Senator from Wyoming is—we are about to reach an agreement, I believe, with respect to the text of an amendment which the Senator from Virginia would send to the desk as a modification to the underlying amendment. Shortly thereafter I presume the Senate would like to turn its attention to that business so it can go on with the other amendments.

It may well be we couid accommodate the Senator from Texas in the period of time it takes to reconcile any differences that remain among the four of us.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, let me just make a statement. I am perfectly willing to wait for the pending business that is on the floor to be finished if it is ready to be finished. But I would like to have recognition immediately thereafter. I did have permission from the manager of the bill to do so, not knowing that the amendment might be ready.

Mr. DECONCINI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Will the Chair please advise the Senator from Arizona who has the floor?

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

Mr. DECONCINI. Mr. President, so the Senator from Texas has the floor?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. She can proceed as she so wants?

Mr. WARNER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. It is the understanding of the Senator from Virginia I had the floor pursuant to the matter before the Senate, and I then yielded to the Senator from Texas to hear her inquiry to the Chair, and the same for the Senator from Wyoming. I do not know that I lost the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized, and giving inquiry to the Senator from Virginia.

Mr. WARNER. Mr. President, has there been unanimous consent to waive the pending business? Parliamentary inquiry.

The PRESIDING OFFICER. The pending amendments were set aside, but they never recurred.

Several Senators addressed the Chair.

Mr. KERRY. Mr. President, point of parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for an inquiry.

Mr. KERRY. Mr. President, it is my understanding that they were set aside prior to the previous vote, but on the disposition of the previous vote that the amendment of the Senator from Virginia is now the pending business before the Senate and has not been set aside at this point; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. If the pending business is the amendment of the Senator from Virginia, and the Senator from Texas has agreed already that she would be willing to let the Senator from Virginia proceed, it would seem to me we could quickly resolve this by proceeding to the pending business with the understanding by unanimous consent that the Senator from Texas would proceed immediately to have the floor on the completion of the pending business. Is that correct?

Mrs. HUTCHISON. Mr. President, I so move.

Mr. KERRY. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WARNER. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. If I may restate what I have understood, and consistently understood, to be the pending business, it is the amendment of the Senator from Virginia, as amended by an amendment in the second degree from the Senator from Georgia.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. And further that there has been no unanimous consent granted by the Chair to lay that aside? In which case I will proceed now to address the pending amendment.

Mr. DECONCINI. Parliamentary inquiry, Mr. President, just to clarify for the Senator from Arizona.

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

Mr. DECONCINI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona is recognized for an inquiry.

Mr. DECONCINI. Not withstanding what the Senator from Virginia said, and I understand the pending business is the WARNER amendment as amended, but the Senator from Texas has the floor. Then there is a unanimous consent request by the Senator from Massachusetts that the Senator from Texas yield so that the pending business can be taken up; is that correct?

The PRESIDING OFFICER. The Senator from Massachusetts began to make a request.

Mr. NUNN. Mr. President, I think we can solve all of this if the Senator from Virginia is recognized, and we can deal with his amendment. We do not need unanimous consent.

Mrs. HUTCHISON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized by the Chair.

AMENDMENT NO. 2159, AS MODIFIED

Mr. WARNER. Mr. President, with the cooperation of the Senators from Massachusetts, Delaware, and Georgia, I am prepared to send to the desk an amendment and ask that the underlying amendment of the Senator from Virginia be so modified.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, with its modification, is as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. WARNER. Mr. President, the amendment at the desk represents an amendment sent by the Senator from Virginia, and I believe the Senator from Georgia still remains to be the principal cosponsor; am I correct?

Mr. NUNN. I will be pleased to be a cosponsor, if the Senator from Virginia so desires.

Mr. WARNER. I think the Senator from Delaware desires to be a cosponsor; am I correct?

Mr. BIDEN. That is correct, I say to my friend from Virginia.

Mr. WARNER. And do I understand the Senator from Massachusetts wishes to be a cosponsor?

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

Mr. WARNER. Yes.

Mr. KERRY. I believe that in order to perform this correctly, the Senator from Georgia would have to withdraw the second-degree amendment first.

Mr. WARNER. I thought that was implicit in the request of the Senator from Virginia. Very well.

Mr. NUNN. I withdraw the second-degree amendment.

Mr. WARNER. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendment (No. 2160) was withdrawn.

Mr. WARNER. Mr. President, pending before the Senate is an amendment, and I shall add additional cosponsors: Senators WALLOP, THURMOND, DOLE, and SMITH.

I shall read the amendment very briefly:

(a) REQUIREMENT FOR ADVICE AND CONSENT OF THE SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means: the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

Mr. President, to save time, the Senator from Virginia has had more than adequate opportunity to state his objective. It is a matter of record. I, therefore, yield the floor so other Senators can speak to this matter.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I think the Senator from Delaware and I also have no need to give any lengthy explanation. We are very appreciative to the

manager of the bill and to Senator WARNER for working with us to come to an agreement as to how best to protect the interests of the ABM Treaty and the Senate's prerogatives therefor. We thank both of them for their efforts on this. We have made our point.

I ask unanimous consent, as a matter of courtesy, that the Senator from Texas be recognized at the completion of this business.

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

Mr. NUNN. Mr. President, I think this is a good amendment. We have worked on it for the last several hours. We had good minds from the Foreign Relations Committee and the Armed Services Committee working together. The Senator from Massachusetts and the Senator from Delaware have spent an enormous amount of time in the treaty business.

I think this is the amendment we need to adopt. I think it will give us an opportunity to look carefully at whatever the administration produces and then the Senate of the United States can make a judgment about how to proceed on that.

I am sure all of us will be watching that very carefully because it is of great importance. I urge the adoption of the amendment.

Mr. WARNER. Mr. President, I wish to thank my colleagues.

I express my appreciation to the members of the Armed Services Committee staff, Tom Moore and Mr. Eric Thoemmes.

Mr. WALLOP. Mr. President, I rise in strong support of the amendment by the Senator from Virginia. This amendment would affirm a basic Senate prerogative—the requirement for Senate advice and consent of arms control treaties.

Since November 1993, the administration has been engaged in negotiations with the former Soviet Union to update and clarify specific provisions of the ABM Treaty. First, the administration is attempting to identify who, in fact, this treaty is with—a question left unanswered since the dissolution of the Soviet Union. In an attempt to deal with this dilemma, the administration has proposed that the treaty be multilateralized, to include any former Soviet State that wants to become a party to the ABM Treaty.

The second area of negotiation has to do with defining the demarcation between antiballistic missile systems, which are limited by the treaty, and theater missile defense systems, which the treaty does not specifically limit. On this point the treaty itself is extremely ambiguous—it states merely that it is prohibited to give non-ABM systems "capabilities" to counter "strategic ballistic missiles" or test them in "an ABM mode." But the treaty does not define any of these key terms.

Mr. President, as a general principle and for specific reasons that relate to these two areas of negotiation, I believe that the administration must seek the Senate's concurrence on these important matters. In my view, any agreement that substantively modifies or creates new legal obligations for the United States under the ABM Treaty must be submitted to the Senate as a treaty for its advice and consent to ratification.

As they now stand, the administration's proposals on theater missile defense demarcation and treaty succession would, in fact, represent substantive changes to the ABM Treaty or new legal obligations for the United States under the treaty. Let me address each of these briefly.

There can be no question that the administration's approach to succession would constitute a clear and substantive change to the treaty. It would fundamentally alter the rights and obligations of the original treaty partners. Moreover, such a change has broad implications for U.S. policy well beyond the narrow limits of the ABM Treaty. For example, multilateralizing the treaty would have the effect of perpetuating the old boundaries of the Soviet Union, and give Russia extraterritorial rights and a military presence coextensive with the former Soviet Union.

In examining relevant precedents, it also is abundantly clear that such a major change to the treaty would require Senate advice and consent. In 1974, for example, when the ABM Treaty was changed by protocol to reduce its limitations from two permitted deployment sites to one, the agreement was submitted to the Senate, which advised ratification on November 10, 1975. When the START Treaty was in a similar situation as the ABM Treaty now faces, the sides negotiated a multilateral protocol, which was submitted for advice and consent as part of the START I ratification package. These precedents are clear and compelling.

The TMD demarcation issue is less clear than the succession issue. Whether a TMD demarcation agreement constitutes a substantive modification of the ABM Treaty or entails new legal obligations for the United States under the treaty depends on the form of the agreement. It certainly would be possible to clarify this issue without making a single change to the text of the ABM Treaty itself. Moreover, it would be possible to make this clarification without establishing new legal obligations for the United States under the ABM Treaty.

In fact, the proposal that the United States presented in November 1993 on this subject did not, in my view, establish any new legal obligations for the United States under the ABM Treaty. It very simply clarified a key term in the treaty—that is, what constitutes a strategic ballistic missile. Such clarifications have taken place on several occasions over the years in the standing consultative commission without Senate approval.

I would also note that the administration's November 1993 proposal on TMD Demarcation was consistent with the congressional finding contained in last year's Defense Authorization Act, which states that TMD systems are not prohibited by the ABM Treaty unless they "are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles." In other words, as a practical matter, Congress has already given its advice and consent to a TMD demarcation agreement based on the so-called "demonstrated capabilities standard," which does not include specific performance limitations on TMD systems or components.

Unfortunately, the administration has now complicated matters by accepting such specific performance limitations. These are no longer clarifications. They are new, binding limitations on missile defense systems not previously constrained by the ABM Treaty. I would note that the ABM Treaty does not even limit ABM interceptors in this manner. In effect, this approach creates a fundamentally new treaty—an ABM/TMD Treaty. Such a radical departure from the existing limitations will certainly require Senate advice and consent.

The Senate has every reason to guard its constitutional prerogatives in the area of treaty ratification. As the chairman of the Armed Services Committee will recall from our 1987 debate on the Nunn-Levin amendment, this body has traditionally taken these matters extremely seriously. As the chairman stated on the floor at that time, allowing the President to reinterpret a treaty, subsequent to ratification, without the Senate's approval, would reduce the Senate to, in the chairman's words, "A potted plant. * * * An ornament in the national security arena, adorning but not influencing."

If we still take this responsibility seriously, as I believe we must, then the Warner amendment should be adopted.

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

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2159), as modified, 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.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 2165

(Purpose: To authorize transfer and use of not more than $43,000,000 for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk on behalf of myself and Senators SARBANES and MIKULSKI 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 Texas [Mrs. HUTCHISON], for herself, Mr. SARBANES, and Ms. MIKULSKI, proposes an amendment numbered 2165.

Mrs. HUTCHISON. 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 110, between lines 19 and 20, insert the following:

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

Mrs. HUTCHISON. Mr. President, the amendment grants the Department of Defense the authority to reprogram $43 million for the procurement of roll-on/roll-off ships for the ready reserve. The congressionally mandated mobility requirement study called for the acquisition of 19 ready reserve force roll-on/roll-off ships. This would bring the ready reserve force roll-on/roll-off to a total of 36.

These ships are essential, Mr. President, to early deploying heavy divisions that must move from the continental United States to a distant theater of operations. This just gives some flexibility in the Department of Defense.

I thank the managers of the bill, and I urge the adoption of the amendment.

Mr. SARBANES. Mr. President, I am pleased to join with my colleague from Texas [Mrs. HUTCHISON], in offering this amendment to the defense authorization measure.

I thank Senator HUTCHISON for her work on this important issue and I want to express my sincere appreciation to the chairman, Senator NUNN, and the ranking minority Member, Senator THURMOND, for allowing the consideration of this amendment.

The "Mobility Requirement Study" emphasized our need for a strategic mobility program. According to the recommendations released in early 1992, it is imperative that we increase our Ready Reserve Force of roll-on/roll-off ships to a total of 36.

With funding from fiscal 1993, 12 ships have been added to the force for a total of 29. The amendment we are offering today, along with funding already provided to the Maritime Administration, will allow the acquisition of the seven additional ships needed to complete the fleet. They will give our Armed Forces the surge capability to move Army heavy divisions to a regional conflict anywhere around the world.

The Principal Deputy Under Secretary of Defense for Acquisition and Technology reiterated the need for these ships on Tuesday. In a letter to the distinguished chairman, Secretary Longuemare stated:

Acquisition of used RO/ROs for the RRF is the only near-term means to meet the DoD surge sealift capability shortfall which is critical to early combat force deliveries. These forces must be available in the early stages of a conflict to secure ports and airfields necessary for the continued buildup of combat forces.

The amendment we are offering simply allows the Department of Defense to transfer funds from any source except the National Defense Features Program to the Maritime Administration for the purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force. It requires that such transfer be made within 60 days after passage of an appropriations measure for fiscal 1995 and mandates that the Maritime Administrator obligate the funds by September 30, 1995.

Our amendment does not in any way change the committee's intention, specified in the report to accompany the authorization, to provide additional funding to the National Defense Features Program. That program, while still conceptual, appears to have potential to provide sustainment sealift following the initial surge. It cannot replace, however, our need for early surge and it is for that reason that I have joined in offering this amendment to secure that critical capability in our Ready Reserve Force.

Mr. President, while I share the hope of every Member of the Senate that our men and women in uniform will never face another conflict, I know that we must be ever on guard. I am pleased that we are considering this amendment that will provide us with the capability to respond quickly to regional threats whenever and wherever they occur. I again thank the chairman and urge adoption of the amendment.

Mr. NUNN. Mr. President, I rise to support the amendment of the Senator from Texas. I believe the additional sealift represented by the ships that could be added by this amendment would help our deployment capability, which is one of our most serious needs.

This does, through the normal procedures, permit the reprogramming of these funds to the sealift requirement, and this is, of course, assuming the Secretary of Defense makes that kind of decision and defines that reprogramming of those funds. I hope that will be available.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2165) was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

ORDER OF PROCEDURE

Mr. DECONCINI. Mr. President, on behalf of the Senator from New York [Mr. D'AMATO] and myself, I rise today with a deep sense of sadness and regret to inform Members of this body that a young, dedicated, and experienced Drug Enforcement Administration agent, Mr. Richard Fass, was killed in the line of duty in Phoenix last night during the course of an attempted arrest with some drug dealers.

I discussed this with the manager of the bill, so I ask unanimous consent that the pending legislation before the body be set aside and I be permitted to offer a resolution that has been cleared on both sides on this particular matter.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, could I just inquire of the Senator from Arizona, has this been cleared?

Mr. DECONCINI. This has been cleared.

Mr. NUNN. Because this is not part of our bill. It is a separate matter. Who has cleared this? Has it been cleared with the respective committees?

Mr. DECONCINI. On both sides of the aisle, with Mr. ROTH and Mr. GLENN on the committees of jurisdiction, and with the majority and minority leaders.

Mr. NUNN. I thank the Senator.

MEMORIAL TO DEA AGENT RICHARD FASS

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 237) in memorial to Agent Richard Fass.

Mr. DECONCINI. Mr. President, on behalf of Senator D'AMATO and myself, I rise today with a deep sense of sadness and regret to inform the members of this body that a young, dedicated, and experienced Drug Enforcement Administration agent, Richard Fass, was killed in the line of duty.

At 6:40 p.m. last night, in Phoenix, AZ, Agent Fass, acting in an undercover capacity, attempted to purchase illegal narcotics from two suspects. Agent Fass was shot four times and died, leaving behind his wife Theresa, four children, ages 6 through 16, and his parents. The tragic death of Agent Fass represents the 26th line-of-duty death for agents of the Drug Enforcement Administration.

Our hearts and prayers go out to the family of Agent Fass, the family of the Drug Enforcement Agency, and the entire law enforcement community whom I know share deeply in the pain and suffering of this tragedy.

Just a few blocks from this building stands the marble walls of the Law Enforcement Memorial. Over 13,000 names are engraved on those walls. Sadly, new names are added each year, serving as a grim reminder of the dangers faced and sacrifice made by the Nation's law enforcement community.

Agent Fass died last night, a hero. He has paid the ultimate price in service to his Nation. All the words we say will never remove the pain or sadness felt by his family or his colleagues.

As we approach the conference on the crime bill we must remember that it will be the law enforcement officer that will ultimately be tasked with carrying out the many initiatives and provisions of the laws we enact. We are in desperate need of a strong crime bill that protects our citizens, but it must also, adequately support and properly protect the law enforcement officer. If we are to embark on a comprehensive law enforcement initiative, then the entire law enforcement community—State, local, and Federal officers, must be provided with all of the tools and resources required to carry out their mission. These public servants deserve our support in the laws which we enact, the resources which we provide and compensation we authorize. They deserve all of these things and they deserve it, now. Please do not delay. Please champion their cause. Over 13,000 names are etched on the memorial wall and we are faced, once again, with another death and the sad addition of another name.

Mr. President, I urge the adoption of the resolution.

Mr. President, I thank my colleagues and thank the distinguished chairman for allowing me the privilege to have considered this resolution.

Mr. NUNN. Mr. President, I urge adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 237) and its preamble are as follows:

S. RES. 237

Whereas, Richard Fass, a Drug Enforcement Administration agent was slain in the line of duty in Phoenix, Arizona last night;

Whereas, to date, 26 DEA agents have been killed in the line of duty;

Whereas over 13,000 names have been placed on the Law Enforcement Memorial honoring law enforcement officers from all across the country who have been killed in the line of duty;

Whereas the entire law enforcement family shares in the pain and the grief when a fellow officer is lost;

Whereas it helps to ease the pain and suffering when fellow officers are present to share the loss;

Whereas current law permits active military officers to travel in an official capacity to funerals of fellow colleagues killed in the line of duty:

Whereas the nation mourns the loss of this fine, young, and dedicated law enforcement officer;

Whereas the Senate sends it condolences to the family of Richard Fass; Now, therefore, be it

Resolved by the Senate, That the Administration should submit legislation to the Congress which authorizes Federal law enforcement officers to be excused from duty without loss or reduction in pay, leave, or credit for service, to attend the funeral of a fellow Federal law enforcement officer who was killed in the line of duty and in the interim, the Attorney General should exercise her authority to permit DEA personnel to attend the funeral or related services of agent Richard Fass.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2166

(Purpose: To prohibit the acquisition of Milstar satellites Nos. 5 and 6 and accelerate development of the Advanced EHF satellite communications system)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2166.

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

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

The amendment is as follows:

Strike line 21 on page 27 and insert in lieu thereof the following:

"(3) For the Air Force, $12,290,296,000, of which no funds may be appropriated for parts and other costs associated with acquisition of Milstar satellites numbers 5 and 6, and at least $39,500,000 shall be authorized to be appropriated to accelerate development of the Advanced EHF satellite communications system."

Mr. BUMPERS. Mr. President, last year, in the Senate, there was a very strong sentiment for budget deficit reduction. The people back home had convinced the Members of this body, indeed, all the Members of Congress, that they were dead serious about getting our national debt and our annual budget deficits under control. Nevertheless, last fall during the appropriations process we were really only able to kill two programs that had a deficit reduction impact, the advanced solid rocket motor and the superconducting super collider.

Today, I heard the Senator from New Mexico [Mr. DOMENICI], stand behind his desk and say that he had voted for the Warner amendment which would restore the COLA's for military retirees and put them on a par with civil service retirees to begin collecting their cost-of-living increase April 1, 1995.

But, the Senator added, he would not have voted for it if he thought it was going to come out of the defense budget.

Now, Mr. President, I sit on the Appropriations Committee. I chair the Subcommittee of Appropriations on Agriculture, and I and the members of my subcommittee have just gone through a very traumatic experience of trying to come up with a bill that would come within our allocation, which out of $13.8 billion represents almost a $700 million cut below a freeze.

Half the Members of this body came to me before we marked up that bill and said, oh, Senator, I have to have this fish laboratory in my State. I have to have this poultry lab in my State. I have to have this and that and the other—mostly buildings and research projects—in my State. I need $10 million, which, I can tell you, because of the budget constraints we are under, is laughable. There is not $10 million in my subcommittee budget for anybody.

This morning I offered an amendment, mostly for discussion, to try to save the easiest $106 million the Senate will ever get an opportunity to save. I agreed with the Senator from Georgia because I would have lost if we went to a rollcall vote—nobody enjoys losing—to an amendment which simply prevents the Navy from buying a number of guidance systems for Trident missiles unless the Secretary of Defense asserts they are absolutely necessary.

Now I wish to discuss for a minute this amendment dealing with what we call Milstar. I daresay there are precious few Members of this body who do not serve on the Armed Services Committee and the Defense Appropriations Subcommittee who even know what Milstar is.

I can tell you what it is. It is between $30 billion—not millions, billions. It is a satellite communications system. It is a system by which the Department of Defense puts satellites overhead to communicate with the forces in the field. It was begun as a concept in 1981—and listen to this, Mr. President—to fight a 6-month nuclear war with the Soviet Union.

That was the rationale for Milstar in 1981—to be able to communicate with our forces during a 6-month nuclear war with the Soviet Union. To sensible

people it was laughable then to think about a 6-month nuclear war. But like everything else, we started out building it for that purpose. And now that there is no threat of a nuclear war and we have become closer allies with Russia every day, it has not slowed the project up one whit.

We are still feverishly building the Milstar system at an unbelievable cost. I will describe just briefly, Mr. President, what it is.

(Mr. MATHEWS assumed the Chair.)

This year, 1994, we deployed the first satellite called Milstar I. It is up there now. The first power system has already failed. It is now operating on backup power. The first power system failed within a week after it was launched and placed in orbit. We all hope that the backup power system does not go out, because if it does there is another $1 billion or so down the drain.

We are going to launch the second Milstar I in 1995. We will have two of them up there then.

Then Milstar II, of which there will be four satellites. The first one will be launched in 1999, and the second one launched in the year 2000. The third one in 2001, and the fourth one in 2002.

Mr. President, this morning people had a chance to do something meaningful. We debated the B-2 bomber, which the Defense Department does not want. At that time, I said we cannot kill a system around here that the Defense Department wants; now we are to the point where we cannot kill what they do not want.

The budget deficit and the politics of deficit spending is not what it was last year because the deficit is going down. There are a lot of people in this body who want the deficit as an issue, not a problem to solve, but an issue you go back home and talk to the chamber of commerce about. But, in any event, the Pentagon said we do not want the B-2, and the Senate said we do not care what you want, we are going to make you take it anyway.

Last year the Defense Department went through what is called a Bottom-Up Review under the aegis of then-Defense Secretary Aspin. Here on this chart are the people who did the Bottom-Up Review on satellite communications. These are not babes in the woods. These are professionals who understand communications: Mitre, Lincoln Labs, Aerospace, Applied Physics Lab. That is who the Pentagon assigned to study Milstar and report back on the Bottom-Up Review.

Here is what they reported back. They said, "Plan now for transition to an advanced extra high frequency system." Do not complete the Milstar system, that is what the people who know more about this system than anybody, said we ought to do.

The follow-on system to the Milstar is called Milstar III. It will be smaller and cheaper than Milstar I and Milstar II. The first one would normally be launched in the year 2006. These people say launch it in the year 2003, advance it 3 years, and do not deploy the last four of the six satellites you plan to deploy.

They went ahead to say, if you do that, you only accept a "moderate risk." But then they said, if you will do this the way we recommend, not only is the risk moderate, but from fiscal year 1994 to fiscal year 1999, you would save $2.35 billion. And in the years fiscal year 1994 to fiscal year 2011, you will save $4.75 billion.

Mr. President, I make no bones about it. That would be my preference. I would kill this sucker in a New York minute, if I had my way. I will tell you in a moment why I would do it, and why it would save all that money, and why we would not be jeopardized if we did it. You think about that: $4.75 billion we could save if we took the advice of the very people that the Pentagon appointed to tell us what to do.

Mr. President, GAO has also studied this system. You think about the professionals saying we ought to kill it now, and advance the extra high frequency follow-on system to the year 2003. But the GAO said do not be quite that dramatic. Just cancel the last two, number 5 and number 6, Milstar II satellites. If you do that, you will save $1.5 billion between now and the end of the century.

I want the Senator from Virginia and the Senator from New Mexico to tell me how we are going to pay for that COLA this morning. I voted for it too. But I am willing to pay for it. Everybody else wants to write to the veterans of this country, and say, "I am your best new friend because I voted to move your COLA up to April 1, 1995." If somebody in that group happened to write back, and say, "That is awfully nice of you, but how do you intend to pay for it?" They will say, as Will Rogers said, "Heat up the Atlantic to make the German U-boats surface." That is just one of those little details we will have to work out.

Here is the simple chance to go through a very low risk change to the Milstar program, and save $1.5 billion.

Mr. President, I will tell you something else. Technically this system ain't all it is cracked up to be. You can understand what they are saying on Milstar. But if you understand Donald Duck, you will understand it a lot better because human speech sounds like quacking. You can understand it. But as I say, if you are a duck, you will understand it better.

Let me tell you that all I am suggesting is we cancel the last two satellites. That is the minimum thing to do; save this money. But one other thing: Do you know what you are getting for all of this $30 billion expenditure? The Milstar II that we are going to launch in 1998 will carry what is called 192 low-data channels. Each one of those last four will carry 192 low-data channels. Milstar has substantial amounts of anti-jamming equipment on it. We have another system up there right now called DSCS. The Iraqis did not even try to jam it during Desert Storm. It worked pretty well. But do you know what the DSCS system carries? Thousands, and thousands of messages per satellite. This one carries 192 for phone and teletype messages and 32 medium-data channels. That is the kind of a channel you can transmit imagery with. You can transmit like a FAX machine. So that is what you are going to get, 224 messages simultaneously for Milstar II, at an unbelievable cost.

Mr. President, here are the different alternatives that have been presented either by the people who did the Bottom-Up Review or by the General Accounting Office. The professionals whom I referred to a moment ago looked at all four of these options:

Kill the Milstar program now and save $6 billion between now and 2000.

Cancel Milstar II and accelerate the advanced extra high frequency system to 2003, save $3.5 billion.

Cancel Milstar II, accelerate the advanced EHF to 2000, save $2.4 billion.

Cancel the last two Milstar satellites, advance the follow-on system to 2003, and save $1.5 billion.

The professionals opted for this one: Cancel Milstar II now, advance the extra high frequency, follow on Milstar III, and save $3.5 billion.

Senator WARNER's amendment on COLA's for veterans would be a piece of cake if we did that. But it would also be a piece of cake if we did what the General Accounting Office and DALE BUMPERS says we ought to do—that is, to cancel the last two, advance the follow-on system to 2003, and save $1.5 billion.

Mr. President, if I am any judge of what this body will do either tonight or during the appropriations process, people will come storming through that door over there; they still will not know one thing about Milstar; they will walk down to the floor of the Senate, and they will ask the floor managers, "What is your vote on this?" The manager will say, "Well, I have moved to table. The Bumpers amendment would threaten our national security. He says there are savings, but there really are not," or whatever. I might get 30 votes, but if everybody is in a really good mood, I might get 40 votes, and we will go right on spending either $3.5 billion or $1.5 billion which we have to borrow to spend for a system that is questionable technically and economically is absolutely unaffordable.

Mr. President, let me close by saying one other thing. The Air Force does not want the system. They do not want

it. Do you know why they are going ahead with it? Because the Secretary of Defense said, "Do not even think about it. Do not even consider accelerating Milstar III until we are ready to think about it in 2006." I am a fan of Bill Perry's. I have disagreements with him, but generally I think he is a good Secretary of Defense.

But you think about that. The Air Force, in charge of building the system, said, "We do not even want it," and the Secretary of Defense says, "Do not say that out loud."

But coming back to where I started—and I know I am not likely to prevail tonight, and I am not likely to prevail in the appropriations process, because it is impossible, No. 1, to communicate what I have said on the floor tonight to every Member of the U.S. Senate. But I must emphasize, Mr. President, that this is not me talking. I am repeating what the most knowledgeable people in America have said about Milstar. The most knowledgeable people in America have said: Advance the smaller, cheaper extra high frequency system, Milstar III, to the year 2003, save yourself $3.5 billion.

And the General Accounting Office, whom we all turn to for expert advice, said they have an alternative with even lower risk. If you do what we say, you lower the risk from moderate to something less than that—we will call it a low risk. They say just cancel the last two Milstars, advance the extra high frequency, and save yourself $1.5 billion.

If this were the Mafia, they would say, "This is an offer you cannot refuse."

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON], is recognized.

Mr. EXON. Mr. President, the Senator from Arkansas and this Senator have worked together on many, many attempted cuts in the defense program and in other areas. In fact, I think that the Senator from Arkansas would concur because he wrote me a letter not too long ago listing the Senator from Nebraska as one of the leading supporters of all the Members of the U.S. Senate who have cooperated with him in trying to cut programs. I only say that to cite my credentials as a budget-cutter on things that I think are not necessary.

I happen to feel that the Senator from Arkansas, with all good intentions, is chasing windmills on this particular measure. We have given it a great deal of consideration in the Armed Services Committee and especially in the strategic subcommittee that I chair. I will simply point out that I listened very carefully to the Senator from Arkansas when he was talking about $13 billion here and $17 billion there. But when we come right down to it, I simply say that if the amendment were accepted, then the Senator himself has said that we would have a savings of $1.5 billion, as I understood his presentation—which was a good one—if you believe that Milstar should be restructured in the manner that the Senator from Arkansas has outlined.

So let us get this straight. This is not a multibillion dollar savings that the Senator is attempting with the amendment, as I understand it, that he has sent to the desk, but rather about $1.5 billion. That is a lot of money, but I want to try and put this in proper perspective.

The Senator has made some suggestions that we considered very carefully in the Armed Services Committee. We had a meeting with the GAO and looked at their report, and I think the Senator would agree with me that the GAO report, basically, as I think the Senator from Arkansas indicated, would knock out Nos. 5 and 6 satellites in this system.

What the Senator is recommending, which we looked at somewhat favorably early on before we held all of our hearings, before we listened to the experts that we tend to rely on on these kinds of matters, what the Senator from Arkansas would be betting on is that with the changes that he has recommended, we would be betting on an untried and unproven technology that the chairman of the Joint Chiefs of Staff, the Secretary of Defense, and our Commander at STRATCOM headquarters have all told me is not a sure bet, nor in their opinion is it a safe bet.

We could go into a lot of great detail on this, but I will simply say that I do not criticize those whom the Senator from Arkansas said, when the vote comes, when they come through that door, and come down here and ask the chairman of the Armed Services Committee what their vote should be, and I think he is very accurate; he probably would not prevail.

But the question is, have we looked at this in the Armed Services Committee? Yes, we have in great detail.

With the tight budget that we have today, that the Secretary of Defense and the Chairman of the Joint Chiefs, the STRATCOM headquarters, and all of the other CINC's around the world who strongly support this proposition as we have it, and say it is necessary, I do not think it is too wrong for those who have not followed in great detail to come to the chairman of the Armed Services Committee, in this case Senator NUNN, and say: How should we vote on this?

Senator NUNN can speak better for himself than I can, but I know that we have coordinated our efforts on this. We have taken a look at the realistic situation as it is, not as we would like to see it.

We believe that with the tight budget that is facing the Secretary of Defense, the Chairman of the Joint Chiefs and all of the CINC's that make up the decisionmaking process would not be throwing the money away on a Milstar program that they did not think was basically essential to protect our soldiers on the front line of battle in the field.

That is what the restructured Milstar program that was restructured basically at the direction of the Armed Services Committee is all about.

The Senator from Arkansas has mentioned that the Air Force is no longer solidly behind this program. I agree with him. That is why we think this program is so important, that we have decided that the Air Force's lack of interest in this program is such that it would be far better to transfer this program over, in this instance, to the Navy to proceed with it in the future.

Why has the Air Force lost its enthusiasm for this program? I think it is quite justified from the Air Force's perspective. Originally, the Milstar program, as accurately and correctly described by the Senator from Arkansas, was one that was featured and centered on the former Soviet Union in the case of an all-out 6-month war, or shorter.

At that time, under that original proposal, there would be computers in every bomber that was involved in our force because at that time it was essentially an Air Force program for Air Force response in the time of war.

The program, as I said earlier, has been refashioned, has been reduced by billions and billions of dollars, and is strongly supported, not like it was by the Air Force. And I emphasize again I agree with the Senator from Arkansas that the Air Force is no longer solidly behind this program for the reason that the Air Force would like to have the money that they have to buy more airplanes, possibly like the B-2 bomber that was referenced in the remarks by the Senator from Arkansas.

So it is true that the Air Force has lost interest in this, but for the reasons that I have cited I do not believe that the opposition of the Air Force, which I understand and have tried to fairly and adequately describe here on the floor of the Senate, is not a reason that we should take the gamble that the Senator from Arkansas suggests we take by expediting the program, and in the event that it would work we would save $1.5 billion.

I talked specifically about this with the Chairman of the Joint Chiefs of Staff, General Shalikashvili. He absolutely said, "Senator, there is no reason that I can give you why we would abandon this program that I believe has a good chance of working eventually as we provided for and bet on something in the future that I am not sure of."

Therefore, I would simply hope that when the vote comes on this, we will

vote down the amendment offered by the Senator from Arkansas, and I may have further to say on this later.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I just will make a couple points.

First, one of the great tragedies of this whole thing is there are very few people here, even on the Armed Services Committee and on Defense appropriations, who know that we have already spent $12 billion on this program and will spend $17 billion more. You are talking about a $30 billion communications system, and surely to goodness, as we look around, because the Warner amendment over the years—nobody knows this better than the chairman of the committee—is not just $300 million next year. In the outyears, it runs into billions. I know the Senator is greatly concerned about that, as am I.

But I want to make one final point, Mr. President: Even though the deficit is headed south and the good news is the deficit this year is going to be even $35 billion more than we had anticipated, but we have been on this bill for 3 days and we have not cut one dime. On the contrary, we have added billions by the Warner amendment.

Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

Without objection, the amendment is withdrawn.

So the amendment (No. 2166) was withdrawn.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I think we are ready to take a number of cleared amendments.

I will ask my colleague from South Carolina if he is prepared to take a number of these cleared amendments. I think we have a number of them we worked out on both sides.

AMENDMENT NO. 2167

(Purpose: To direct the Office of Personnel Management to conduct a study and, if feasible, establish an interagency placement program for Federal employees affected by reduction in force actions, and for other purposes.)

Mr. NUNN. Mr. President, on behalf of Senator LAUTENBERG, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. LAUTENBERG, for himself, Mr. WOFFORD, and Mr. BRADLEY, proposed an amendment numbered 2167.

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 249, insert between lines 7 and 8 the following:

SEC. . INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

Mr. LAUTENBERG. Mr. President, I rise today to introduce an amendment on behalf of myself and Senator WOFFORD. Our efforts are motivated by a desire to help the Federal workers who lose their jobs as a result of Government downsizing and by a desire to make sure the Government is not automatically deprived of the talent and commitment of these workers.

Let me outline the problem we face and the weaknesses in our present efforts to address it.

As our Federal Government continues to downsize—272,000 civilian positions will be eliminated over the next 5 years—increasing numbers of talented, skilled, and dedicated Federal employees will lose their jobs. In an effort to be responsive to their human needs and to continue to use their talents in public service, different agencies have developed their own placement programs to assist former employees. The DOD's Priority Placement Program [PPP] is, by far, the most successful placement program in the Government. Since PPP's inception in 1965, over 100,000 Defense employees have been successfully placed elsewhere in the Department.

But in a 1992 report, the General Accounting Office [GAO] noted that the PPP was not able to meet demand for placements because fewer job opportunities were available. This remains the case—there are presently more than 17,000 registrants in the program. The placement rate for the PPP has declined, falling from a high of 48 percent in 1989 to 23 percent in 1991. The decline in this percentage can be expected to continue during the next 5 years.

Employees of the Department of Defense are not the only Federal workers to be confronted with difficulties in finding suitable Federal employment after becoming dislocated as a result of a reduction in force. Although DOD will reduce the largest number of civilian employees over the next few years, most Federal agencies will be impacted by this drawdown.

OPM currently operates two government-wide placement programs that supplement other Federal agencies efforts. According to a 1992 GAO report, OPM's program had 4,433 registrants and made 110 placements in fiscal year 1991. Although OPM has made some improvements to its programs since 1992, there clearly remains a need for a coordinated, mandatory, interagency placement program.

Senator WOFFORD and I introduced legislation that would require OPM to establish such a program within 6 months. We would like to have offered that bill as an amendment to S. 2182; however, there are some who do not believe that the timing is right for a mandatory Government-wide placement program. Working with the distinguished chairman of the Armed

Services Committee, the Governmental Affairs Committee, and the administration, we believe we have crafted an approach which will offer meaningful help to Federal workers without imposing arbitrary deadlines on the Government.

Here is what our amendment would do. It requires the Office of Personnel Management [OPM] to study whether a mandatory interagency placement program for Federal employees affected by reduction in force actions is feasible. Six months after the National Defense Authorization Act is enacted, OPM will report back to Congress with its findings.

The program that this amendment requires OPM to study, would not supersede intra-agency placement programs. Only when an agency is unable to fill a position internally through its own placement program will the interagency placement program go into effect. When this occurs, an agency would be required to offer this position to a RIF'd Federal employee who is well qualified, located within the commuting area of the position, and has either the same job classification or basic rate of pay as the offered position.

In compiling this study, OPM will have sought comments from all Federal agencies. Those Federal agencies who are opposed to an interagency placement program are required to explain their opposition.

If OPM determines that such a program is feasible, it may begin its implementation within this 6-month period. It can do so on a Government-wide basis, if all agencies agree, or it can begin a more limited program with just the agencies that do not object to participating. The point is that we can begin to provide some real help to Government workers within 6 months.

Before I conclude my remarks Mr. President, I want to explain why I believe this program is necessary.

Mr. President, we want to reinvent Government. We have to reduce Federal employment. But we do not need to arbitrarily sacrifice the skills and dedication of these employees. By facilitating a Federal employee's effort to maintain a position with the Federal Government through the creation of a mandatory interagency placement program, I believe that this program will minimize the disruption created by reinvention and maximize the ability of existing Federal workers to continue to make a contribution to this country. I hope and expect that 6 months after this bill is enacted, OPM will report to Congress that such a program is feasible and necessary and that the implementation of a mandatory interagency placement program has begun.

Mr. NUNN. Mr. President, this amendment has been cleared on both sides of the aisle. It would require the Office of Personnel Management, OPM, in consultation with DOD, to conduct a study of the feasibility of establishing a nationwide interagency placement program for Federal workers affected by reductions in force.

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

Mr. THURMOND. Mr. President, we have no objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2167) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2168

(Purpose: To provide for the payment by the Department of Defense of certain stipulated civil penalties)

Mr. NUNN. Mr. President, this is an amendment on behalf of myself and Senator THURMOND. The amendment would authorize Secretary of Defense to pay stipulated fines and penalties in the amount of $500,000 assessed by the Environmental Protection Agency at the West Virginia Ordnance works.

I send the 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. THURMOND, for himself and Mr. NUNN, proposes an amendment numbered 2167.

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 110, between lines 19 and 20, insert the following:

SEC. 357. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

Mr. THURMOND. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2168) was agreed to.

AMENDMENT NO. 2169

(Purpose: To authorize the conveyance of the Babbitt Housing Site, Hawthorne Army Ammunition Plant, Nevada)

Mr. NUNN. Mr. President, on behalf of the Senator from Nevada, Senator REID, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. REID, proposes an amendment numbered 2169.

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 306, between lines 7 and 8, insert the following:

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plan, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

On page 311, between lines 22 and 23, insert the following:

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

Mr. NUNN. Mr. President, this would convey 440 acres of property of the former location of the Babbitt Housing Area at the Hawthorne Army Ammunition Plant for economic development.

The purpose of this amendment is to expedite the conveyance to local government in order to generate redevelopment. The conveyance would be subject to GSA expedited process the committee adopted in the markup.

Mr. REID. Mr. President, I ask that the Senate consider an amendment to the fiscal year 1995 Defense Authorization bill to transfer ownership of the site of the former Babbitt House Area at Hawthorne Army Ammunition Plant. Under my amendment, the property would be transferred to Mineral County, NV, with the understanding that this land would be used to encourage economic redevelopment.

Hawthorne Army Ammunition Plant is the major employer in Mineral County, NV. However, over the past 15 to 20 years the ammunition production mission has been gradually eliminated at Hawthorne. This has resulted in corresponding reductions in employment which have had a serious economic impact on Mineral County. Because this is a rural county, recovery from this loss of jobs is extremely difficult.

The ammunition plant previously used this site as a family housing area. However, the reductions in employment and the physical deterioration of the facilities have made it uneconomical for the Army to retain the housing area. The Army has demolished the housing units and is in the final stages of removing debris from the site. The Army has sent a letter stating they no longer need this property.

Last year's Defense Authorization Act included provisions that encouraged land transfers to allow local governments to maximize their economic redevelopment opportunities after being impacted by Base Closure and Realignment actions. I ask that similar opportunities be given to Mineral County, NV. Even though the reductions at Hawthorne Army Ammunition Plant are not a result of the recent Base Closure and Realignment process, the local economic impacts are just as severe. This county has been suffering economic hardships for many years because of reductions at this military installation. Therefore, I feel that we should give this rural county the same chance that are given to communities impacted by more recent actions.

The Babbitt Housing site is located on a U.S. highway just outside the community of Hawthorne, NV. It is ideally located for future economic development. Therefore, I urge the Senate to approve this amendment.

Mr. THURMOND. Mr. President, I offer on behalf of myself and Senator NUNN an amendment that would enable the Secretary of Defense to pay a penalty to the Hazardous Substance Superfund. The Under Secretary of Defense for Acquisition and Technology failed to request this authority in the budget submission. The authority to pay this penalty is necessary for the Army to fulfill its obligations in this important area. The Secretary of Defense must ensure the services have the authority they need to comply with federal law and meet their legal obligations.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2169) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2170

(Purpose: To authorize procurement of equipment for the Joint Training, Analysis and Simulation Center for the United States Atlantic Command)

Mr. NUNN. Mr. President, this amendment I send to the desk would authorize up to $10.5 million within the total authorized for other procurement, Navy, to allow the U.S. Atlantic Command to begin procurement of command, control, communications, and computer equipment for the Joint Training, Analysis and Simulation Center. This amendment does not add to the overall bill.

I send the amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GLENN, for himself, Mr. ROBB, and Mr. WARNER, proposes an amendment numbered 2170.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of Division A, Title I, Subtitle A, insert the following new section:

"SEC. . JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for Navy $10,500,000 shall be available for procurement of command, control, communications, and computer equipment for Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

Mr. GLENN. Mr. President, this amendment would authorize up to $10.5 million in fiscal year 1995 for the Navy to begin procurement of equipment to outfit the new Joint Training, Analysis and Simulation Center for U.S. Atlantic Command. The amendment does not add funds to the bill—it simply authorizes the Navy to use funds within the Other Procurement, Navy account to initiate this exciting new simulation center.

Earlier this year, the Subcommitee on Military Readiness and Defense Infrastructure which I chair visited the Norfolk Naval complex to discuss readiness concerns with frontline operating units. During our visit, we met with Adm. Paul David Miller, the Commander in Chief of U.S. Atlantic Command to discuss readiness within USACOM.

During that discussion, Admiral Miller briefed the subcommittee on the Command's plans for a Joint Traning, Analysis and Simulation Center. The purpose of this Center will be to provide cost-effective joint training to support U.S. Atlantic Command's program for training joint task forces through simulation.

Mr. President, earlier this year the Defense Science Board Task Force on Readiness, chaired by former Army Chief of Staff General Shy Meyer, found that the Defense Department did not have good systems for measuring joint readiness. This task force urged DOD to "provide greater emphasis on the joint forces perspective of readiness."

In my view, this new Joint Training, Analysis and Simulation Center is exactly the kind of effort that is called for by the Defense Science Board Task Force on Readiness. This Center will serve to improve and measure joint readiness, and provide a laboratory for the improvement of joint tactics, throughout U.S. Alantic Command.

This new facility will be located in the building which was constructed for the Naval Undersea Warfare Center in Suffolk, VA. This building is under long-term lease to the Navy. Since the Naval Undersea Warfare Center is leaving this building as a result of the BRAC process, the use of the facility as the site for the Joint Training, Analysis and Simulation Center will make cost-effective use of this facility.

Mr. President, I ask unanimous consent that a letter from Mr. Louis Finch, the Deputy Under Secretary of Defense (Readiness), to Senator NUNN describing the Joint Training, Analysis and Simulation Center be included in the RECORD at the conclusion of my remarks.

I urge my colleagues to support this amendment.

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

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC, June 23, 1994.

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

DEAR MR. CHAIRMAN: This is in response to your recent inquiries regarding the Joint Training, Analysis and Simulation Center (JTASC). The purpose of this Center is to provide cost-effective joint training to support the United States Atlantic Command's (USACOM) program for training joint task forces via simulation. This program will serve to improve and measure joint readiness, provide a laboratory for the improvement of joint tactics, and establish a secure CONUS joint environment for the demonstration of new technologies. It will occupy and use as a hub for these efforts the facility in Suffolk, Virginia, that is being vacated by the Naval Undersea Warfare organization.

To ensure there is no duplication of efforts, the JTASC fully intends to coordinate its efforts with those of the Services and other joint training efforts including those of the Joint Warfighting Center and the Armed Forces Staff College in Tidewater, Virginia, and those of the United States Special Operations Command for Special Operations Forces. It is my understanding that $10.548 million is required to finance the initial phase of this effort which is to procure command, control, communications and computer equipment for the Center.

Thank you for inquiry on this cost-effective program to improve joint readiness and other defense matters.

Sincerely,

LOUIS C. FINCH,
Deputy Under Secretary of Defense, (Readiness).

Mr. NUNN. Mr. President, I urge its adoption.

I know Senator THURMOND will have a view on this and other amendments.

Mr. THURMOND. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2170) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2171

(Purpose: To provide for the oversight of safety and the enforcement of safety-related standards at defense nuclear facilities)

Mr. THURMOND. Mr. President, on behalf of Senator COHEN, 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 South Carolina [Mr. THURMOND], for Mr. COHEN, proposes an amendment numbered 2171.

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 371, between lines 6 and 7, insert the following:

SEC. 3159. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

Mr. THURMOND. Mr. President, this amendment would provide the oversight of defense nuclear facilities of the Department of Energy by requiring the Secretary to provide for independent oversight of nuclear safety.

NUCLEAR SAFETY OVERSIGHT

Mr. COHEN. Mr. President, shortly after taking office last year, the Clinton administration undertook a significant reorganization of the Department of Energy. Some elements of DOE's reorganization plan were commendable. Others, however, caused me some concern, particularly the fate of the Nuclear Safety Office.

Under DOE's reorganization, the Nuclear Safety Office was folded into the Office of Environment, Safety and Health. The Office of Nuclear Safety is responsible for providing independent safety oversight of DOE's nuclear facilities. It is the only inhouse check on nuclear safety that is independent of those who manage DOE nuclear facilities.

Partly in response to criticisms from Members of Congress and others, DOE transferred the Nuclear Safety Office intact, without reducing its staffing, at least initially. While this was a welcome decision, the reorganization had other effects on nuclear safety oversight that were of continuing concern.

In order to have a sound basis for evaluating this matter, last April I asked the General Accounting Office to review DOE's restructuring of nuclear safety oversight and evaluate whether the proposed changes would improve or detract from DOE's ability to ensure nuclear safety.

What the GAO found is disconcerting. After its year-long review, it reached three basic conclusions:

First, DOE does not currently have an adequate number of qualified staff to oversee nuclear safety.

Second, DOE does not have a mechanism to ensure that nuclear safety issues are elevated up the chain of command until they are resolved. As a result, DOE may fail to take action to correct known safety problems, "potentially posing unnecessary risks to workers and the public." This organizational flaw is particularly important because nuclear safety oversight officials told GAO that some DOE nuclear plant managers have become less responsive since the reorganization was adopted last year.

Third, most importantly, GAO found that the independence of the nuclear safety oversight officials is compromised because they are now being directed to provide management assistance to those they oversee. The regulators are, in effect, being told to become part of plant management, undermining their ability to regulate in an objective, independent manner.

Mr. President, the amendment I am offering does not seek to reverse DOE's reorganization. But it would direct DOE to take corrective action in the three problem areas identified by GAO so that nuclear safety oversight officials the tools they need to protect the public health and safety.

INADEQUATE STAFFING

First, my amendment would direct the Secretary of Energy to ensure that an adequate number of qualified personnel are assigned to perform independent nuclear safety oversight. It leaves the Secretary the discretion to determine the proper staffing levels, but requires her to report on actions she takes to ensure adequate staffing.

ELEVATING SAFETY ISSUES

With regard to the second problem, my amendment would direct the Secretary to ensure that DOE has a system for bringing nuclear safety issues to the attention of officials, including the Secretary, having the authority to resolve them in an adequate and timely manner.

One might think that, surely, this must already be the case, but GAO found that:

> Because of limitations in DOE's existing methods for elevating (nuclear safety) issues, senior line management and the Secretary may not even be aware of significant nuclear safety issues identified by the Nuclear Safety Office.

Getting safety issues resolved is not merely a theoretical concern. GAO interviews of nuclear safety oversight officials in the field revealed that "in some cases line management does not adequately respond to the Nuclear Safety Office's findings of significant safety problems." Moreover, some safety oversight officials report that "line management's responsiveness to the findings of the (nuclear safety office) representatives has declined over the last year," since DOE reorganized.

COMPROMISING INDEPENDENCE

Finally, the most disturbing finding of the GAO is that the independence of the Nuclear Safety Office is being compromised.

Under well-established regulatory principles, DOE's nuclear safety oversight officials should be clearly independent of the nuclear facility operators they oversee and regulate. Failure to ensure independence can result in safety being sacrificed to other priorities.

As noted in the GAO report:

According to the National Research Council * * * independent internal oversight is still essential to 'provide a second set of eyes' to monitor compliance and ensure that any issues are resolved before an accident or other adverse event occurs. In addition, the International Atomic Energy Agency and the Nuclear Regulatory Commission have emphasized that regulation of nuclear safety requires independence.

But the GAO found that such independence may be impaired because nuclear safety oversight officials are being required to provide wide-ranging assistance to nuclear plant operators they oversee. After identifying safety problems, oversight staff are helping plant operators correct those problems. In fact, oversight staff have been instructed to place equal importance on assisting management as on safety oversight.

By helping plant operators correct their safety problems, the oversight staff is undermining its ability to be an independent judge of plant operators' actions. As the GAO noted:

Senior (safety and health) Office officials may be less inclined to report on and penalize poor nuclear safety performance by line management if, at the same time, their staff are helping line management to solve nuclear safety problems.

Mr. President, DOE's reorganization is forcing the Nuclear Safety Office to become a coach and a player at the same time it is supposed to be the referee. While DOE may claim the team plays better as a result, how can we now trust the referee's calls?

The answer is unclear, at best.

These concerns are not limited to the GAO. Last month, the Defense Nuclear Facilities Safety Board pointedly raised similar questions with DOE. The five-member Safety Board was created by Congress in 1988 to provide external independent oversight, outside the authority of DOE, of safety at defense nuclear facilities.

In a May 6 letter to Secretary O'Leary, the Safety Board questioned whether DOE is adhering to such principles as the "clear separation of line management responsibilities and functions from independent oversight functions." Citing "the potential conflicts of interest" involved, the Safety Board also questioned "the inherent problems * * * of having the (safety and health) office provide both technical support to the line (management) and also conduct independent oversight."

A companion document issued by one Safety Board member noted that "The congressionally mandated test for adequacy as regards protection of the public health and safety at defense nuclear facilities is that practices be comparable to those in commercial nuclear power" and the rhetorically asked "does DOE provide for comparably clear and distinct separation of the responsibilities of line (management) and internal oversight organizations?"

The answer, as the GAO found and DOE acknowledges, is absolutely not.

My amendment would seek to correct the nuclear safety oversight staff's loss of independence by directing the Secretary of Energy to take appropriate actions to ensure that nuclear safety oversight officials maintain independence from those who manage defense nuclear facilities.

I discussed this matter with senior DOE officials, including Under Secretary Charles Curtis and Assistant Secretary for Environment, Safety and Health Tara O'Toole. They assure me that, in a revision to its reorganization, DOE intends to create a separate Oversight Office that will be separated by a "Chinese wall" from assistance activities. This intent is confirmed by correspondence from Energy Secretary Hazel O'Leary, who writes that "'independent oversight will be assigned to a separate Office having no responsibility for assistance activities."

While these seemingly unamibiguous statements are consistent with the intent and language of my amendment, what is not clear is whether this new structure will provide for genuine independence and separation of oversight from line management.

The Safety Board has directed DOE to report to it by August 4 on DOE's reorganization, with special emphasis on the independence of nuclear safety oversight. Because of the possibility that DOE's report to the Safety Board could be delayed and since my amendment also addresses the issues of staffing and processes for elevating safety issues, this amendment requires a one-time report from DOE. These reports should shed much light on whether this new reorganization plan will ensure genuine independence of oversight, as required by this amendment.

I intend to carefully review these reports as well as consult with Safety Board members about them to determine whether the new Oversight Office and other arrangements effectively ensure such independence.

If it turns out that they do not, I anticipate taking action at that time to ensure that this amendment's requirement for independence of oversight is adhered to by DOE.

Mr. President, I would also note that at DOE's request, I have added a provision to my amendment specifying certain minimum authorities to be exercised by oversight officials. These include such things as the authority to assess safety and assess the performance of DOE program offices in carrying out effective environmental, safety, health and security programs, as well as to develop performance measures for such assessments. This provision does not seek to limit the authority of other DOE officials, such as those in line management, who are responsible for conducting self-assessments of safety and performance. But it does ensure that oversight officials have the tools required to do their job.

Mr. President, safety should be the highest priority of DOE. Regrettably, however, nuclear safety has traditionally ranked low in DOE's priorities.

A member of the Defense Nuclear Facilities Safety Board recently asked DOE a series of questions, including:

Why should Congress and the public believe DOE has acted responsibly in establishing a weaker organizational arrangement than that of the (Navy's) Naval Reactors (program) for inherently risky weapon activities like disassembling nuclear weapons? Would they in the event of an accident?

In the event of an accident or serious disarray in safety matters at a defense nuclear facility, would an objective investigation from outside DOE find the current organization sound from a safety point of view; or would DOE management be found to have been negligent?

While posed rhetorically as questions, the implicit answers seem obvious.

By helping to restore the integrity of the nuclear safety oversight system within DOE, this amendment could reduce the risk of such an accident and help ensure that we will not be found to have been negligent. I urge its adoption.

Mr. President, I ask unanimous consent to insert in the RECORD excerpts from the GAO report, the letter from the Defense Nuclear Facilities Safety Board to Secretary O'Leary, another document from a Safety Board member, an article published in the New York Times regarding this matter, and an editorial supporting my amendment.

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

NUCLEAR SAFETY: UNRESOLVED ISSUES COULD IMPAIR DOE'S OVERSIGHT EFFECTIVENESS

To be effective, the organization responsible for the independent oversight and enforcement of nuclear safety within DOE must posses certain basic characteristics. These include (1) adequate authority, (2) independence from line management, and (3) an adequate number of technically qualified staff. Although the Secretary has given the ES&H Office additional authority, the Office does not have a systematic approach in place for raising safety concerns up the management chain of command—and ultimately to the Secretary—if necessary to ensure their adequate resolution. Furthermore, it is not year clear whether the ES&H Office will have adequate independence and a sufficient number of qualified staff to effectively perform the Office's nuclear safety oversight and enforcement functions.

ES&H OFFICE'S ABILITY TO ELEVATE SAFETY ISSUES REMAINS LIMITED

In 1989, the National Research Council recommended that, whenever DOE overseers

find safety problems at the Department's facilities, they should bring the matters to responsible line managers for resolution. If these line managers do not take adequate actions to correct the identified problems, the oversight office should have the authority to raise its concerns up the management chain of command, and ultimately to the Secretary, if necessary. The ES&H Office has some capability to elevate safety issues up the chain of command and, ultimately, to the Secretary. However, no overall systematic approach exists for elevating issues, and the existing methods for doing so do not ensure that safety issues will always be elevated up the DOE hierarchy when necessary. As a consequence, line management—contractors, DOE field office officials, and DOE headquarters officials—may not take adequate or timely actions to correct safety problems identified by the Nuclear Safety Office, potentially posing unnecessary risks to workers and the public.

Because of limitations in DOE's existing methods for elevating issues, senior line management and the Secretary may not be aware of significant nuclear safety issues identified by the Nuclear Safety Office.

The ES&H Office also has some informal methods for elevating nuclear safety issues to the Secretary because the Assistant Secretary for ES&H has access to the Secretary and may raise such issues with her. According to ES&H Office officials, if the Office has a concern about any safety issue and cannot reach agreement with line management about appropriate action, the Assistant Secretary for ES&H can seek the Secretary's involvement, although this is occurring less frequently now than in the past. However, these informal methods do not provide assurance that oversight officials will always be successful in obtaining the Secretary's involvement.

Although officials in the headquarters ES&H Office state that line management has become more cooperative under the new administration, in some cases line management does not adequately respond to the Nuclear Safety Office's findings of significant safety problems. We asked the Nuclear Safety Office's senior representatives at DOE sites for their assessment of the performance of line management in correcting the nuclear safety problems they had identified. Most responded that this performance has been mixed; in some cases, line managers have performed well in correcting problems cited, but in other cases they have not. Some noted that, while line managers generally correct individual safety deficiencies cited, such as unlabeled waste containers, they tend to respond less adequately to findings of significant weaknesses in safety programs, such as inadequate monitoring by management of safety conditions. Some also noted that line management's responsiveness to the findings of the representatives has declined over the last year.

RECENT CHANGES COULD IMPAIR THE INDEPENDENCE OF THE ES&H OFFICE

The ES&H Office's independence from DOE's line management is important for the Office to carry out its nuclear safety oversight functions as well as its responsibilities, under the Price Anderson Amendments Act of 1988, for enforcing nuclear safety regulations. Past reviews of DOE by the National Research Council and us have stressed the importance of independent internal oversight. According to the National Research Council, although line management is responsible for ensuring compliance with environmental, safety, and health standards, independent internal oversight is still essential to "provide a second set of eyes" to monitor compliance and ensure that any issues are resolved before an accident or other adverse effect occurs. In addition, LAEA and NRC have emphasized that the regulation of nuclear safety requires independence. In 1988, LAEA recommended that nuclear regulatory bodies be functionally autonomous and that their independence in evaluating safety issues not be compromised. In 1990, NRC issued, as guidance for the agency's activities, five "Principles of Good Regulation," one of which was independence. According to the NRC Commissioner who was the principal author of these principles, independence is important because it enables regulators to withstand pressures to sacrifice safety for mission or production concerns and therefore helps to "maintain a solid course of safety."

Recently, the Secretary of Energy has begun to change the role of the ES&H Office. The Secretary has stated that her vision is for a Department "less founded on punitive oversight and more based upon mutual trust and cooperation." While the Secretary has declared that she wants the ES&H Office to continue conducting independent oversight of line management's performance, she has also emphasized that she wants the Office to place equal importance on providing expert advice and assistance to line management.

While the ES&H Office's new emphasis on providing assistance to and collaborating with line management may help to improve line management's safety performance, it could impair the Office's ability to independently oversee and regulate nuclear safety within DOE. Oversight conducted by the ES&H Office is the only departmental source of information about safety performance at DOE facilities that is independent of line management. By expanding its assistance activities, the Office may have less staff available to perform this oversight function. For example, the Acting Deputy Assistant Secretary for Nuclear Safety told us that the members of his staff assigned to help establish the lessons learned program at the Hanford Site could never be used to assess this program in the future because they "own" it. In addition, senior Office officials may be less inclined to report on and penalize poor nuclear safety performance by line management if, at the same time, their staff are helping line management to solve nuclear safety problems.

CONCLUSIONS

The ES&H Office lacks a systematic approach for elevating concerns about line management's responsiveness to findings up the organizational hierarchy, and ultimately to the Secretary, in order to enhance the visibility of these concerns. Experiences of the former Director of the Nuclear Safety Office demonstrate that, without a systematic approach for elevating issues to the Secretary, attempts by oversight officials to obtain access to the Secretary may not be successful. An institutionalized approach for elevating such concerns, along with existing informal methods for doing so, can help ensure that, regardless of changes in administrations and styles of management, senior line managers and the Secretary are made aware of significant unresolved safety problems and become involved in resolving those problems before any adverse effects occur.

The Secretary's vision for a more cooperative DOE, working together as a team, is laudable. However, the ES&H Office's new emphasis on assisting line management could impair the Office's ability to independently oversee and regulate nuclear safety within DOE. Independent internal oversight of operations at DOE facilities is important in order to provide the "second set of eyes" that the National Research Council envisioned and to ensure that problems are identified and addressed before workers or the public are placed at risk. The Office of Enforcement, in particular, needs to be able to independently pursue enforcement activities. By separating its assistance functions organizationally from its oversight and enforcement functions, the ES&H Office could help to ensure that the independence of its oversight and enforcement activities is not compromised or does not give the appearance of being compromised. Further, in developing the approach to be used by its new Office of Oversight, the ES&H Office needs to place priority on ensuring the independence of its oversight activities.

Finally, although the ES&H Office plans to increase its staffing levels, it is not yet clear whether the ES&H Office will have an adequate number of qualified staff to carry out its nuclear safety oversight and enforcement functions. The Office's expansion of its assistance activities could limit the number of staff available for these functions.

RECOMMENDATIONS

We recommend that the Secretary of Energy establish a systematic approach for the ES&H Office to elevate safety issues up the chain of command, and ultimately to the Secretary, when necessary to obtain their adequate and timely resolution. Such an approach should include (1) the routine issuance of formal reports on significant unresolved issues to senior line officials and the Secretary and (2) direction to the ES&H Office to notify the Secretary when significant unresolved issues require the Secretary's involvement. Ensure the independence of the ES&H Office's oversight and enforcement functions by separating these functions organizationally from the Office's assistance functions and by developing an oversight approach that places a priority on independence; and ensure the availability in the ES&H Office of an adequate number of qualified staff to oversee nuclear safety and enforce nuclear safety standards by determining the number of staff needed to perform these functions and reassigning staff accordingly.

DEFENSE NUCLEAR FACILITIES,
SAFETY BOARD,
Washington, DC, May 6, 1994.

Hon. HAZEL R. O'LEARY,
Secretary of Energy, Washington, DC.

DEAR SECRETARY O'LEARY: The Board is required by statute to address three specific topics in its fifth annual report to Congress:

(1) An assessment of the degree to which overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

(2) Recommendations for continuation, termination, or modifications of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) Recommendations for appropriate transition requirements in the event that modifications are recommended. [42 U.S.C. 2286e(d)].

To fulfill this obligation, the Board must assemble information from many sources including the Department of Energy (DOE).

The Board recognizes that under your leadership the Department has been undergoing a major reorganization with respect to its management of defense nuclear facilities.

This reorganization has affected the roles and responsibilities of the various offices responsible for nuclear safety at DOE, and extends to the contracting process as well as to line management and independent oversight assignments. To carry out its statutory duty, the Board must understand in detail how certain aspects of this reorganization affect the Department's programs for assuring public and worker safety, for minimizing risk to life and property, and for protecting the environment.

The Board has determined that the Department should provide a report, pursuant to 42 U.S.C. 2286b(d), on two subjects described in detail below. This information, which is necessary for development of the fifth annual report, is also consistent with the thrust of Board Recommendation 92-5 regarding the Board's need to keep apprised of changes affecting safety in the defense nuclear complex. The report need not be organized strictly according to the topics listed. However, the report should clearly indicate where each listed topic is covered.

The DOE Report, pursuant to section 2286b(d) regarding reporting requirements, should be transmitted no later than 90 days after receipt of this letter.

I. Nuclear Health and Safety Management Program

In this area, the report should:

A. Provide a comprehensive exposition of the functions DOE deems necessary for an effective nuclear safety management program. This should consider:

1. Applicable provisions of the Atomic Energy Act and the Price-Anderson Act,

2. Comparable Federal nuclear safety programs (Naval Reactors, Nuclear Regulatory Commission),

3. Areas highlighted by Congress in establishing the functions of the Board, and

4. Integration of public and worker safety programs, including radiological and non-radiological components.

B. Provide a brief summary description of the basic safety management system that the DOE currently has in place for satisfying its responsibilities under the Atomic Energy Act "to protect or to minimize danger to life and property". The description should include:

1. A flow diagram that depicts the considerations of safety during the life cycle of a defense nuclear facility through the major stages of: design, construction, operation, decontamination and decommissioning, and environmental restoration.

2. The DOE process for establishing the safety management plans for specific facilities, including a discussion of how the management plan is adjusted as a facility transitions from one stage to the next.

3. The principal safety elements (rules, regulations, orders, standards, and other requirements) that are applicable at each of the above stages.

4. The relationship between orders and standards identified in Requirements Identification Documents (RIDS) and nuclear safety regulations enforceable under the Price-Anderson Act Amendments; indicate how compliance and enforcement will be assured for both types of requirements.

5. The adaptation of the basic safety management system for defense nuclear facilities to the assembly and disassembly of weapons and the conduct of weapons testing.

C. Provide views on the advisability and feasibility of establishing a DOE complex-wide self-appraisal capability modeled on that used by the Institute for Nuclear Power Operations (INPO).

II. Nuclear Safety Responsibilities and Organizational Arrangements

In this area, the report should:

A. Define the safety responsibilities of all organizations which have such responsibilities for defense nuclear facilities, including DOE Headquarters, field offices, contractors, and oversight organizations. The responsibilities of the following Headquarters positions should be addressed: Under Secretary, Assistant Secretaries for Defense Programs, Environmental Management, Environment, Safety and Health, the Associate Deputy Secretary for Field Management, and the Directors for the Office of Laboratory Management and the Office of Intelligence and Security. Where safety responsibility has been assigned and then delegated, this should be indicated.

B. State the principles embodied in assignments of safety responsibility for defense nuclear facilities, and compare them to parallel principles applied in commercial nuclear practice. Examples for such principles are: clear separation of line management responsibilities and functions from independent oversight functions and responsibilities; quality assurance group reporting directly to high-level management.

C. Identify potential conflicts of interest in existing safety assignments, and what actions (if any) are planned to eliminate these conflicts. For example, analyze the inherent problems, whether real and perceived, of having a single organizational element (ES&H) provide both technical support to the line and also conduct independent oversight of DOE compliance and enforcement programs. Another typical conflict of interest is the assignment of both line management and quality assurance functions to the same individual or group.

D. Describe in detail how the Office of Environment, Safety and Health will carry out independent oversight functions in light of its assigned functions to assist line organizations. Indicate how this Office will simultaneously assist line management, assess performance, and conduct enforcement actions at the same facility. Explain the actions to be taken by this office in performance-based safety compliance assessments at defense nuclear facilities, where performance is measured against DOE safety orders, regulations, and other standards and requirements of the contract.

E. List special measures, if any, which have been taken or will be taken to ensure that safety responsibilities for defense nuclear facilities are well-defined and understood throughout the Department, and its contractor organization.

F. Differentiate the relative roles of the contractor, DOE line management, and DOE oversight in executive safety management functions such as development and issuance of safety policies, orders, rules, standards and guides.

G. Provide an appraisal of the Department's current organization and capabilities relative to the safety functions identified in Item IA, and delineate changes needed to strengthen the nuclear safety management program.

If the Department wishes further information on either the intent of this report or its desired content, the Board is available for further discussions. Alternatively, your staff should feel free to contact Mr. Robert M. Andersen, the Board's General Counsel, for further guidance.

Sincerely,

JOHN T. CONWAY,
Chairman.

QUESTIONS REGARDING THE DOE ORGANIZATION PROMULGATED BY THE SECRETARY, DEPARTMENT OF ENERGY, IN JUNE, 1993

QUESTIONS ABOUT THE CURRENT DOE ORGANIZATION

About Safety Principles

1. Is the DOE organization based on the following principles?

The line organization is responsible for achievement of safety.

Confirmation that safety is being achieved must be provided independently by an organization entirely separate from the line.

Assignments of responsibility must be set forth clearly in writing, devoid of ambiguity and vagueness, at all levels from the Secretary down to and including the contractor.

These written assignments must be clearly understood and implemented and confirmed as such.

2. If the organization is not based on these principles, on what principles is it based?

About Organizational Objectives

3. Two stated objectives of the current organization are to:

assign more responsibility to field organizations and away from headquarters, and to provide assistance to line organizations by the ASEH organization.

What specific measures are needed to implement these generally-stated objectives and which of them have been put in place during the year that has ensued since the organization was established? What measures have been planned, but await implementation?

About Administration

4. Before the current organization was announced about a year ago the safety responsibilities of the various organizations involved were embodied in documents of many kinds: Orders, directives, memoranda of understanding, operations manuals, and the like.

Has a systematic effort been undertaken by the organization responsible for administering the Orders and directives system to assure that documents of the kind referred to have been revised so as to be consistent with the new organization?

If so, what is the status of this effort?

About Conformance with National Standards

5. National Standard ANSI/ANS 3.2-188, "Administration Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants," includes the following provision under Section 3.2: Assignment of Authority and Responsibility

"lines for authority, responsibility and communication for the plant operating and support organization shall be established and defined."

Does the current DOE organization meet this requirement and other accepted standards governing commercial nuclear practice?

6. A further provision of ANS/ANS 3.2 is as follows:

"The organizational structure and the functional responsibility assignments shall be such that: (1) Attainment of program objectives is accomplished by those who have been assigned responsibility for performing work. (2) Verification of conformance to established program requirements is accomplished by knowledgeable individuals who do not have responsibility for performing or directly supervising the work."

Is the planned use of EH personnel to "assist line organizations" in consonance with separation of functions intended by this provision?

About Staffing

7. What changes in staffing have been made to achieve the objectives of the current organization? Specifically, how many individuals

have been permanently reassigned from headquarters in DP and in EM to field organizations? How many positions (as distinguished from individuals)?

Congressional Mandated Test

8. The Congressionally-mandated test for adequacy as regards protection of public health and safety at defense nuclear facilities is that practices be comparable to those in commercial nuclear power. Are the principles on which the current DOE organization is based comparable to those in the commercial nuclear industry? For example, does DOE provide for comparably clear and distinct separation of the responsibilities of line and internal oversight organizations?

Associate Deputy Secretary for Field Management

9. Are the nuclear safety responsibilities of the Associate Deputy Secretary for Field Management (ADSFM) defined?

10. If so, have they been documented? Where?

11. The ADSFM has responsibilities for allocation of personnel and funding among field offices. Does this not endow ADSFM with a large influence on safety? Will ADSFM have the technical personnel qualified to judge among competing demands from field offices?

12. The Board was informed by one operations officer manager that ADSFM will prepare his performance appraisal. Presumably this applies to other managers of field organizations which report to ADSFM. Does this not give ADSFM *de facto* influence in safety matters?

13. To whom will differences between ADSFM and program assistant secretaries be referred for resolution?

14. Have memoranda of understanding or other arrangements concerning their respective safety responsibilities been prepared? If not, will they be prepared?

15. It seems evident that ADSFM has some safety responsibilities; likewise, the reorganization places heightened responsibilities on operations offices. Have these entirely new relationships been defined in writing? Will they be?

16. The Facility Representative (FR) ". . . is responsible to oversee the operating contractor to ensure safety of the workers and public." DOE Orders 5000.3B and 5490.19 define a FR as ". . . the primary point of contact with the contractor and will be responsible to the appropriate DOE Program Secretarial Officer (PSO) and Head of Field Organizations." In a letter dated September 10, 1993, Secretary O'Leary stated "The Office of Field Management is responsible for managing the Department's Facility Representative Program and will provide the centralized directions and guidance necessary to ensure a consistent approach across the complex. Is there not potential for conflict between Assistant Secretaries with program responsibilities and ADSFM which derive from this arrangement?

17. FM is the Office of Primary Interest for DOE Orders 4330.4A *Maintenance Management Program, 4700.1 Project Management System, and 6430.1A General Design Criteria.*

What are FM's responsibilities for ensuring the adequacy and implementation of these orders which relate to safety?

Are they in possible conflict with the responsibilities of line organizations in these safety-related matters?

Assistant Secretaries with Program Responsibilities (ASPRs)

18. Have the safety responsibilities of ASPRs been defined?

19. Some DOE documents obtained by the Board state or imply that responsibilities of ASPRs *remain unchanged.* Moreover, under the new organization, some key officials in headquarters assert that they intend to act as if there were no change. As previous questions indicate, there are clear indications that responsibilities of ASPRs have, in fact, changed. What has been done to clarify conflicting views among ADSFM, ASPRs, and operations offices?

20. Have the changes intended by current organization as between ASPRs and field organizations been addressed formally, as, for instance by memoranda of understanding?

21. The Board is aware that ASEM recognizes the need to define the respective responsibilities of EM headquarters and field organizations and has begun the definition process. When will this process be completed?

Office of Laboratory Management (OLM)

22. Does OLM have *any* assigned responsibility for safety?

23. Is it not reasonable to assume that matters involving OLM may arise (e.g., maintaining weapons personnel capability in laboratories) which affect safety? Does this not pose the likelihood that at least four DOE organizational units will be involved in matters affecting safety: ADSFM, ASPR, OLM, and Albuquerque Operations Office?

Office of Intelligence and Security (OIS)

24. What are responsibilities of OIS for emergency preparedness aspects of nuclear safety? Have they been defined?

25. Discussions with DOE gave evidence of uncertainties about relationships among the emergency preparedness unit, and ADSFM, ASPRs and Operations offices. How and when will these be clarified?

Assistant Secretary for Environment, Safety, and Health (ASEH)

26. Should not a basic responsibility of ASEH be to assure the Secretary independently, that assignment of nuclear safety lines of authority and responsibilities are well defined, are coherent and unambiguous, and are clearly understood among the organizations involved.

Does ASEH recognize this as a basic responsibility?

Has ASEH satisfied itself that these requirements have been met or that satisfactory progress is being made in meeting them?

27. The ASEH organization includes the organizational unit responsible for the content and development of nuclear safety standards; it also includes the unit responsible for independently confirming that they are being met by line organizations. How is the possible conflict implicit in this arrangement being addressed?

28. Specifically, for example, ASEH is responsible for the adequacy of DOE nuclear safety Orders and directives. They are known to be in need of improvement. The ASEH also is responsible for effecting such improvements. Who is responsible for independent confirmation that adequate progress is being made? (The far-reaching importance of nuclear safety Orders and directives to the DOE system for achieving safety makes this organization conflict a substantial one.)

29. The ASEH has stated that a function of EH is to assist line organization in safety matters. Does this not create a conflict of interest between providing assistance and making independent assessments in the matters and issues?

30. ASEH informed a Congressional Subcommittee that "Our approach is the 'teaming approach' which Tom Grumbly (EM) and EH are using to begin to apply sound worker protection practices at EM sites."

How will EH make independent oversight assessments of EM safety performance while carrying out a "teaming approach" with EM?

31. ASEH provided the Board on April 21 with the Work Plan of the Radiation Control Program Evaluation Team. With respect to organization, the Plan said: "A coherent and easily understood organizational chart should be prepared" and commented as follows: "Currently, there is no clear description of the organization which would allow an outside viewer to understand the hierarchical pattern as well as existing functional arrangements."

When will an organization chart be prepared?

For such recommendations of the Team as are approved by DOE, who will issue directions for their implementation?

32. ASEH discussed site representatives with the House Subcommittee on Oversight and Investigation on March 17, 1994 and indicated that "protocols" for them would be prepared. Are these protocols in place?

33. The Board understands that a reorganization of EH is about to be announced. Will the issues raised above be clarified or resolved by the new organization?

General

34. A recent GAO report exhibits a pronounced concern about the reporting relationships between ASPRs and operations offices. Have any written responses been made to these concerns, as, for example to GAO or Congress.

35. If ADSFM has responsibilities affecting safety (and this appears to be self-evident), will it need personnel with technical qualifications? How would this need be met, given that ASPRs and operations offices all have serious shortages of technically qualified personnel?

36. The GAO report referred to earlier stated that "over 90 percent of 114 senior DOE managers" believed that "organizational lines of authority and responsibilities" need to be clarified. And this was evident to GAO even before the new organization was established. What measures will be taken to correct this situation? What organization has the principal (lead) responsibility for correcting it? Does it recognize that it has this responsibility? What has been done to date?

37. What senior official, at a level above those who are themselves responsible for the problems implicit in the questions above, is responsible for seeing to it that they are resolved?

38. The current organization was established a year ago. Why have so many of the issues implicit in the questions cited above remained unresolved? Have the impediments to resolved them been removed?

39. What would be comparison between the Naval Reactors organization and that for other defense-related facilities show as regards strength in protecting public health and safety? Is there any doubt which is stronger?

40. The strength of the Naval Reactors organization as regards safety is due to strong direction and control from headquarters. In contrast, the current DOE organization intends that safety responsibility be shifted away from weak headquarters organizations to equally weak field ones. What evidence is there that the shift will work?

41. How does DOE rationalize having two organizational arrangements, which differ so

much in features which affect safety, as that for naval reactors and other defense facilities?

42. A decades-old criticism of DOE safety programs is that they rely too much on contractors. The previous DOE organization tried to correct this, in part by strengthening headquarters authority and capability. Why was this direction reversed? After a year is there any evidence of improvement?

43. When Secretary O'Leary and the Board appeared recently before the Senate Committee on the Armed Services, Senator Exon, presiding, characterized the Naval Reactors program as a "model one." Also, the Naval Reactor program is the only defense-related one excluded by Congress from Board oversight. Taking this as generally representative of Congressional attitudes, why should Congress and the public believe DOE has acted responsibility in establishing a weaker organizational arrangement than that of Naval Reactors for an inherently hazardous weapon activities like disassembling nuclear weapons? Would they in event of an accident?

44. Has DOE issued any instructions or directives which clarify or interpret the current organization since it was announced a year ago? Identify them.

45. Has any systematic attempt been made to ascertain whether safety responsibilities are understood clearly at all levels in headquarters and field organizations? If yes, with what results? If not, explain not having done so?

46. Commitments to the Board were made informally over a period of many months that the new organization would be explained so to answer Board questions. These commitments, made by the Secretary, Assistant Secretary (EM), and Assistant Secretary (EH), have not been met.

What is to be read into this failure to meet commitments concerning a matter of serious safety impact. Does it suggest there may be structural or other weaknesses in the organization which make it difficult to answer the questions posed? In any event, should not the Board have been informed as to why the commitments were not kept?

47. In the event of an accident or serious disarray in safety matters at a defense nuclear facility, would an objective investigation from outside DOE find the current organization sound from a safety point of view; or would DOE management be found to have been negligent?

48. Would it help DOE to convene a group of professionals, experienced in managing or regulating nuclear facilities, to review the current organization with respect to safety at defense nuclear facilities?

49. Would it not be prudent to obtain such advice before an accident with the objective of preventing it, rather than afterward to analyze its causes?

50. DOE has had difficulty in implementing Board Recommendation 90-2, regarding standards, issued over four years ago. Field organizations have shown far less understanding of the importance of this safety matter than headquarters organizations. Why shift responsibility to the field in such matters, when the need is to strengthen headquarters ability to elicit performance by the field?

[From the New York Times, June 21, 1994]

FLAWS FOUND IN INSURING SAFETY OF NUCLEAR BOMB PLANTS

(By Matthew L. Wald)

The ability of the Department of Energy to identify nuclear safety problems at its bomb plants and bring them to the attention of top officials was significantly reduced by a reorganization last year, a study by the General Accounting Office, an investigative arm of Congress, has found.

The department contended that the reorganization under Energy Secretary Hazel R. O'Leary had made operations more efficient and had created a more cooperative atmosphere. But the Congressional investigators said it had ended the arms-length, independent position of internal safety regulators. And when safety officials disagree about a procedure or a physical problem in the weapons complex, the report said, "No overall systematic approach exists for elevating issues, and the existing methods for doing so do not insure that safety issues will always be elevated up the D.O.E. hierarchy when necessary."

Identifying safety problems is a special problem for the department, which is mostly self-regulated. The department acknowledged in the mid-1980's that it had lost control of its weapons-production complex and that resulting environmental problems would cost tens of billions of dollars.

SECRETARY DEFENDS CHANGES

But Energy Secretary O'Leary said in a telephone interview yesterday that the reorganization, integrating safety experts with line managers, was helping to clean up the department's environmental and safety problems. Before, she said: "We had lots of oversight but no action as a result of the oversight. We need to get outcome as opposed to reports and studies."

Tara O'Toole, the Assistance Secretary of Energy for environment, safety and health, said in a telephone interview yesterday that the department's top officials had a good system for identifying, discussing and solving problems. She added that she now had influence over how money was spent to solve problems by all operating departments. "That's where you get authority in Government," she said, "not by bursting into the Secretary's office—which I have also done, by the way."

Safety officials' access to the Secretary has been a sore point in the department. When Mrs. O'Leary, took office last year, the department had an internal Office of Nuclear Safety that was independent of other divisions and reported directly to the Secretary. But Mrs. O'Leary moved that operation into the Office of Environment, Safety and Health.

The man who headed the safety office at the time, Steven Blush, sent Mrs. O'Leary a bitter letter of resignation in April 1993, saying that he had lost access to her because of the management structure she had established. As a result, he said, he had been unable to point out a plutonium contamination problem at the Lawrence Livermore National Laboratory in Livermore, Calif. The situation required immediate evacuation of some workers there, he said, because managers of the laboratory were not adequately dealing with the situation.

PREVIOUS SYSTEM

Mr. Blush was hired in the Bush Administration by Energy Secretary James D. Watkins, a retired admiral Mr. Watkins had modeled the department after the Navy's nuclear submarine program, of which he was a veteran, so that it provided for direct reporting to him of safety problems.

But current officials of the department question how well that worked. According to Dr. O'Toole, before the reorganization, safety responsibility was spread among five different officers. "Senior nuclear managers would get together and scream at each other," she said. "They would scream at each other in Admiral Watkins's presence, and he would reach a decision. I don't call that a process."

Mrs. O'Leary, a lawyer and former utility company executive, has concentrated on policy decisions rather than specific engineering questions.

The General Accounting Office report, which was requested by Senator William S. Cohen, Republican of Maine, is the second in the last few weeks to question the reorganization. The Defense Nuclear Facilities Safety Board, an advisory group, raised similar concerns in a letter to Mrs. O'Leary on May 6.

Senator Cohen said he planned to offer an amendment to the Defense Authorization Bill, which could reach the Senator floor this afternoon, to restore the separation between regulators and managers. The report said that Mrs. O'Leary wanted nuclear safety officials "to place equal importance on providing expert advice and assistance to line management," and that those officials, formerly regulators, were now using a "mentoring approach" in some areas. But that, the report said, made it difficult for them to regulate.

Senator Cohen said in a statement that the reorganization "is forcing the Nuclear Safety office to become a coach and a player at the same time it is supposed to be the referee."

While the Congressional report was short on specifics, it did give one example of how the new arrangements could limit the effectiveness of safety regulators. One Energy Department official told the investigators that his staff had helped establish a "lessons learned" program at the Hanford Nuclear Reservation near Richland, Wash., to evaluate past incidents as a guide to preventing them in the future. But those staff members could never assess the quality of the lessons learned program, he said, because having helped create it, they now "own" it.

But Mrs. O'Leary and Dr. O'Toole said that in such a case, the mentors would never be sent back to evaluate the program they had set up. Dr. O'Toole said it was essential that safety regulators be involved in operations because the department could never establish safety expertise in each of its many line operations.

Mrs. O'Leary said the department was in the middle of a major expansion of its safety force, and had added site representatives at two places that never had them: the Fernald Field Materials Center, near Cincinnati, one of the most polluted of the weapons plants, and Pantex, near Amarillo, Tex., where nuclear weapons are now being dismantled.

Under Mr. Watkins, the department was still running various chemical processing plants and preparing to reopen a nuclear reactor to make bomb fuel, but it has since given up nearly all processing activities. Nevertheless, the problems may be getting worse, department officials say.

"D.O.E. facilities may be becoming less safe, because of aging infrastructure, and the huge inventory we've accumulated," Dr. O'Toole said. "Things aren't O.K. now that we've stopped making bombs."

"Hazards, you name them and we've got them," she said.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2171) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2172

(Purpose: To provide for use of foreign contributions for the George C. Marshall European Center for Security Studies, and to waive charges for participants in activities of such Center)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], proposes an amendment numbered 2172.

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 249, between lines 7 and 8, insert the following:

SEC. 1068. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

Mr. NUNN. Mr. President, this amendment relates to the George C. Marshall Center for security studies. The amendment has been proposed by the Department of Defense. The Marshall Center was the brainchild of General John Galvin who as the commander in chief, U.S. European Command, and NATO's Supreme Allied Commander recognized the need for a center in which military and civilian defense officials of Eastern Europe and the former Soviet Union could become familiar with the manner in which defense matters are dealt with in democracies with market economies. General Galvin's concept has been nurtured by his two successors, General Shalikashvili and General Joulwan and has been endorsed by Secretaries of Defense Cheney, Aspin, and Perry.

The amendment accomplishes two things. First of all, it enables the Department of Defense to accept and use funds contributed by the German Government for the operation of the Marshall Center. The Marshall Center is in Garmisch, Germany and the German Government is co-administrator of the center. Second, the amendment would allow the Secretary of Defense to waive reimbursement from the countries of Eastern Europe and the former Soviet Union for the cost of the courses and seminars at the Marshall Center if the Secretary determines that such is in the national security interest of the United States. The countries of Eastern Europe and the former Soviet Union are not presently able to pay those costs. NATO countries, who have been invited to send one student for each course, will pay the expenses for their students.

Mr. President, I believe this is a very important program and I strongly recommend the adoption of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2172) was agreed to.

Mr. THURMOND. 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. 2173

(Purpose: To authorize the appointment by the Secretary of Energy of certain scientific, engineering, and technical personnel)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator GLENN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GLENN, proposes an amendment numbered 2173.

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 370, strike out line 3 and all that follows through page 371, line 6, and insert in lieu thereof the following:

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Nothwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate action to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

Mr. NUNN. Mr. President, this amendment would strike the current provision in the bill providing DOE with the authority to hire under exceptions to civil services laws and include a substitute provision.

I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2173) was agreed to.

Mr. THURMOND. 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. 2174

(Purpose: To require a study on the feasibility and advisability of beaming high power laser energy to satellites)

Mr. NUNN. Mr. President, on behalf of the Senator from California [Mrs. FEINSTEIN], 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 Mrs. FEINSTEIN, proposes an amendment numbered 2174.

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 59, between lines 9 and 10, insert the following new section:

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) STUDY.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

Mrs. FEINSTEIN. Mr. President, I urge my colleagues to support this amendment to require a study on the feasibility and advisability of beaming high power laser energy to satellites for peaceful purposes. In particular, one such proposal is the Space Energy Laser—SELENE—project, located at China Lake Naval Air Warfare Center in California.

SELENE is an innovative proposal to develop a land-based powerplant to supply electrical power through laser light conversion to orbiting satellites. This power will extend the lifetime of satellites in orbit and make it feasible to insert smaller satellites into geostationary orbit at reduced cost. The system consists of a powerful free electron laser and a large adaptive optic telescope to beam laser power through the atmosphere to satellites in geosynchronous orbit. I understand that the concept of beaming laser power through the atmosphere has already been experimentally demonstrated.

Most of the commercial satellites over the United States could be reached by a laser/telescope system located on the Naval Air Weapons Center at China Lake. Additionally, I believe China Lake would be an ideal location for SELENE because it has 260 clear days per year, more than any other feasible site in the United States; astronomical seeing is excellent, and the area is entirely surrounded by restricted airspace. In addition, SELENE would benefit California and the China Lake area by potentially bringing over 300 jobs and an annual operating budget of $50 million to the region.

The Department of Defense should study the SELENE project and other innovative proposals, and conduct an environmental impact statement at the China Lake site. Further, because the SELENE project could be extremely beneficial to military, civil, and commercial users, a cooperative agreement with NASA should also be explored. This innovative proposal could lead to reduced satellite costs for both industry and Government, and would increase U.S. competitiveness.

I urge my colleagues to support this amendment so that the Congress will be better informed and better able to make decisions on high power laser energy projects, such as SELENE, that could provide long-term benefits to the United States and the entire international community.

Mr. NUNN. Mr. President, this amendment requires the Secretary of Defense to study the cost and feasibility of the space energy laser at China Lake Naval Air Weapons Station.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2174) was agreed to.

Mr. THURMOND. 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. 2175

(Purpose: To improve the authority for Army industrial facilities to sell manufactured articles and services to persons outside the Department of Defense)

Mr. THURMOND. Mr. President, on behalf of Senator NICKLES, I send an amendment to the desk and ask for its immediate consideration. This is an amendment to authorize industrial funds for facilities to engage in the sale of nondefense goods and services.

Mr. President, I understand this amendment has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for Mr. NICKLES, proposes an amendment numbered 2175.

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 27, between lines 9 and 10, insert the following:

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

Mr. NICKLES. Mr. President, I want to thank the Senate Armed Services Committee members and staff for working closely with me on this amendment.

It will allow Army industrial facilities to do defense related work outside DOD if no commercial source is available to do the work in the United States. This is important because current law would prevent this from happening.

Current law could have forced the Army to purchase goods or services abroad if they could not be made or provided commercially in the United States. With this provision, these facilities will keep this work in the United States.

Once again, I thank the committee members and staff for their cooperation and assistance in having this amendment included in the bill.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2175) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2176

(Purpose: To authorize the Secretary of Defense to designate up to three industrial facilities of the Armed Forces to sell unique articles and services to persons outside the Department of Defense.)

Mr. NUNN. Mr. President, on behalf of the two Senators from California, Senator BOXER and Senator FEINSTEIN,

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 2176.

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 110, between lines 19 and 20, insert the following:

SEC. 357. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

Mrs. FEINSTEIN. Mr. President, I rise today, an original cosponsor of this amendment, to give depot maintenance facilities the authority to provide goods and services to non-Department of Defense [DOD] customers. This is an important amendment, particularly for McClellan Air Force Base, which is a premiere Air Logistics Center in Sacramento, CA.

The ability to provide such goods and services to non-DOD customers would achieve many goals, including: Enhance commercialization of dual-use technologies; promote economic growth and create jobs; sustain and support capabilities needed for defense applications; increase utilization of defense assets which will lower operating costs to DOD and ultimately the American taxpayer; share the costs of maintaining the industrial base; remove barriers that prevent sharing of expensive-to-duplicate capabilities; and provide State and local governments and commercial interests with access to capabilities that are not available in the commercial sector.

Depot maintenance facilities like McClellan AFB have a great deal of dual-use capability. Unfortunately, much of this capability is not fully utilized because under current law depot facilities are restricted to supporting non-Federal customers in only research and development functions.

This legislation permits the Secretary of Defense to designate up to three depot maintenance facilities, like McClellan AFB, as pilot bases with the authority to provide goods or services—not just research and development—that are not available in the private sector. The legislation contains a number of conditions that will ensure this new authority is not abused and that private sector interests are protected.

The articles or services provided under the new authority cannot be available from a commercial source in the United States—this will ensure that the depot facilities will not be competing with the private sector. Also, the sale of the articles or services by the depot facilities cannot interfere with the military mission or related work performance of the facilities. In other words, the military mission of the depots will remain the primary mission, as it should.

This legislation makes sense for the depot facilities, the potential customers of the dual-use capabilities, and the American taxpayer. In addition, for McClellan AFB in Sacarmento, it could mean increased workload and less excess capacity. I strongly support this amendment and urge its adoption.

Mrs. BOXER. Mr. President, the amendment I have just sent to the desk authorizes the Secretary of Defense to allow up to three Armed Forces industrial facilities to sell goods and services to sources outside the Department of Defense. The amendment specifies that such sales can only be made when the Secretary of Defense determines that the transaction is in the public interest and when the goods or services in question are not available from a commercial source located in the United States. This final provision is very important because it guarantees that military depots will not compete for business with the private sector.

This amendment will allow unique technologies with dual-use applications to be shared with the private sector. It is by any measure a win-win proposition for all concerned.

Let me give an example of how this amendment may be applied.

In 1989, the McClellan Nuclear Radiation Center was built at a cost of $16 million. The MNRC was created to provide real-time nondestructive analysis of aircraft structures and components. Because of its unique configuration, the MNRC can detect very low levels of corrosion within metallic structures. The MNRC is the only facility in the United States that can provide large structure, real-time neutron radiography.

Recently, a major commercial airline was experiencing problems with a particular joint in several aircraft. Its most sophisticated diagnostic tests were unable to identify the problem. The airline asked the leadership at McClellan to try to solve this mystery. By utilizing the unique capabilities of

the MNRC, they were able to identify the problem and the airline was able to fix it, ensuring safer aircraft for the flying public. The company was so impressed that it offered to pay the Air Force to use the MNRC on a regular basis, but because of existing laws and regulations that prohibit military depots from selling goods and services outside the DOD, McClellan had to decline the offer.

The MNRC can also be used to produce medical isotopes that are used in cancer research and therapy. Currently, companies must often use foreign suppliers for irradiation services because of the lack of advanced reactors in the United States. The University of California at Davis considers the MNRC such valuable cancer-fighting tool that it wants to establish a research and patient treatment center at McClellan. Again, UC Davis and the patients at the treatment center would pay the Government for the privilege of using the MNRC. However, restrictive laws and regulations prohibit the MNRC from selling its unique services outside the DOD, even for such a clearly valuable purpose.

Mr. President, it simply makes no sense to prohibit military depots from using their unique facilities to advance the public interest. It is especially nonsensical when commercial sources are willing to pay fair market value to purchase these unique goods and services. The money raised could be used to reduce the budget deficit or reinvest in critical technologies in both the civilian and military sectors.

I am grateful that the chairman of the Armed Services Committee has decided to accept this amendment and I want to thank him and his staff for providing a number of useful suggestions.

Mr. NUNN. Mr. President, this amendment would authorize the Secretary of Defense to designate up to three DOD industrial facilities to sell articles and services in DOD facilities to persons outside DOD as long as those sources are not available from any U.S. commercial source.

I urge the adoption of the amendment.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2176) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2177

(Purpose: To provide transition assistance to certain workers affected by reductions in United States exports of defense articles and services)

Mr. NUNN. Mr. President, on behalf of Senator PRYOR and 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. PRYOR, for himself and Mr. BINGAMAN, proposes an amendment numbered 2177.

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 188, between lines 6 and 7, insert the following new section:

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OR DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d-1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Mr. NUNN. This amendment would revise the eligibility rules for the defense conversion work retrainer programs under the Job Training Partnership Act. The coverage would be expanded to cover workers who were dislocated because of reductions in the export of defense articles and defense services through U.S. policy.

I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, we have no objection.

JTPA SERVICES FOR DISLOCATED DEFENSE EXPORT WORKERS

Mr. PRYOR. Mr. President, a great deal of attention has been focused on the plight of workers who have lost their jobs because of base closures or because of defense plant closures due to reductions in Pentagon procurement. The amendment I am currently offering would assist another group of defense workers who are dislocated due to U.S. Government policy, namely those workers who produce defense goods and services for export.

As all of us know, a company must get the approval of the Federal Government to export weapons. Sometimes this authority is not granted, and as a result, companies must shut down production lines and layoff their workers. As U.S. weapons procurement falls, more and more defense contractors are looking for overseas markets for their products, so I imagine layoffs related to prohibited exports are increasing.

These layoffs are the result of Government policy decisions just as the layoffs resulting from a base closure or reduced Pentagon procurement are. These workers have lost their jobs, not because they failed to compete effectively in the market, but because the conditions for their employment which were tied to Government policy, have disappeared. For this reason, I believe these laid off defense export workers deserve the same training and employment services under the JTPA program that other defense dislocated workers receive.

There is another, even more compelling argument for making these JTPA

benefits available, namely it helps reduce the pressure for weapons exported by creating alternatives for the workers involved in the weapons production. We have all heard the economic arguments that are sometimes used to justify weapons exports. If the foreign sales aren't approved, we are told, hundreds or thousands of workers will lose their jobs, and families and communities will be devastated. Few arguments are more persuasive with Members of Congress.

Nevertheless, these foreign sales only exacerbate the arms proliferation problem threatening global security. One only has to look at the bloodshed in Rwanda, Bosnia, or the Middle East to appreciate the misery that arms proliferation is causing for poor, innocent people all across the globe. I regret our country's participation in the blooming trade, and I fear that it is becoming the policy of our country to become the arms merchant to the world. This amendment will make it easier for us to reverse this policy by making it less painful for us to deny permission to companies to export their weapons.

This amendment does not authorize any new expenditures. Congress has already appropriated money in years past which remains available to provide JTPA services to defense impacted workers. The amendment will help bring equity to defense export workers and it will make it a little easier for us to put a check on deadly defense exports. I ask my colleagues' support for this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2177) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2178

(Purpose: To revise the notice requirements applicable to pending or actual terminations of defense programs)

Mr. NUNN. Mr. President, on behalf of the Senator from Arkansas, Mr. PRYOR, 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. PRYOR, for himself, Mr. KENNEDY, Mr. HOLLINGS, Mr. METZENBAUM, Mr. BINGAMAN, Mr. PELL, and Mrs. BOXER, proposes an amendment numbered 2178.

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 249, between lines 7 and 8, insert the following new section:

SEC. 1068. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE REQUIREMENT ON WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

Mr. NUNN. Mr. President, this amendment would change current requirements of the Secretary of Defense to notify defense contractors of the pending defense program reductions terminations from 180 to 90 days. I urge the adoption of the amendment.

Mr. THURMOND. We have no objection.

EARLY NOTICE OF DEFENSE CONTRACT TERMINATION

Mr. PRYOR. Mr. President, this amendment represents another installment in our efforts to make the path of defense conversion easier for our Nation to travel. Right now, an average of 1,000 workers a day are losing their jobs due to reductions in defense spending. Aerospace employees in California, shipbuilders in New England, even missile workers in my own hometown of Camden, AR, have gotten their pink slips as defense contracts have been cut unexpectedly and production lines closed. Too often these layoffs usher in a lengthy period of unemployment, financial hardship, and emotional turmoil for these workers before they find new jobs and get back on their feet.

This amendment is designed to address the problem of unexpected layoffs and the lengthy periods of unemployment that usually follow by providing defense workers with early notice of defense contract terminations. Under the amendment, the Secretary of Defense will be required to notify prime defense contractors within 90 days after the submission of the President's budget or the enactment of an appropriations bill of the likely termination of major defense contracts. Prime contractors are in turn required to notify sub-contractors of the termination, who are then required to notify employees.

This early notification will obviously give workers more time to begin looking for a new job or to make other plans. The real significance of this amendment, however, is that when the early notification is given, it makes the affected workers eligible for the training, adjustment assistance, and employment services of the federal Job Training Partnership Act. Early access to these services lessens the time that these workers will be unemployed, thereby easing the blow of the contract termination.

This recommendation for early termination notice was made by the Senate Democratic Defense Reinvestment Task Force, which I chair, in 1992. This recommendation was enacted in the fiscal year 1993 DOD Authorization bill, and the requirement at that time was for a 30-day notice of contract termination. This period of time was found to be too short for the Department of Defense to comply with, so last year the notice requirement was increased to 180 days. This amendment attempts to strike a reasonable balance by setting the notice requirement at 90 days, which will give the DOD adequate time to insure compliance, while providing affected workers the vital early notice that they need.

This amendment will not cost the Government anything, it will not disrupt DOD operations in any way, but it will make a big difference in the lives of the defense workers who helped this country win the cold war. This may seem like a small, and even annoying, detail to some personnel at the DOD, but it is a very significant matter for defense workers who will be losing their jobs, and we owe them this much consideration. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2178) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2179

(Purpose: To authorize the transfer of the vessel Guadalcanal (LPH 7) to the Intrepid Museum Foundation upon decommissioning of such vessel)

Mr. NUNN. Mr. President, on behalf of Senator MOYNIHAN and Senator D'AMATO, the Senators from New York, 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 Georgia [Mr. NUNN] for Mr. MOYNIHAN, for himself and Mr. D'AMATO, proposes an amendment numbered 2179.

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 249, between lines 7 and 8, insert the following:

SEC. 1068. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS *Guadalcanal* (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATIONS.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal 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.

Mr. NUNN. This amendment offered on behalf of Senator MOYNIHAN and Senator D'AMATO authorizes the Secretary of Navy to transfer the obsolete vessel *Guadalcanal* to the not-for-profit organization Intrepid Museum Foundation, New York.

I urge the adoption of the amendment.

Mr. THURMOND. We have no objection.

TRANSFER OF THE U.S.S. GUADALCANAL

Mr. MOYNIHAN. Mr. President, as we debate a defense authorization bill that reduces defense spending for the 10th consecutive year, I rise to offer an amendment that would in a small but significant way mitigate the effects of the declining budget. Among the ships scheduled to be decommissioned in coming months and years is the U.S.S. *Guadalcanal*. She still has some useful life in her hull, and rather than leave her to be scrapped this amendment would transfer ownership of the *Guadalcanal* to the Intrepid Museum Foundation in New York City. There she will be put to good use as a heliport, and as an important addition to the outstanding museum now occupying the U.S.S. *Intrepid*.

The first *Guadalcanal* was launched in June 1943, less than a year after the onset of the bloodiest battles in the Pacific theater and less than a year before I enlisted in the Navy. That ship commemorated the 6-month struggle for a toehold in the Solomon Islands, a battle fought on land, sea, and air for a strip of land 90 miles long and 25 miles wide. It cost 1,500 American lives and 5,000 casualties.

The *Guadalcanal* distinguished herself in the Atlantic, earning three battle stars and sharing in the Presidential Unit Citation awarded to Anti-Submarine Task Group 22.3 on June 4, 1944, the *Guadalcanal* became the first American ship since 1815 to board and capture an enemy vessel when her troops boarded a disabled German U-boat before the crew could scuttle it. The *Guadalcanal* towed the U-boat to Bermuda, and the intelligence information from the captured sub was vital in protecting United States shipping the final year of the war.

The current *Guadalcanal* was commissioned July 20, 1963, one of seven assault carriers in the *Iwo Jima* class designed to land troops and supplies by means of assault transport helicopters. In the 1960's she sailed mostly in the Caribbean, but also served as the recovery ship for the *Gemini 10* and *Apollo 9* spaceflights. More recently, the *Guadalcanal* served off Lebanon, in the Persian Gulf during Desert Storm, and off Somalia.

The *Guadalcanal* has done her job for three decades. In retirement, I propose that she continues to see helicopters take off and land, now for peaceful purposes, while continuing to remind us of her legacy and the sacrifices that brought us to a time of lessened threat and conflict. The Intrepid Museum will operate her as a much-needed heliport in midtown Manhattan. The venture should prove quite successful. Profits will be used to support the activities of the Intrepid Foundation, which are to operate a floating museum that brings to life much of the Nation's military history at sea and in the air, as well as the space program.

The Intrepid Museum has demonstrated its ability to maintain and operate a decommissioned vessel such as this one. The Navy supports this transfer, and Mayor Giuliani welcomes it. I hope my colleagues will agree that it is an ideal next stage in the career of a proud and distinguished ship. I ask unanimous consent that letters from Admiral Natter, Deputy Mayor Reiter, and Larry Solinski of the Intrepid Foundation be printed in the RECORD.

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

OFFICE OF LEGISLATIVE AFFAIRS,
DEPARTMENT OF THE NAVY,
Washington, DC, June 23, 1994.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to convey Navy support for your proposed amendment to the Fiscal Year 1995 Defense Appropriation Bill concerning transfer of USS GUADALCANAL to the Intrepid Museum Foundation. It is our intention to effect this transfer at no cost to the government. We look forward to continuing to work with the Foundation as this project moves forward.

As always, if I can be of any further assistance, please let me know.

Sincerely,

R.J. NATTER,
Rear Admiral, U.S. Navy.

OFFICE OF THE MAYOR,
THE CITY OF NEW YORK,
New York, NY, June 23, 1994.

Re proposal to use the Guadalcanal as a heliport.

Senator DANIEL P. MOYNIHAN,
405 Lexington Ave.,
New York, NY.

DEAR SENATOR MOYNIHAN: I am writing to express the City's support for the proposal by the Intrepid Museum to use the Guadalcanal as a heliport. A rare opportunity exists to satisfy both the City's heliport needs and ensure that the Guadalcanal is preserved and memorialized.

The process of securing all the necessary city, state and federal approvals, as well as funding, for the project has just begun. The City plans to work closely with the Intrepid, the local community and elected officials to make this proposal a reality.

Any assistance you can provide would be greatly appreciated.

Sincerely,

FRAN REITER,
Deputy Mayor.

INTREPID SEA, AIR, AND SPACE MUSEUM,
New York, NY, June 24, 1994.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: The Intrepid Sea Air Space Museum is in the unique position to provide an invaluable service to the City of New York and needs your help.

For some time, the City has been searching for a practical alternative plan to solve its heliport problem. Of the four existing heliports, two are under pressure to close down and another must reduce its operations by half. At issue is safety, noise and a public park. Because of safety and the land congestion on Manhattan, a spacious heliport in midtown is not possible. What is needed is a floating barge with a hangar, flight deck and support facilities which could be anchored in mid-town, yet be vehicle accessible and far enough away from congestion to provide an acceptable level of safety. Cost to do this however, puts it well beyond economic feasibility.

In December 1993, we discovered that the U.S. Navy is taking USS GUADALCANAL, LPH-7, out of active service and immediately scrapping her. Valued at 401 million dollars, GUADALCANAL was the first built-for-the-purpose helicopter carrier, considerably smaller and efficient to run, compared to the big carriers. Surprisingly, she will not be put in reserve at all, but go directly to scrap with all of her systems in good working order. If someone could afford to build her, she is exactly what is needed for Manhattan's heliports.

The city has no expertise at managing and preserving historic ships. However, as the world's largest naval museum, the Intrepid has substantial ability to do so. By locating GUADALCANAL at the end of the Intrepid's pier, all of the noise, safety and access issues are solved and the communities are happy.

GUADALCANAL also becomes the least expensive plan to implement, roughly 7.5 million dollars for conversion and site prep. Just building a helicopter landing platform in the river without any support facilities is 12–14 million dollars.

Given time, the project is guaranteed success. But time is not available, the ship is being stricken as a cost saving on Sept. 1. She's already begun her "take down" period. A task force has been set up, co-chaired by the Governor's and Mayor's offices to expedite the permit and approval basis. The Navy

is comfortable as long as the Intrepid maintains the ship as part of our collection.

GUADALCANAL's facilities will be able to absorb the closures and reduction of the existing heliports and even anticipated growth. She also has facilities which could prove invaluable: 300 bed hospital, berthing for 1800, shop facilities and electricity generating equipment. We are actively studying electrical generation and providing a site for a New York State Veterans Foundation.

Her compact size and efficiency make GUADALCANAL ideal for the proposed use of a unrestricted municipal heliport. Any excess income would provide support to the Intrepid Museum to preserve the entire collection. This is especially critical since the loss of considerable NYS support because of the recession.

Our critical path is the 7.5 million capital construction to set up the municipal heliport for which we need Congressional support.

Once this is secure, the GUADALCANAL becomes a significant symbol of conversion of an obsolete, yet valuable, military asset into much needed civilian use while preserving the vessel's significance as part of the museum.

It is a rare opportunity to reuse something that would otherwise be scrapped.

Please call if you have any questions, we hope that your good office can help to make this happen both for the Intrepid and New York.

Sincerely,

LAWRENCE SOWINSKI,
Executive Director.

Mr. D'AMATO. Mr. President, I want to join with my distinguished colleague, the senior Senator from New York, in supporting the transfer of the U.S.S. *Guadalcanal* (LPH–7) to the Intrepid Museum Foundation. Amphibious assault ships are, and have long been, central to the Marine Corps' ability to strike rapidly and stealthily from the sea. It is fitting indeed that the *Guadalcanal* be memorialized at the Intrepid Museum. All that the Marines are today traces back to that tiny island and a handful of men in a shoestring operation that began the long road to Tokyo. I commend my colleague for both his sense of history and his commitment to protecting and promoting the proud heritage of the U.S. Navy and Marine Corps.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2179) was agreed to.

Mr. THURMOND. 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. 2180

(Purpose: To authorize funds for planning and design for military construction for the consolidation of the operations of the Defense Finance and Accounting Service)

Mr. NUNN. Mr. President, on behalf of the Senator from Ohio [Mr. GLENN] 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. GLENN, for himself and Mr. THURMOND, proposes an amendment numbered 2180.

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 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,236,058,000".

On page 271, line 25, strike out "$45,960,000" and insert in lieu thereof "$51,960,000".

On page 274, below line 25, add the following:

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

Mr. NUNN. This amendment adds $6 million to the defense agencies planning and design account for planning and design activities to support the DFAS site consolidation plans.

I urge the adoption of the amendment.

DEFENSE FINANCE AND ACCOUNTING SERVICE PLANNING AND DESIGN AMENDMENT

Mr. GLENN. Mr. President, the amendment I am proposing will provide funds for planning and design activities to support the construction requirements for the consolidation of the Defense Finance and Accounting Service [DFAS] operations.

In May of this year, the Secretary of Defense approved plans to consolidate the DFAS operations at five centers and 20 satellite locations. Several of the sites selected in the consolidation plans require modifications to accommodate DFAS activities. Actual construction funds for these renovation activities will be requested beginning in fiscal year 1997. However, $6 million is required in fiscal year 1995 in order to properly plan and design these construction requirements.

Adopting this amendment will allow the DFAS consolidation plans to proceed at a quickened pace and will facilitate the Department's efforts to put its financial house in order. I urge the adoption of the amendment.

DEFENSE FINANCE AND ACCOUNTING CENTER DESIGN AND PLANNING

Mr. THURMOND. Mr. President, after almost a 1-year delay in consolidating the Defense Finance and Accounting Service operations, the Department announced their consolidation plan in early May of this year. What had originally been contemplated as 5 mega centers turned out to be 5 major centers and 20 satellite locations. Despite the delay, I applaud the Department's decision, especially since it included a site in Charleston, SC.

Now that a decision on the location of the accounting centers has finally been announced, our communities are faced with further delay because the Department did not anticipate the planning and design funding for the increased number of satellite locations. This amendment would provide $6 million to support planning and design work at 12 satellite sites. The funds for the remaining sites are already included in the budget request.

Mr. President, this amendment will assist communities across the Nation and expedite efficiency in the finance and accounting system. I urge adoption of the amendment.

Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2180) was agreed to.

Mr. THURMOND. 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. 2181

(Purpose: To require the Assistant Secretary of Defense (Health Affairs) to use certain cost experience in prescribing standards, limitations, and requirements relating to cost of pediatric care under any managed care system established for the Department of Defense)

Mr. THURMOND. Mr. President, on behalf of Senator WARNER, I send to the desk an amendment that directs the Department of Defense to study costs of providing pediatric care in the Tidewater, VA Tricare Catchment and establish a baseline for pediatric care costs. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. WARNER, proposes an amendment numbered 2181.

Mr. THURMOND. 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 170, after line 24, insert the following:

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102–190 (105 Stat. 1402). The Assistant

Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

PROVISION OF PEDIATRIC CARE COST ANALYSIS FOR THE TIDEWATER TRICARE PROGRAM

Mr. WARNER. Mr. President, this amendment requires a cost analysis of the delivery of pediatric health care under the Tidewater Tricare Program operating in the Hampton Roads region of Virginia.

These figures will be used to provide a baseline for the potential establishment of a capitated pediatric network demonstrating the feasibility of reducing total costs while improving access and quality. Analysis will be conducted by Tidewater Tricare based on demonstrated costs and need. The pediatric network should include all appropriate Military Treatment Facilities [MTF's] and community resources.

The pediatric network would be established only after the Assistant Secretary of Defense for Health Affairs certifies to Congress that the baseline costs for pediatrics have been fully identified, and that the capitated network would have a positive impact on costs, access and quality in the region.

The Tidewater Tricare Program has been very successful in developing a multiservice approach to the delivery of health care to military families in my state. I believe Tidewater Tricare can serve as a model on which the Department of Defense can base the implementation of the lead agent concept throughout the 12 national regions as mandated by the Congress.

If we are to achieve the goals of managed care in the Military Health Care System, it is essential that we have baseline data from which to proceed. My amendment can serve as the first step in achieving a national military capitated pediatric network that fully manages the care of all eligible children both within and outside the existing direct care system.

Mr. President, I thank the chair, the managers of the bill, and express by deep appreciation for the support of all of my Senate colleagues.

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

Mr. THURMOND. Mr. President, we approve.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2181) was agreed to.

Mr. THURMOND. 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. 2182

(Purpose: To increase the authorization of appropriations for functions of the Army for support of military family housing)

Mr. THURMOND. Mr. President, I send an amendment to the desk on behalf of Senator COATS that adds $60 million to the Army family housing operations accounts fund to cover a shortfall in the maintenance of family housing and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for Mr. COATS, proposes an amendment numbered 2182.

Mr. THURMOND. 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 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof "$1,728,086,000".

On page 253, line 11, strike out "$1,007,708,000" and insert in lieu thereof "$1,067,708,000".

ADDITIONAL FAMILY HOUSING FUNDING

Mr. COATS. Mr. President, I offer the following amendment for consideration.

As the defense budget has come down, one of the many factors of military life which has been effected is safe and secure housing for our personnel. No single quality of life issue matches the importance of proper shelter for our soldiers, sailors, airmen, and Marines, and their families.

During the last few years, the military has experienced a growing shortfall in the family housing operations and maintenance accounts. The challenge to our services in this changing fiscal and operational environment is to ensure suitable housing for service members. As funds for operations and maintenance shrink, much of the effort toward major repair, rehabilitation, and preventative maintenance has dwindled or has been eliminated altogether.

Within the services there is no flexibility to solve this funding problem. They have no authority to transfer funds between the military construction [MILCON] and family housing accounts.

The only other alternative available to them is to close housing units which cannot be economically repaired. This solution, however, does not save money. It merely shifts the bill from the family housing account to other military personnel accounts for moving expenses, temporary lodging allowances [TLS], and the basic allowance for quarters [BAQ] and variable housing allowance [FHA].

In the Army, the funding shortfall in fiscal year 1995 will be $60 million due to the deferral of required but not absolutely essential maintenance. The Army's housing inventory will decrease only 15 percent in the fiscal year 1985 to fiscal year 1999 timeframe, but funding for family housing will decrease by 35 percent. Some examples of the shortfalls, just within this service, are:

Fort Dix, NJ—the repair of a fire damaged unit was deferred; maintenance in the 4th quarter of the current year will be limited to emergency repairs only.

Fort Benning, GA—waiting time for housing increased by 5 months; interior painting extended to once in 5 years eliminate noncritical maintenance and repair.

Carlisle Barracks, PA—56 housing units awaiting funds for asbestos removal; Army War College students will paint their own quarters upon change of occupant.

Fort Huachuca, AZ—canceled the self-help program; eliminated exterior painting; reduced common area upkeep by half, resulting in increased habitats for snakes and vermin.

Fort Knox, KY—deferred lead-based paint removal; deferred freeze-damage repairs.

Fort Sill, OK—eliminated routine maintenance; eliminated interior painting and preventative maintenance.

I offer my amendment to increase the amount of funds available to the Army's family housing operations and maintenance account by $60 million.

This is done in an effort to stem the deterioration of the existing inventory of military housing units available to our military members.

Quality housing for their families is a very important element in the morale, performance and commitment of our service members. I urge my colleagues to support this amendment.

Mr. THURMOND. This has been cleared on both sides.

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

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2182) was agreed to.

Mr. THURMOND. 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. 2183

(Purpose: To authorize the Secretaries of the military departments to provide housing cost reimbursements or lodging in kind for Reserves performing annual training duty or inactive duty training)

Mr. THURMOND. Mr. President, I offer on behalf of Senator NICKLES and Senator LOTT, an amendment which authorizes the Secretary to reimburse Reserve citizens for costs incurred when they must occupy Government

quarters during Inactive Reserve training. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) for Mr. NICKLES, for himself and Mr. LOTT, proposes an amendment numbered 2183.

Mr. THURMOND. 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 158, after line 24, insert the following:

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

Mr. NICKLES. Mr. President, I want to thank the Senate Armed Services Committee members and staff for working closely with me on this amendment.

Its purpose is to clarify the authority to spend appropriated funds to pay military transient housing service charges as they relate to reserve duty. Reservists are currently billed for their quarters while they are temporarily residing in Government housing during periods of annual active duty or inactive duty training.

This amendment is important because without it reservists may be forced to pay for housing out of their own pockets while on training assignments. This could lead to a lack of drill participation and this would impact readiness and reserve retention.

Once again, I thank the committee members and staff for their cooperation and assistance in having this amendment included in the bill.

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

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2183) was agreed to.

Mr. THURMOND. 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. 2184

(Purpose: To require the Secretary of Defense to conduct a study of spousal abuse by Armed Forces personnel)

Mr. NUNN. Mr. President, on behalf of the Senator from California, Senator BOXER, 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 Mrs. BOXER, for herself, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. BRADLEY, proposes an amendment numbered 2184.

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

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

The amendment is as follows:

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

SEC. 1068. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) CONTENT OF REPORT.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

Mrs. BOXER. Mr. President, this amendment requires the Secretary of Defense to conduct a study on the problem of spousal abuse in the military and report back to the Congress within 6 months. I am honored to have as cosponsors of this amendment all the Democratic women of the Senate as well as the Senator from New Jersey [Mr. BRADLEY].

The military reflects the problems we have in civilian life, so it should come as no surprise to anyone that there is a spousal abuse epidemic in the Armed Forces. Domestic abuse in the military is on the rise. In the Army, the total number of cases reported has increased by 26 percent over the past 5 years.

The Department needs to address this crisis head-on. It is far too important to sweep under the rug. But while the magnitude of the problem is disturbing, I believe that the Armed Forces are uniquely positioned to address it. Military leaders can send the message down through the ranks that family violence of any kind will not be tolerated. The Pentagon leadership must demand that Commanding Officers take action on all incidents of spousal abuse, and Commanding Officers must provide a safe environment for military families. They must demand that the soldiers, sailors, and airmen and women under their command treat all their colleagues with respect.

The report required by this amendment will address the frequency of spousal abuse in the Armed Forces and discuss the causes of that abuse. The report will analyze the current programs for eliminating spousal abuse and, perhaps most importantly, the amendment requires the development of a comprehensive strategy for eliminating spousal abuse in the military.

It is my hope that this final requirement will focus the Pentagon leadership on this problem. There are a number of programs designed to combat family violence in the military—some of them are highly successful—but I believe that a department wide approach is required.

I understand that this amendment has been cleared on both sides, and I ask for its immediate consideration.

FAMILY ADVOCACY PROGRAM

Mrs. BOXER. As the Chairman knows, I am very concerned with the problem of spousal abuse in the armed services and I have offered an amendment requiring the Department of Defense to conduct a study on the issue and transmit its findings to the Congress.

It is my understanding that the Family Advocacy Program, the Department's principal program for the treatment and prevention of family violence in the armed services, is funded by the Department of Defense Domestic and Overseas Schools Program. I ask the Senator from Georgia, is my understanding correct?

Mr. NUNN. The Senator from California is correct.

Mrs. BOXER. It is my further understanding that the House version of the Department of Defense Authorization Act reauthorized the Department of Defense Domestic and Overseas Schools Program, which fully funds the administration's request of $79.2 million for the Family Advocacy Program.

Mr. NUNN. The administration's request of $79.2 million for the Family Advocacy Program represents an increase of $1.3 million over last year.

Mrs. BOXER. Although the Senate bill does not specifically address funding the Department of Defense Domestic and Overseas Schools program or the Family Advocacy Program, it reauthorizes the both programs and fully funds the President's budget request in that area.

Mr. NUNN. The Senator from California is correct. Although the Senate committee did not specifically address the Family Advocacy Program, I do not believe that indicates any lack of support on behalf of the members of the committee. On the contrary, the committee has always been supportive of efforts to improve family stability.

Mrs. BOXER. I thank the Senator for his comments. The report required by my amendment will include an evaluation of the effectiveness of programs designed to curtail spousal abuse in the Armed Forces. If that report recommends adjustments in the Family Advocacy Program, will the Senator consider implementing the recommendations in the next fiscal year?

Mr. NUNN. I would certainly consider the recommendations of the report required by the Senator's amendment. I look forward to reviewing it.

Mr. BRADLEY. Mr. President, I am pleased to rise in support of the amendment offered by the Senator from California, [Mrs. BOXER]. Like her, I was shocked by the statistics recently released on spousal abuse in our military. You have all seen them. I do not need to repeat them.

Mr. President, violence in America goes deeper and comes closer to many families, civilian and military, than we would like to admit. Domestic violence, in particular, is America's dark little secret.

A few weeks ago a woman told me the following story: Her husband used to beat her regularly. She wanted to leave, but feared the consequences for herself and her children. One day her 2-year-old witnessed her husband strangling her. Finally, that incident was the catalyst for the woman to seek refuge with her 2-year-old and her 4-year-old in a shelter for battered women. A few days later, the 2-year-old got mad at the 4-year-old. The mother turned to see what was the matter and witnessed the 2-year-old going for the throat of the 4-year-old. I have thought often about that image of violence being passed on from one generation to another.

"The most dangerous place to be," a policeman recently said, "is in one's home between Saturday night at 6 p.m. and Sunday at 6 p.m." He forgot to add, "Especially if you're a woman." A 10-year study found that in cases where the identity of the killer in known over one half of all women murdered in America were killed by a current or former male partner or by a male family member. Several studies have shown that women who have been victims of domestic physical assault may comprise up to 19 to 30 percent of injured women seen in emergency departments. These studies also show that violence against women in the home causes more total injuries in America than rape, muggings, and car accidents combined. Sudden, stark, incomprehensible, family violence doesn't just happen. It builds in a cycle of aggression and forgiveness and blame until it explodes. And the battered spouse is almost never a man.

To counter domestic violence, we need to get it out of the closet and then help women find a way out of a brutal environment. Domestic violence is a problem at all income levels. It is more than a serious health care problem, it is a social sickness, a tragedy that is destroying families, and an experience that spreads violence to future generations.

That is why this amendment is so important. It builds on the military's own efforts by mandating a study of both the causes of spousal abuse in the military and an analysis of current procedures for responding to this problem.

But studying the problem is not enough. Every man's home may be his castle, but it is not his torture chamber in which he can beat someone less physically strong without consequences. Many men will deny the impulse and the existence of the behavior. Like drunks that have not quite reformed, they promise their partners and the world that the latest episode of violence will be the last episode of violence. Too often they go back on their word, and the cycle of aggression, seeking forgiveness, blaming the victim, and committing aggression starts over again.

When a woman is the victim of domestic violence, she must have a place to go. There should be a counseling hotline so that experienced professionals can guide her to an appropriate place. Above all, there must be enough battered-spouse shelters with enough resources for relocation to give women some idea of where they can escape the fear of a threatening phone call or knock on the door in the middle of the night.

But we have to do more than give women a place after they are beaten. We have to prevent the violence in the first place. I suggest that every health professional—doctors, nurses, physician's assistants, social workers, military and civilian—be trained to recognize domestic violence and to ask female patients about it. Asking the question hopefully will free women from considering beatings as a family matter that they are not sanctioned to discuss, even with their doctor. At a minimum, domestic violence should not be treated as a preexisting condition to deny women health insurance.

But it is not just up to health care professionals. If we are going to stop domestic violence, each of us, in our own spheres of influence—home, work, PTA, Little League—has an obligation to acknowledge it occurs, recognize it when we see it, and say something about it. It is so much easier to overlook it, turn the other way, regard it exclusively as a family matter, pretend we do not have any responsibility. But if we are going to prevent it, we all do.

With this amendment, Senator BOXER is not singling out the military for special blame or responsibility. But, as the figures show, the problem exists in military families and is growing at an alarming rate. This amendment, then, is one small piece in what must be a broader national strategy to bring the problem of spousal abuse out of the closet and address this dirty little secret.

Mr. NUNN. This amendment would require the Secretary of Defense to conduct a study of spousal abuse by Armed Forces personnel and report the findings to Congress within 180 days. I urge the adoption of the amendment.

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. Is there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2184) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2185

(Purpose: To authorize certain service schools to award masters degrees and to establish a Board of Advisors for the Marine Corps University)

Mr. NUNN. Mr. President, for myself, 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] proposes an amendment numbered 2185.

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 188, between lines 6 and 7, insert the following:

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the

President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVER DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) BOARD.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§ 7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

Mr. NUNN. Mr. President, this amendment would establish a Board of Advisors for the Marine Corps University and authorize the Marine Corps University and Air University to confer masters degrees to certain graduating students.

I urge adoption of the amendment.

Mr. THURMOND. We have no objection.

Mr. NUNN. Mr. President, this is an amendment that would establish a Board of Advisors for the Marine Corps University and authorize the Marine Corps University and the Air University to confer master degrees to certain graduating students. This degree granting authority would become effective upon the determination of the Secretary of Education that the requirements established by these universities are in accordance with generally applicable requirements for masters degrees, and the Secretaries of the Navy and the Air Force would be responsible for enacting regulations to implement these authorities.

Mr. President, the universities in question have developed graduate-level curricula that support this degree granting authority. A professional master's degree with civilian accreditation will enhance the quality and status of these important schools, and culminate the efforts of these universities to broaden and improve military education.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2185) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2186

(Purpose: To strike out section 246 (relating to live-fire survivability testing of F-22 aircraft) and insert a substitute)

Mr. COATS. Mr. President, on behalf of Senator ROTH and Senator PRYOR, I offer an amendment that would require the Secretary of Defense ask the National Research Council of the National Academy of Sciences to conduct a study on the desirability of waiving the requirement for full-scale, full-up testing of the F-22 survivability. I send the 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 Indiana (Mr. COATS), for Mr. ROTH, for himself and Mr. PRYOR, proposes an amendment numbered 2186.

Mr. COATS. 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 52, beginning with line 20, strike out all through page 53, line 20, and insert in lieu thereof the following:

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F-22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F-22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F-22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F-22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F-22 aircraft program that was not requested at that time.

(4) The sufficiency of the F-22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F-22 aircraft program that the Council considers appropriate on the basis of the study.

Mr. ROTH. Mr. President, live fire testing is a key component of the Congress's fly-before-buy policy. Live fire testing is an objective check and balance on the Defense buying system.

In the 1980's, Senator PRYOR and I successfully led the fight to ensure that survivability was built into the design of platforms such as planes, tanks, and aircraft. The law states that survivability must be tested using a system in full combat configuration unless a program manager requests a waiver prior to the full-scale design phase. In a system where bureaucratic interests carry more weight than results, realistic tests of a weapon's protection for its crew are vital to those who must depend on the weapon in battle. The waiver process allows for other than testing of the combat configuration if the Secretary of Defense determines that survivability is adequately addressed by the program manager's plans for the design phase.

Mr. President, I am concerned about the implementation of the live fire and lethality testing statutes. All major aircraft being developed by the Pentagon are avoiding tests for survivability and vulnerability. In the recent hearings on procurement reform bills, the General Accounting Office and the Defense Inspector General opposed the acquisition streamlining proposals that would weaken the current law.

In 1992, the National Academy of Sciences' National Research Council assembled a distinguished team of experts in live fire testing at the request of the Secretary of Defense. The team was asked to make a determination about whether Defense Department regulations correctly implement the live fire testing law, 10 U.S.C. 2366. The team surveyed its application to new aircraft programs and produced its report last fall. The National Research Council found that the law "makes a valuable contribution to vulnerability assessment and to the design of survivable aircraft."

Since that report was produced, the Air Force asked Congress to waive the live fire testing laws for the F-22 Fights program. The F-22 is the Air Force's next generation fighter jet, slated to replace the F-15 in air-to-air combat missions. It will incorporate stealth technology, composites, computerized flight controls. The total program cost is expected to top $70 billion. At this level of spending, a small improvement in survivability can generate significant savings, while overlooking a small vulnerability can have cost billions.

The F-22 is currently in the final design phase, and the final design will need to be tested to see how easily it can be shot down. The program manager did not request a waiver as provided in the live fire testing laws prior to entering the final design phase. However, the program manager now wants to obtain a waiver and consequently has asked Congress to exempt the F-22 from the statutes.

Mr. President, I have no reason to believe that the program manager is making his request in bad faith. His staff already has found a major flaw in the design of the wings whereby a single hit by a 30mm bullet would have shattered the wing. As a result of such component-level tests, the F-22 program manager believes that key flaws will be addressed and testing of an aircraft configured for combat will not be necessary. Moreover, the program office estimates that about $250 million could be saved by not conducting full-up tests, and there would be little additional value from such testing.

It seems to me that the F-22 program manager should have requested a waiver within the law's guidelines, if he believed the costs outweighed its benefits. Then, the Secretary of Defense would have done the technical assessment required. Instead, he wants Congress to make this determination. Congress does not have sufficient technical insight into the trade-offs that need to be considered. In addition, the Pentagon's director of live fire testing has done calculations that show the cost of testing, at about a third of a percent of the total program cost, would be covered if even small design fixes resulted. Finally, this could set a bad precedent—the Congress being asked to do technical assessments and to waive the testing laws on major programs that the laws were intended to address.

The amendment that Senator PRYOR and I are proposing would give an independent organization the task of making recommendations on the waiver of testing for F-22. It is our intention that the National Research Council's distinguished team that prepared last year's report on live fire testing be reconstituted for this effort. They are well aware of the law, as well as the aircraft technologies involved here.

I want to thank the distinguished chairman of the Armed Services Committee and Senator THURMOND for their cooperation on this matter. I appreciate their support in getting this amendment adopted.

Mr. NUNN. I urge the amendment be adopted.

Mr. COATS. The administration has indicated support for this provision, and I urge the Senate adopt this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2186) was agreed to.

Mr. COATS. 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. 2187

(Purpose: To express the sense of the Senate that the Senate Committee on Armed Services should hold hearings related to the procedures used by the Department of Defense's investigative organizations when investigating the death of a member of the Armed Forces who, while serving on active duty, died from a cause determined to be self-inflicted)

Mr. COATS. Mr. President, on behalf of Senator DOLE I offer an amendment which expresses the sense of the Senate that the Armed Services Committee should hold hearings related to DOD procedures for investigating the death of a service member from a cause determined to be self-inflicted. I send the 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 Indiana [Mr. COATS] for Mr. DOLE, proposes an amendment numbered 2187.

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

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

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSED DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

Mr. NUNN. I urge adoption of the amendment.

Mr. DOLE. Mr. President, this is an amendment which expresses the sense of the Senate that the Senate Armed Services Committee should hold hearings related to the procedures used by the Department of Defense's investigative organizations when they investigate the death of any member of the Armed Forces who, while serving on active duty, died from what appears to be a self-inflicted cause.

Last week, I met with two of my constituents, Royal and Linda Shults of Atchison, KS. The story they related to me was extremely disturbing. However, it is one that I think is important to bring before the Senate. On July 2, 1992, Allen Shults was found dead in his living quarters at Keesler Air Force Base. The Air Force Office of Special Investigations determined that his death was due to asphyxia, induced by

self-inflicted hanging. However, Mr. and Mrs. Shults soon learned that the official explanation of their son's death didn't fit with the facts. In fact, by conducting their own investigation, Mr. and Mrs. Shults have uncovered evidence of a material deficiency in the Air Force's original investigation.

Unfortunately, the Shultses are not alone. There are families from all over the country, from California to Maine and from Minnesota to Texas who can identify with Mr. and Mrs. Shults. These families have come together to form "Until We Have Answers," a nationwide organization made up solely of relatives of military personnel whose deaths occurred mysteriously and have been ruled self-inflicted. Each of these families tells of rushed, incomplete, and often fumbled investigations conducted by DOD investigative organizations.

I am particularly concerned that, in an effort to close these cases quickly and to prevent embarrassment to local commanders and the armed services, deaths are often ruled self-inflicted without full and complete investigation.

We owe the families of our military personnel more. This matter deserves the attention of the Armed Services Committee and I am pleased that the chairman and the ranking member have agreed to accept this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2187) was agreed to.

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

Mr. NUNN. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2188

(Purpose: To require a study and report on fiscal relief for certain Medicare-eligible military retirees who incur Medicare late enrollment penalties)

Mr. COATS. Mr. President, on behalf of Senator COHEN, I offer an amendment which requires a study and report on financial relief for Medicare-eligible military retirees adversely affected by the closing of a military treatment facility with base closings.

I send the 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 Indiana [Mr. COATS] for Mr. COHEN, proposes an amendment numbered 2188.

Mr. COATS. 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 167, beginning with line 14, strike all through page 170, line 7, and insert the following:

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65-mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

Mr. COHEN. Mr. President, it is my hope that this amendment will help us ultimately to provide a measure of financial relief to military retirees who are facing significant increases in their out-of-pocket health costs due to a base closing in their area and the resultant loss of the medical facilities upon which they had come to depend for their care. This issue has been raised again and again in community meetings in my State as we have attempted to assess the impact of the closing of Loring Air Force Base, and I know that it is of concern to thousands of military retirees in other parts of the country as well.

Many retirees have purposely selected their retirement homes based upon their proximity to military health care, commissary, exchange and other facilities. In fact, the Retired Officers' Association estimates that almost 70 percent of its members deliberately located near military installations so that they would have ready access to health care services.

Military retirees do become eligible for Medicare when they turn 65. However, many of those living near bases have continued to rely upon military facilities for their health care needs and have elected not to enroll in Part B. Military health care has many advantages over Medicare, particularly for low-income retired enlisted personnel. There are no premiums, copayments or deductibles and prescription drugs are generally provided free of charge. Those retirees who elected not to enroll in Part B are therefore understandably concerned that, not only will they lose access to the free health care services they believe they were promised, but also that they are going to be socked with a substantial financial penalty for late enrollment—in addition to the new premiums, deductibles, and copayments—when they do enroll in Medicare.

The burden of this late enrollment penalty will be particularly heavy for the retired enlisted personnel who make up the bulk of the military retiree population and who have average annual incomes of between $12,000 and $15,000 a year. For the 75-year old retired E–7 and his wife, living on a retirement income of about $13,000 a year, coming up with the $986.40 a year to cover their Medicare monthly premiums will be difficult. To impose a late-enrollment penalty on this couple would be almost usurious, exacting far more than the proverbial "pound of flesh." It would effectively double their annual out-of-pocket costs for premiums alone to almost $2,000, or 15 percent of their total income. And the older the retiree, the greater the penalty is likely to be.

The amendment I am offering requires the Secretary of Defense, in conjunction with the Secretary of Health and Human Services, to conduct a study of military retirees living in base closure areas to determine the extent to which they are affected by the Part B penalty and to make recommendations for ways to relieve them of this financial burden. It is my intent that Congress take action on these recommendations next year in order to provide a measure of financial relief for retirees who have been or will be adversely affected by base closure actions, and I urge my colleagues to join me in supporting the amendment.

Mr. NUNN. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2188) was agreed to.

Mr. COATS. 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. 2189

(Purpose: To require a study on the offset of veterans disability compensation by the amount of any separation benefits or incentives received by members of the Armed Forces upon separation from the Armed Forces)

Mr. COATS. Mr. President, I offer, on behalf of Senator THURMOND, for Senator JEFFORDS, an amendment that directs the comptroller general to study and report on the offset of VA disability payments from voluntary separation and special separation bonus payments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. JEFFORDS, proposes an amendment numbered 2189.

Mr. COATS. 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 158, below line 24, add the following:

SEC. 655. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) REPORT.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

Mr. JEFFORDS. Mr. President, on May 25 of this year I introduced a bill, S. 2151, the Military Voluntary Separation Act of 1994, which would amend title 10 of the United States Code to repeal the requirement that amounts paid to a member of the Armed Forces under the Special Separation Benefits Program of the Department of Defense, or under the Voluntary Separation Incentive Program of the Department, be offset from amounts subsequently paid to that member by the Department of Veterans Affairs as disability compensation.

I introduced this legislation because I believe a great injustice has been done to our Nation's veterans. The fact that these service members are not allowed to receive their separation bonuses and VA compensation concurrently is unjust. I see these two forms of income as having no link which would justify an offset. SSB and VSI separation compensation are for services rendered and compensation for assisting the Department of Defense in its downsizing. Veterans' disability compensation pay is compensation for a physical or mental disability incurred from service. By definition these are very different issues.

The separation incentive bonuses offered by DOD are part of our Nation's Federal buyout program which is a separate issue from disability compensation.

In looking at this issue, I am particularly concerned about Persian Gulf war veterans who chose to take a separation incentive bonus not realizing down the road they may incur a disability from their service and would not be able to receive their full compensation until their separation bonus was paid out.

On top of this I am concerned as to whether or not DOD took any steps to help members who separate with the SSB or VSI bonus to adjust to civilian life. I have here with me a copy of DOD's Voluntary Separation Incentives booklet, which explains the SSB and VSI programs and answers anticipated questions regarding the programs. Nowhere in the booklet does it mention that if a service member chose one of these separation incentives and then incurred a service-related disability that he or she would not be able to receive both their bonus and VA compensation concurrently. The booklet does clearly state, however, that "the voluntary separation programs are not early retirement programs. They are intended to ease career changes for relatively young men and women who are likely to proceed immediately to new careers in the civilian sector which offer appropriate health care and other benefits."

It is important that Congress examine the offset rationale of these programs and look at possible policy changes to correct this injustice.

I am offering an amendment today which will call for a GAO report to be done on the issue of concurrent receipt of SSB/VSI/Involuntary Separation and VA compensation. Specifically, the study will concentrate on three main issues:

First, explanation and rationale of the current programs.

Second, examination of the impact of the current program, for example: How many service members who take a separation bonus do not return to work after they separate from their service, and is this in any way related to their disability? How has the offset provision affected securing voluntary separation from the Military?

Third, recommendations for policy changes, including a cost estimate if the offset was repealed.

I plan to continue to research the impact of the SSB and VSI programs. I am hopeful that a GAO report will provide Congress with the necessary information to guide this body in further policy decisions relating to separation incentives.

These men and women chose to devote their lives to serving our country. We need to make sure they are receiving the compensation and assistance they deserve.

Mr. COATS. I understand the amendment has been cleared on both sides. I urge the adoption of the amendment.

Mr. NUNN. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2189) was agreed to.

Mr. COATS. 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. 2190

(Purpose: To ensure that bomber aircraft of the Air Force are not prematurely retired)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of

Senator BINGAMAN and Senator DOMENICI and 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. BINGAMAN, for himself, and Mr. DOMENICI, proposes an amendment numbered 2190.

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 25, between lines 2 and 3, insert the following:

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B-52H, B-1B, or F-111 bomber aircraft.

Mr. BINGAMAN. Mr. President, I rise to offer an amendment with my colleague from New Mexico, Senator DOMENICI, regarding U.S. bomber forces. This amendment would prohibit the expenditure of Department of Defense funds to retire B-52H, B-1B, or F-111 bomber aircraft in fiscal year 1995.

In the report accompanying this bill, the Armed Services Committee put down a clear marker regarding the bomber force structure. The Committee points out that current DOD budget planning for the bomber force is below the minimum level necessary to deal with two nearly simultaneous major regional conflicts as laid out in the bottom-up review. The committee report also notes that the Department has been unable to offer "a coherent and consistent" explanation for the discrepancies between the bomber force needs identified by the bottom-up review and its own budget guidance.

In response to this situation, the committee directed in report language that the Department preserve all bomber force structure options for 1 year while additional bomber force structure and effectiveness studies are completed. This amendment would simply put this prohibition into law.

Mr. President, this amendment is meant to convey that Congress is not willing to forgo the bomber force structure we need to face future contingencies. Our amendment would retain the current structure for the B-52 and B-1 bomber forces, as the committee has recommended, and add a prohibition on expenditures leading to the retirement of the F-111 bomber aircraft.

We have added the F-111 because of recent statements by the Secretary of the Air Force that indicate the Air Force is looking toward retirement of this aircraft beginning in fiscal year 1996, despite a clear decision by Secretary Perry last fall to retain the F-111 in the force structure until at least 1999. The F-111 should be retained because it is a proven long-range hard-target killer with many years of service life remaining as a result of recent upgrades. It can deliver more smart bombs deeper than any other Air Force tactical aircraft. Without the loss of a single aircraft, it was used during the gulf war to destroy some of Iraq's most hardened command bunkers and the Al Almadi oil pumping facility and had the highest kill ratio for tanks and bridges. This is a capability we may need in future conflicts, and will not have until a new family of precision-guided weapons [JDAM] is developed and deployed into the bomber force at the end of the decade at the earliest.

The Air Force has previously stated that it needs the F-111 to fill this gap. Earlier this year Air Force Chief of Staff McPeak, indicated in an interview that Aviation Week and Space Technology that the F-111, with its precision-guided missile capability, would be needed to fill the emerging bomber gap—the same gap identified by the Armed Services Committee in the report language I quoted above. The Under Secretary of the Air Force, Rudy DeLeon, made a similar statement during his confirmation process before the Senate Armed Services Committee. Despite this, it was reported in the media on Monday that the Air Force would recommend retiring the F-111 in its fiscal year 1996 budget submission, on an action that would leave us with both a shortfall in the bomber force structure and a shortfall in tactical bombers to help bridge the gap.

Mr. President, this amendment would seek to address this issue by maintaining the existing force structure during fiscal year 1995 while additional analyses regarding our future bomber force needs are completed. The amendment tracks with the committee's report and intentions.

This afternoon Senator DOMENICI, Congressman RICHARDSON, and I met with Deputy Secretary Deutch on the F-111 issue, and he told us that the current DOD plan is to retain the aircraft through 1999 because of its unique capability. He told us that there would be a strong burden of proof on the Air Force to justify any proposal for early retirement. I am confident that he and Secretary Perry will reject the new Air Force proposal, just as they rejected a similar proposal last year, and just as they did in similar circumstances several months ago when the Air Force proposed terminating the Milstar program.

This amendment is a strong signal to the Air Force regarding Congress' position on bomber force structure. It is a straightforward amendment on an important issue. I believe that it has been cleared on both sides and I want to express my appreciation for the support of Senator NUNN and Senator THURMOND for the amendment. I urge my colleagues to support it.

Mr. DOMENICI. I rise today to join my colleague, Senator BINGAMAN, to offer an amendment that will prohibit the expenditure of any of the funds authorized to be appropriated for the Department of Defense in fiscal year 1995 for the purpose of retiring, or preparing to retire, any F-111 and other bomber aircraft.

Senator BINGAMAN and I met with Deputy Secretary of Defense Deutch this afternoon. The Secretary informed us that because other DOD bombers lack precision guided munitions carrying capability the F-111's still provide a unique capability that will not be able to be duplicated in the near future.

The Air Force has submitted its Program Objective Memorandum [POM] to the Secretary of Defense and it deletes the funding for the F-111's in fiscal year 1996. The Secretary of Defense will be reviewing the Air Force's plan and will make the final decision at some point in the near future.

In our meeting today, Secretary Deutch stressed that a "big burden of proof" is on the Air Force to convince the Secretary of Defense that the F-111's should be retired before the President's Bottom Up Review says they should be retired. I do not believe retiring the F-111's would be a wise decision, and I do not believe that the Air Force has any aircraft that is currently capable of duplicating the F-111.

It is my hope that this amendment will send a clear message to the Secretary of the Air Force. The Bottom Up Review says that this unique aircraft is necessary to carry out the mission of the Department of Defense through fiscal year 1999. As a member of the Senate Defense Appropriations Subcommittee, I intend to have similar language included in the Defense appropriations bill.

I understand that this amendment has been cleared by both sides. I thank the chairman and ranking member of the committee for their support, and I yield the floor.

Mr. NUNN. Mr. President, this amendment would put into law the prohibition in the committee report language directing the Department of Defense not to retire bomber aircraft during fiscal year 1995. It is consistent with the committee direction.

It has been cleared on both sides. I urge its adoption.

Mr. COATS. We have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2190) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2191

(Purpose: To extend the authority to issue surety bonds for certain environmental programs)

Mr. COATS. Mr. President, on behalf of Senator THURMOND and Senator NUNN, I send to the desk an amendment to extend the current provision for the issuance of surety bonds for the Department of Defense environmental cleanups. This would extend the period of authorization for issuance of these bonds from December 31, 1995 to December 31, 1999.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana (Mr. COATS) for Mr. THURMOND, for himself, and for Mr. NUNN, proposes an amendment numbered 2191.

Mr. COATS. 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 68, following line 20, insert the following:

SEC. 323. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(1) Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

Mr. THURMOND. Mr. President, I offer an amendment that would extend the current provision which provides for the issuance of surety bonds for Department of Defense environmental cleanups. This amendment would extend the authorized period from December 31, 1995 to December 31, 1999.

This provision would ensure that providers of surety bonds will not be exposed to liability beyond the terms and conditions of the bond. This is important because providers will not issue surety bonds if they will be liable for damages outside the terms and conditions of their bonds. This liability would effectively prohibit providers from issuing bonds. The surety bonds are essential for contractors who would obtain performance bonds for cleanup work.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2191) was agreed to.

Mr. COATS. 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. 2192

(Purpose: To require certain documentation and assessments in order to assess the extent to which technology and industrial base programs attain the policy objectives for such programs)

Mr. COATS. Mr. President, on behalf of Senator MCCAIN of Arizona, I send an amendment to the desk that would require the Department of Defense to include an explanation in the award files for the technical reinvestment project of the relevance of each funded proposal for the national security objectives found in 10 U.S.C. 2501.

The amendment would also require the General Accounting Office to conduct an assessment of the projects funded to date under the TRP and their relevance to those national security objectives.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. MCCAIN, proposes an amendment numbered 2192.

Mr. COATS. 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 181, after the matter following line 16 and before line 17, insert the following:

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

Mr. MCCAIN. Mr. President, I rise today to offer an amendment to the national defense authorization bill under consideration. The amendment involves the Technology Reinvestment Project or TRP.

The TRP was established in fiscal year 1993 to help develop dual-use technologies with both military and commercial applications, and to help small defense firms diversify into commercial markets. For fiscal year 1993–94 combined funding was in excess of $1 billion and this bill would provide an additional $625 million in funding.

The Technology Reinvestment Program has the potential to make an important contribution to our defense conversion effort and I strongly support it in concept. In reviewing the awards for last year, however, I identified successful proposals which, on their face, had no apparent link to the national security and defense objectives which underlie the TRP. Several examples of such program awards will suffice to demonstrate my concern: $15.8 million to demonstrate the feasibility of providing medical facilities with the ability to directly access the medical data bases of other hospitals; and $7.6 million to improve the efficiency of electrical power distribution.

I am sure these are very worthwhile projects, and perhaps each can be shown to be directly relevant to national security and defense, but the connection is not apparent, at least not to me. As enunciated in 10 U.S.C. 2501(a), TRP awards can be directed toward any of the following policy objectives:

Supplying and equipping the force structure of the armed forces;

Sustaining production, maintenance, repair, and logistics for military operations;

Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries;

Promoting defense industrial base surge capacity for national emergencies; and

Furthering the missions of the Department of Defense through defense reinvestment, diversification, and conversion.

If the goals of the TRP are to be served and abuses prevented, it is necessary that the link to particular policy objectives be demonstrated and articulated. To this end, the amendment, I am proposing today would require that the Department of Defense include an explanation in their award files detailing the relevance of each funded proposal to particular policy objectives.

Further, now that the TRP has been in existence for 2 years, fiscal year 1993–94, it would be appropriate for the Government Accounting Office to review the program and assess its progress in light of stated policy objectives. My amendment would request such a study.

It is imperative that we establish a sound and solid defense industrial base for the post-cold war era. Technology reinvestment must form a central part of this effort. Senate oversight to ensure that such funds are being directed properly to the areas where they can do the most good is essential and I ask my colleagues to support this amendment.

Mr. COATS. I understand the amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2192) was agreed to.

Mr. COATS. 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. 2193

(Purpose: To require a study on the establishment of a land management and training center at Fort Riley, KS)

Mr. COATS. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk to authorize a study on whether to establish a Department of Defense center for the study of land management and land management training. Such a center would facilitate coordination between the Department of the Interior and the Department of Defense.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. DOLE, proposes an amendment numbered 2193.

Mr. COATS. 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 110, between lines 19 and 20, insert the following:

SEC. 357. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

Mr. DOLE. Mr. President, I rise today to offer an amendment which requires the Secretary of the Army to study the feasibility of establishing a land management and training center. The Department of Defense manages more than 25 million acres of training lands that must be maintained to provide realistic training conditions. However, according to Army estimates, approximately 18,000 acres of Army training land is lost annually because of degradation due to overuse that renders the damaged training land impassable.

It has been estimated that the cost of rehabilitating these lands is $77 million annually, a cost which exceeds the current land rehabilitation and maintenance [LRAM] budget of all installations. In my view, the loss of training land and the cost associated with rehabilitation of that land could be significantly reduced through improved management of training and the coordination of military training and land management activities. Additionally, land management research, installation-specific consultation, technical assistance, and implementation of new education and training programs will lower the Pentagon's land management cost and ensure that our troops have available to them the land necessary for realistic training. My amendment simply would require the Secretary of the Army to study the feasibility of establishing a center to provide the vehicle for integrating these elements into an effective land management resource for military trainers and installation managers.

The training lands on military installations are required to support realistic training exercises, because without high quality lands on which to train, the readiness of combat units may be compromised. If training lands cannot support the training mission, the investment in the entire installation is in jeopardy. Training lands must be maintained in a condition of high quality for a number of reasons. I will not go into them all here now, but allow me to mention two.

First, the quality of the training lands directly affects the quality of training on those lands. For example, damaged lands may hinder or prevent realistic maneuvers. Second, the quality status of the training lands directly affects the costs of conducting training exercises. Increased repair costs to vehicles, increased training downtime associated with increased service time for equipment, and increased injuries to troops are all examples of how poor training lands increases the costs of training.

This amendment provides the Army with the means to develop a plan for addressing its growing costs associated with managing its training lands. I urge my colleagues to support this amendment.

Mr. COATS. Mr. President, I understand this has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2193) was agreed to.

Mr. COATS. 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. 2194

(Purpose: To designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology, and for other purposes)

Mr. COATS. Mr. President, on behalf of Senator HATFIELD, I send an amendment to the desk to authorize the relocation of the National Museum of Health and Medicine from the Walter Reed Army Medical Center to a site on the Mall in the District of Columbia.

This site should be selected in accordance with applicable procedures of the District of Columbia, the General Services Administration, the National Capital Planning Commission, and the Commission on Fine Arts.

No funds are authorized in this amendment for the construction of a museum building.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. HATFIELD, proposes an amendment numbered 2194.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through

improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

Mr. NUNN. Mr. President, I wonder if Senator HATFIELD would be willing to describe for the Senate the amendment he is offering to the fiscal year 1995 Defense Authorization bill regarding the public education facility of the Armed Forces Institute of Pathology.

Mr. HATFIELD. This amendment designates a site on or near the National Mall for the National Museum of Health and Medicine. This museum will incorporate into its exhibits the public collections of the Armed Forces Institute of Pathology.

Mr. NUNN. Does the Senator's amendment involve any expenditure of Department of Defense funds for the design, engineering or construction of the National Museum of Health and Medicine or any commitment for such spending in the future?

Mr. HATFIELD. It does not. The amendment is for the sole purpose of setting aside Federal property for the new site for this museum. To amplify this point briefly, the Army Medical Museum, which contained the public collections that are now part of the Armed Forces Institute of Pathology, was on the Mall until 1968. Before it was moved to its current location at the Walter Reed Medical Center, this was one of the most visited museums in Washington. The Army Medical Museum was renamed the National Museum of Health and Medicine in 1988. I believe that the relocation of this facility to the Mall will greatly enhance public access to important information and displays relating to health.

Mr. NUNN. Is it the Senator's understanding that the sponsors of this project, the National Museum of Health and Medicine Foundation headed by former Surgeon General C. Everett Koop, intend to raise the money needed for the construction of this facility from private sources?

Mr. HATFIELD. That is my understanding.

Mr. NUNN. The Department of Defense currently provides $1.5 million per year to maintain the collection of the Armed Forces Institute of Pathology. This is a longstanding, and, in my view, appropriate expenditure of DOD funds. I oppose any additional appropriation for the Department of Defense to fund architecture, engineering, or construction of this museum public facility.

Mr. HATFIELD. I want to assure the Senator that I understand his previously stated opposition to earmarking DOD spending on behalf of museum projects. As I said earlier, I expect Dr. Koop and the foundation to raise the funds necessary for this project from the private sector. I do not intend to seek future DOD additional appropriations on behalf of the National Museum of Health and Medicine for design and construction of the new facility, or when constructed, for operation of the museum beyond current services Defense Department funding for the Museum.

Mr. NUNN. Mr. President, I believe that the amendment proposed by Senator HATFIELD is an important step toward enhancing a Federal museum for the purpose of educating the public on health related issues. I am pleased to accept the amendment.

Mr. COATS. Mr. President, I understand the amendment has been cleared by both sides.

Mr. NUNN. Mr. President, I urge adoption of the amendment. This is a very important amendment. I talked with Senator HATFIELD about it several times. They are raising the money for this Museum of Health and Medicine to be moved privately. The Department of Defense is in favor of this, but the Department of Defense feels strongly that it should not be called on to provide construction money for this museum. That was part of the colloquy between Senator HATFIELD and myself making that clear.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2194) was agreed to.

Mr. COATS. 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. 2195

(Purpose: To make funds available for procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, MD)

Mr. COATS. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk that would authorize the Army to purchase new ruggedized, light weight medical ventilators for field deployment. These are used to assist injured patients in breathing. These would also be purchased with commercial American-made sources, and they are American-made devices.

I ask for immediate consideration on this amendment.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. DOLE, proposes an amendment numbered 2195.

Mr. COATS. 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 110, between lines 19 and 20, insert the following:

SEC. 357. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

Mr. DOLE. Mr. President, I rise today to introduce an amendment which authorizes the procurement of medical ventilators for the Armed Services. As my colleagues probably are aware, these devices are used to help a person breathe in a diversity of circumstances, anything from normal lung stiffness to collapsed lungs. In the past, ventilators, which are standard equipment in ambulances, operating rooms, and medic helicopters, have had problems adapting to this wide range of circumstances. Many were not made for use on all ages of people, or for ventilating progressively more difficult lung states, or, due to the weight of the device and its lack of ruggedness, for use in less technically supported environments.

Since 1986, the Army has funded, off and on, development of a lightweight man-portable ventilator. However, due to shifting requirements, the services have not settled on a standard design. Recently, because of our operations in Somalia, the military made a stop-gap procurement of ventilator units that were later recalled by the FDA.

During operation Desert Storm, military medical facilities were seriously lacking ventilators. The GAO testified that, on average, only 60 percent of the needed medical equipment was deployed to Desert Storm. In addition, the Armed Services' medical facilities are using ventilators that are up to 20 years old, and it has been reported that two naval hospital ships were equipped with ventilators up to 25 years old.

Mr. President, we certainly owe the men and women who put their lives on the line to guarantee our freedom the best medical equipment available. My amendment provides $2.5 million to authorize procurement of nondevelopmental, lightweight, portable, ruggedized ventilators which can be used for any sized human with any known lung dysfunction. These ventilators will allow the military to meet this critical need now. I ask my colleagues to support this amendment.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2195) was agreed to.

Mr. COATS. 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. 2196

(Purpose: To amend subchapter II of chapter 73 of title 10, United States Code, to prevent cost-of-living increases in the survivor annuity contributions of uniformed services retirees from becoming effective before related cost-of-living increases in retired pay become payable)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator ROBB and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROBB, for himself and Mr. MCCAIN, proposes an amendment numbered 2196.

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 138, between lines 11 and 12, insert the following:

SEC. 634. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

Mr. ROBB. Mr. President, I rise today to offer an amendment to correct an inequity in the contributions military retirees make to the Survivor Benefits Program. I'm pleased to note that Senator JOHN MCCAIN joins me as a cosponsor.

As a result of last year's Omnibus Budget Reconciliation Act, COLA's for military retirees were delayed until April 1994. While I was not pleased with that decision, and will work to correct that small part of the OBRA, I voted for the overall package because I'm firmly committed to reducing our budget deficit. The bill did just that by almost $500 billion over 5 years.

Contributions to the Survivor Benefits Program are a fixed percentage of the military retiree's base pay. However, the Department of Defense has announced that it intends to increase contributions to the Survivor Benefits Program effective this past December because the legislation did not delay COLA's in the benefits received under the plan. While it is accurate that survivors' COLA's were not delayed, military retiree COLA's were, and therefore the retiree's base pay has not yet been increased.

I believe that it is patently unfair to attempt to raise contributions to the Survivor Benefit Program when the base pay on which it is figured hasn't yet been raised. I know that when I considered the issue of military retiree COLA's, I expected that contributions to the Survivor Benefits Program would not increase until the retiree's base pay increased as well; indeed, that is the law.

This seems like a clear case of the Department of Defense not interpreting the law as Congress intended, and the amendment I'm introducing here today will correct that. This amendment explicitly ties contributions to the Survivor Benefits Program to the retiree's base pay, no matter when the effective date of the retiree's COLA may be.

Mr. President, I believe that we must take this corrective action in the name of equity for our military retirees. When they opted to enroll in this program to ensure the economic security of their survivors, they were told that their contribution would be a certain percentage of their base pay. We shouldn't allow this commitment to be changed on them now, and I encourage the speedy consideration and enactment of this amendment for the benefit of our military retirees who are being charged for increased survivor benefits even as we speak.

I thank the Chair.

Mr. NUNN. Mr. President, this amendment would preclude annual increases in the premiums military retirees pay to participate in the Survivors Benefit Plan before annual cost-of-the-living increases in retired pay are payable.

I urge its adoption.

Mr. COATS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2196) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2197

(Purpose: To provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators BINGAMAN, DOMENICI, SASSER, KEMPTHORNE, CRAIG, and MATHEWS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, for himself, Mr. DOMENICI, Mr. SASSER, Mr. CRAIG, Mr. KEMPTHORNE and Mr. MATHEWS, proposes an amendment numbered 2197.

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:

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

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to another organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

Mr. BINGAMAN. Mr. President, the amendment I am offering today on behalf of myself, Senator DOMENICI, Senator SASSER, Senator CRAIG, Senator

KEMPTHORNE, and Senator MATHEWS would amend the Intergovernmental Personnel Act to allow employees of all Federally Funded Research and Development Centers [FFRDC's] to utilize the Intergovernmental Personnel Act to be placed in Federal agencies and Federal employees to use the act to be placed at all FFRDC's. It is meant to solve a problem which has arisen at three of those FFRDC's run by the Department of Energy, namely Sandia National Laboratories, Idaho National Engineering Laboratory, and Oak Ridge National Laboratory.

On April 21, I introduced S. 2040, a bill almost identical to the amendment I am offering today, which was referred to the Governmental Affairs Committee. I deeply appreciate the prompt request for executive branch comment, which was made by Senator PRYOR, chairman of the Subcommittee on Federal Services, Post Office, and Civil Service.

In the last 2 weeks Senator PRYOR has received comments from the Department of Defense, the Department of Energy, and the Office of Personnel Management. The DOD and DOE comments express strong support for the legislation. The OPM comments express no objection to the purpose of the bill, but ask that a small change be made adding the words "or an institution of higher education" at two points in the bill so that all assignments under this program would be covered by the same rules. The amendment I am offering reflects the change requested by OPM. I ask unanimous consent that each of those letters appear in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I have also made a change requested by the ranking minority member of the Subcommittee on Federal Services, Post Office, and Civil Service, Senator STEVENS. The amendment would clarify that a Federal employee on assignment through the IPA program to an FFRDC may not be paid more than the salary he or she is entitled to in his or her civil service position.

I would advise the managers that I have cleared this amendment with Senator PRYOR, Senator STEVENS, Senator GLENN, and Senator ROTH on the Governmental Affairs Committee and I believe the amendment has been cleared on both sides on the Armed Services Committee as well.

It is very appropriate to offer this amendment on the defense bill because the main beneficiaries of this change will be the Departments of Defense and Energy, although other agencies, such as the Commerce Department, the Arms Control and Disarmament Agency and the intelligence community will also benefit from my amendment.

Let me briefly describe the problem which I am trying to address in this amendment. Almost all FFRDC's currently can utilize the Intergovernmental Personnel Act because they are run by universities or non-profit entities. That was the case at Sandia National Laboratories until last October 1 when management was turned over from AT&T, which had managed the lab for over 40 years, to Martin Marietta. The change in contractors also brought a change in the nature of the contract, consistent with contract management reform at DOE. The contract change has made Sandia employees ineligible to participate in the IPA program.

Sandia employees have long served with distinction in a host of Federal agencies under the Intergovernmental Personnel Act. I have just mentioned some of those agencies. They bring special expertise in a broad range of technical areas to the executive branch. Unfortunately, unless this amendment is passed, that long history of service will be disrupted starting this fall.

The reason is that the new contract with Martin Marietta is a fixed-fee contract, whereas the old contract with AT&T was a no-profit, no-fee contract. The resulting disruption in the IPA program for Sandians is clearly an unintended consequence of contract management reform at the Department of Energy.

The amendment will also immediately allow employees of two other institutions in similar circumstances, Oak Ridge National Laboratory and Idaho National Engineering Laboratory, to utilize the IPA mechanism to be placed in Federal agencies. In light of the thrust of management reform at the Department of Energy, which is toward the use of for-profit contracts with private sector contractors, as opposed to continued use of university or non-profit contractors, I believe many of the other DOE FFRDC's will soon also require the statutory change I am proposing to be able to utilize the Intergovernmental Personnel Act.

I urge the adoption of the amendment.

THE SECRETARY OF ENERGY,
Washington, DC, June 17, 1994.

Hon. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for Department of Energy views on S. 2040, a bill to amend title 5, United States Code, to provide for the assignment of employees between Federally Funded Research and Development Centers and Federal agencies.

The Department strongly supports S. 2040. This legislation would provide Federal agencies, like the Departments of Energy and Defense, with a valuable tool for executing critical programs, especially highly technical programs, while holding down permanent Federal employment levels. This bill would expand existing authority to assign temporarily employees of all Federally Funded Research and Development Centers to Federal agencies. Temporary assignments such as this have long been authorized between Federal agencies and State and local governments and educational institutions, including those laboratories operated for the Federal government by university and non-profit organizations. Although other Federal Funded Research and Development Centers are similarly funded and operated, current statutory limitations will not allow us to utilize the expertise of their employees for temporary assignment with the Federal agencies. This amendment would enable Federal agencies to make greater use of this valuable personnel resource found in all Centers.

If you would like further information, your staff should contact Ms. Mary Louise Wagner, Deputy Assistance Secretary for Senate Liaison.

The Office of Management and Budget advises that from the standpoint of the President's program, there is no objection to the submission of this report to the Committee.

Sincerely,

HAZEL R. O'LEARY.

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, June 17, 1994.

Hon. DAVID PRYOR,
Governmental Affairs Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: This is in response to your request for the views of the Department of Defense on S. 2040, a bill, "To amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers."

S. 2040 is especially necessary at this time as it would allow intergovernmental personnel currently assigned to the Department of Defense to complete their assignments. It also would ensure continuation of the expertise and assistance from the National Laboratories directly to the Department of Defense. It has been a longstanding practice to utilize the services of intergovernmental personnel from the Department of Energy weapons labs. These highly trained and experienced individuals provide excellent service in dealing with the myriad of technical and administrative tasks that confront the Department of Defense. They also help train our military personnel in the latest technology. The direct assistance that these individuals bring to the Department is invaluable in assuring that the best possible technical input is used by Department policy makers. These individuals also help bridge the gap between the Department of Energy and the Department of Defense through staff coordination and to assure that the best possible information to deal with nuclear safety, reliability and security is available. The added technical dimension that these individuals bring has continued to assure the safety, reliability and security of the Nation's nuclear deterrent.

The Department of Defense strongly supports this legislation. The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of these views to the Committee.

Sincerely,

STEPHEN W. PRESTON,
Acting General Counsel.

OFFICE OF PERSONNEL MANAGEMENT, OFFICE OF THE DIRECTOR,
Washington, DC, June 24, 1994.

Hon. DAVID PRYOR,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: This is in response to your request for the views of the Office of Personnel Management on S. 2040, a bill "To amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers."

S. 2040 would extend the current provisions of law providing for intergovernmental mobility assignments to include federally funded research and development centers. Thus, the bill would permit assignment of employees between contractor-operated National Laboratories and Federal agencies. The Office of Personnel Management has no objection to the purpose of the bill. However, we do recommend that the new subsection (e) that would be added to section 3372 of title 5, United States Code, be amended to include assignments to and from institutions of higher education, so that all assignments under the mobility program would be covered by the same rules.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

JAMES B. KING,
Director.

Mr. NUNN. Mr. President, this amendment would allow employees at not-for-profit federally funded research and development centers to be detailed to Federal agencies, and vice versa, under the provisions of the Intergovernmental Personnel Act.

I urge the adoption of the amendment.

Mr. COATS. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2197) was agreed to.

Mr. COATS. 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. 2198

(Purpose: To provide for selection of senior judge advocates by selection boards)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2198.

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:

Insert the following at the end of subtitle A of Title V:

SEC. . SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

Mr. NUNN. Mr. President, this amendment requires the Secretary of Defense to ensure that officers selected to serve in senior JAG positions are chosen by impartial boards of officers.

I believe this amendment has been cleared on both sides. I urge its adoption.

Mr. COATS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2198) was agreed to.

Mr. COATS. 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. 2199

(Purpose: To exempt the provision of intelligence or other assistance to foreign officials from civil or criminal liability in connection with the destruction of an aircraft in a foreign country suspected to be engaged in drug trafficking)

Mr. NUNN. Mr. President, on behalf of Senator KERRY, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KERRY, proposes an amendment numbered 2199.

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 249, between lines 7 and 8, insert the following:

SEC. 1068. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined.

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

Mr. NUNN. Mr. President, this amendment would provide that it shall be unlawful for a foreign country to damage, render inoperative, or destroy drug trafficking aircraft or for U.S. officials to provide assistance for such actions if the President determines that such actions are necessary because of a national security threat posed to the country involved and that the country has taken appropriate measures to protect innocent aircraft.

Mr. President, this is a very important amendment and I believe it is necessary for me to explain why I can support it.

The United States has historically been the world's leading proponent of international efforts to protect civil aircraft. The United States has led the way in ensuring that international law recognizes the importance of protecting civil aircraft in flight.

On first blush, this amendment would appear to be inconsistent with our traditional approach and the requirements of international law. But on closer examination, I believe that it is consistent with international law because it carves out an extremely narrow exception—an exception that is based on the national security threat posed by drug trafficking to Colombia and Peru—and because it also requires that action be taken to protect innocent aircraft.

I believe that illegal drug traffickers, who are using their massive resources to corrupt government officials and to threaten those whom they cannot corrupt, and, who are in league with insurgents, pose a real national security threat to the Governments of Colombia and Peru. If I did not believe that those governments and the rule of law in their societies were threatened by drug trafficking, I would oppose this amendment.

The amendment also requires the President to determine that the governments concerned have appropriate procedures in place to protect innocent aircraft. I would have to oppose this

amendment if it did not have such a requirement. I understand that the Administration will insist that action against civilian aircraft be limited to certain designated areas of the host countries, that notice to airmen (NOTAMs) be issued to put all pilots on notice as to the designated areas, and that specific actions will be taken to identify and warn prior to the use of force against civil aircraft.

Accordingly, because of the extraordinary circumstances that exist today and that pose a real national security threat to Colombia and Peru and because of the requirement that the President must determine that appropriate procedures are in place to protect innocent aircraft, I can support this amendment.

Mr. THURMOND. Mr. President, I support the amendment from the Senator of Massachusetts because of the strong belief I hold that we must do all we can to combat the scourge of drugs that threatens our country today. It is clear that our Nation's crime increase stems from narcotics trafficking that is so prevalent in our major metropolitan cities and is extending into every town and city in our Nation.

This amendment states that it is not unlawful for foreign countries who are fighting drug traffickers to attack aircraft suspected of carrying drugs if our President has determined that the national security of the subject country is threatened by the drug trafficking operations, and the country has appropriate procedures to protect against shooting down innocent aircraft.

This amendment also provides that it shall not be unlawful for U.S. personnel to provide assistance, including intelligence information, to foreign countries who meet the above conditions.

Mr. President, I have been informed that the administration supports this amendment. I have already indicated my support for this amendment; however, I want to express some concerns.

This amendment can only be applied to domestic law. The actions taken against aircraft suspected of carrying drugs could be a violation of international law and could subject the United States Government to claims before the World Court.

Aircraft employed by foreign countries in drug interdiction operations may not be equipped with sophisticated radars and other target acquisition equipment which would enable them to minimize the possibility of shooting down an innocent aircraft.

Let me emphasize again Mr. President, that I am supporting this amendment with these extraordinary provisions because I believe that the drug problem we face is extraordinary. I believe that illegal drugs threaten the fabric of our Nation and certainly threaten the national security of many foreign nations—especially the source countries for illegal drugs.

It is my hope that this legislation will strengthen our ability to join with other countries to more effectively fight the narco-traffickers who are doing so much harm to so many young people through the world.

Mr. KERRY. Mr. President, on May 1, the administration, without warning, shut off the provision of radar information to Colombia and Peru to track air shipments by drug traffickers over South American airspace.

The decision was made because lawyers in the United States Department of Defense, later joined by lawyers at the Department of Justice, concluded that United States officials could theoretically be sued if the Governments of Colombia or Peru used the information to shoot down a civilian aircraft and someone was killed.

While I understand the Government lawyers' concerns about the theoretical liability problem, this decision had several immediate negative consequences. It damaged U.S. international narcotics-control efforts, represented poor public policy, and brought about an unnecessary, self-inflicted wound in our international efforts to fight drugs.

Prior to May 1, drug traffickers carrying cocaine on planes flying north through Colombian and Peruvian airspace had to worry about being tracked by Governments there, with their planes, crews, and cargo being seized at their destination, or being intercepted and forced down along the route.

Since May 1, drug traffickers flying through Colombia and Peru have flown the friendly skies, care free, moving literally tons of dope ultimately bound for the United States.

Indeed, my office has already heard from informants in the region who report that there has been a free-for-all over Colombian and Peruvian airspace since we stopped sharing the information. They say that the skies are open, and the drug spigots have been turned on.

Unfortunately, the decision to halt the sharing of surveillance information simultaneously rewarded drug traffickers, punished those cooperating with us, and threatened fundamental U.S. interests. We ended one of the few strategies against drug trafficking that was actually working. We made hypocrites of ourselves in the eyes of our Latin American partners. We allowed drug traffickers to fly cocaine shipments out of Colombia and Peru with impunity.

The highly theoretical concern that someday, someone, somehow, might sue a U.S. official as a result of a force-down was permitted to trump common sense, with the result that today, people all over this country may be exposed to additional cocaine in their communities.

Over the past 4 years, the United States built for radar stations in the Andean region where most of the world's cocoa leaf is grown. The radars have worked in conjunction with AWACS surveillance planes to provide United States and Latin American Governments with detailed information on the routes of the hundreds of small planes suspected of transporting coca leaf and cocaine base from Peru, Ecuador, Bolivia, and Colombia.

The program became fully operational in 1993. It allowed the Colombian Air Force to identify 600 suspected drug flights last year, compared with the 250 suspected flights it was able to identify in 1992. The information provided by the radar stations and the surveillance flights was primarily used to identify and then to destroy clandestine airstrips, drug labs, and warehouses used by the cartels. Of the 27 planes that were destroyed, most were on the ground.

In Peru, a very aggressive force-down policy has been in place for 3 years. In Peru, by some counts an estimated 30 airplanes owned by drug traffickers have actually been shot down. Another 190 have been tracked and stopped. Despite the anxieties of the Government lawyers who decided to shut down the U.S. assistance on May 1, to date, not a single liability suit against the United States or any U.S. official has been filed in connection with these legitimate law enforcement activities.

Given the success of the Peruvian model, the Colombian Government adopted a force-down policy early this year. The policy had strict rules of engagement.

Under those rules, first an aircraft is detected by any one of four military radars located at San Andres, Guajira, Araracuara, or Leticia. This signal is received at the national defence military headquarters in Bogota, where it is analyzed, and it is verified whether the aircraft is legally in transit. If this is not the case, Colombian officials order the nearest air base to send A-37, Kfir, Mirage, Ob-10, or Tucano fighter planes to intercept it. When radio communication is not possible, the intercepting aircraft must use the following visual signals: First, move from side to side and turn its navigation lights on and off to warn the aircraft it has been intercepted. Second, abruptly move away from the intercepted aircraft making a 90-degree turn upwards to tell it to continue. Third, lower the landing gear leaving the landing lights on. Then raise the landing gear to notify the aircraft it must land. Fourth, repeatedly turn all lights on and off. If the aircraft does not respond, it may be then shot down.

As the Colombian Defense Minister summarized this policy, no plane would be forced down until Colombia had exhausted "all visual and sign procedures. * * * Against an aircraft which does not identify itself, which has no flight plan and which does not comply

with signals given by air force planes which intercept it."

I believe this Colombian policy is clear, strict, fair, and reasonable in responding to the threat of the approximately 600 drug planes a year that have been detected in illegally traversing Colombian airspace.

But this policy concerned some of the United States Government's lawyers, who saw the theoretical potential for someone to sue the United States or United States officials if the Colombians made a mistake—even if we had nothing to do with the Colombian decision. This initial judgment was confirmed by other Government attorneys in the Justice Department, who argued that U.S. officials could be prosecuted in foreign courts for providing information that another country then used to shoot a plane down.

So on May 1, the Pentagon—without anyone apparently bothering to inform President Clinton—suspended the flights, without warning the host Governments, citing the risk of liability to the U.S. Government.

It is important to note that even lawyers disagree as to whether the Pentagon's legal interpretation is reasonable. As Lally Weymouth wrote in a recent column in the Washington Post, several former Bush and Reagan administration officials regard this reading of the law as overbroad in the extreme. They believed there was no problem in providing the radar information so long as U.S. personnel were not knowingly involved in a decision taken by a host country to shoot down a plane.

Now, as an attorney who was once in the private practice of law, I can tell you there is a doctrine known as sovereign immunity. And what sovereign immunity does is essentially make it impossible for someone to sue U.S. officials for civil wrongs, unless the Congress has explicitly created authorization for such a suit through waiving immunity. There has been no such waiver in connection with the United States providing information that leads to the shootdown of drug planes by a foreign government. So it would seem to this lawyer that sovereign immunity would provide ample protection to the United States for any liability in connection with a foreign shootdown.

But some of the Government's lawyers concluded otherwise, and the sharing of information with Colombia and Peru was stopped.

One would think that to whatever extent the lawyers had a legitimate concern, they had options besides unilateral suspension. There have been any number of legislative vehicles on the floor of the Senate over the past 6 weeks which could have been used for a legislative fix. Instead, they cut off at the knees a program that was working. They did not consult with our allies—they did not consult with our Ambassadors—and it appears they did not consult with the highest levels of the administration, either, let alone the U.S. Congress.

I first learned of the shift in policy at a private meeting in early May with the Colombian Ambassador to the United States, Mr. Gabriel Silva, who complained to me with, justifiable distress, that our decision was providing aid and comfort to the Cali cartel, and helping them move dope into our country.

I immediately expressed my dismay over the policy to senior administration officials, and learned to my surprise, that neither the United States Ambassador to Colombia nor Peru had even been advised about the policy change prior to the cutoff of information.

Alvin Adams, United States Ambassador in Peru, in a May 3 cable explicitly complained that he received no word in advance.

"I have been through a lot in 27 years of service," Ambassador Adams wrote, according to a newspaper account. "Of the little I can remember in my advanced middle age, this is—in my ken of experience—a standout."

"We were just beginning to make the narcos uncomfortable," one Customs Service official familiar with the intelligence flights told the Dallas News.

Key officials in Colombia and Peru have also been justificably critical of this decision by the United States, referring to it as evidence of hypocrisy and confusion.

As the Dallas News reported, "this is a shock, and it sends a terrible signal to Latin America," according to a Colombian official. The newspaper quoted the official as warning that Bogota is fed up with Washington. The Colombian official said that the program had benefited both sides, and was a key element in the war on drugs, and that the shut-down showed the United States was "pulling out of the war."

Colombia's Air Force commander lodged a protest with the United States over the unilaterally suspension of radar operations, complaining about the lack of consultation, as well as the policy. The situation was made worse when United States officials suggested we could continue to provide the radar information, if Colombia agreed not to shoot drug traffickers' planes down.

As the Washington Post quoted an angry Colombian official in a telephone interview, "The U.S. cannot decide what we do in our airspace. That's a sovereign decision and we're not going to change it. If the U.S. doesn't cooperate with us, we'll request its radars to be withdrawn".

As press accounts have confirmed, many United States officials side with Colombia in the dispute. "We're telling the Colombians they cannot shoot down planes in their own airspace, which is like another government telling us we cannot shoot down planes flying over the White House," said one State Department official, quoted by the Dallas News.

A month ago, senior policymakers in the administration told me they agreed the decision was wrong, and promised to take action to remedy it.

On June 21, President Clinton signed a proposal to allow U.S. officials to help foreign governments provide this information in circumstances when drug traffickers pose a national security threat to the host country and has appropriate procedures to protect innocent aircraft from attack.

However, despite the President making this decision, the administration has confirmed that the President will not resume intelligence sharing until and unless the law is changed.

Accordingly, I believe the Senate needs to act without further delay, to put our Government on the side of interdiction again.

This amendment, which has been reviewed by the administration and which has its support, provides the following:

> Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected of being primarily engaged in illicit narcotics trafficking.

This declaration of lawfulness only applies when the President of the United States has determined that the actions are necessary in that country because of the extraordinary threat posed by illicit narcotics trafficking to the national security of that country, and that the country has appropriate procedures in place to protect against the innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

In addition, the amendment provides for immunity against civil or criminal liability for U.S. officials to provide assistance under such circumstances.

In short, it makes it a matter of law that U.S. officials need not worry about being sued for providing information gathered by radars and AWACS planes to the Colombians and the Peruvians to go after drug traffickers smuggling cocaine in airplanes, so long as reasonable procedures to protect innocents are in place. It also provides protection in U.S. courts against foreign officials being sued for a shoot down under circumstances where the shoot down is of a plane reasonably suspected to be engaged in drug trafficking, and reasonable procedures to protect innocents are in place.

Under this amendment, the President's determination that a country meets the standards indicated—that a country faces an extraordinary drug threat and has adequate protective procedures in place—is not reviewable by

the courts. This is consistent with past court decisions, such as the case of Dalton versus Specter, that such Presidential decisions are not reviewable.

Under this amendment, there will be no basis for concern about the extradition of any U.S. Government employees or agents in cases where such persons are accused of crimes involving the shooting down of civil aircraft, or the aiding and abetting thereof.

The term "assistance" is intended to be interpreted broadly in this amendment, which lists a number of types of assistance, but is not limited to the specific types listed.

And the amendment also balances the legitimate concern of protecting the innocent with the need to go after drug traffickers.

In order to be covered by this amendment, the President must determine not only that a foreign country faces an extraordinary threat from narcotrafficking, but also that it has appropriate procedures in place to protect aircraft from the improper use of force. At a minimum, the amendment requires that the foreign country have effective means to identify and warn suspect aircraft prior to the use of force.

Other steps that the President may require are clear designation of areas in which use of force might be applied, formal notice to civil aviators, a prohibition on any use of force against commercial passenger airliners on scheduled flight plans, prior visual identification and radio warnings, and the firing of warning shots.

The amendment applies to aircraft reasonably suspected of being primarily engaged in illicit narcotic trafficking. This would not, for example, include a commercial passenger aircraft on a scheduled route which happens to have, in addition to its passengers, some illicit narcotics on board. It would, however, encompass an aircraft being used at the time for narcotrafficking, even if the aircraft is ordinarily otherwise used for lawful purposes.

I agree that this is a balanced approach, and I urge the Senate to adopt this language.

But before we vote on this amendment, I want to address directly the position advanced by some that in the absence of this amendment, if Peru or Colombia shoots down a drug plane, they have violated international law.

The contention that under current law, liability could attach is based on an interpretation of the Montreal and Chicago conventions on civil aviation. Under these conventions, governments are not permitted to use force against civilian aviation.

But precisely because of the breadth of that proposition, the United States explicitly refused to ratify the portions of the convention that might create liability. We withheld our consent to the portion of the international law that has been asserted as the justification for the claims that a shoot down in which we participated might be illegal.

Moreover, the Chicago convention's article 1 explicitly recognizes the basic rule that "every state has complete and exclusive sovereignty over the airspace above its territory."

Under the circumstances, there is substantial legal justification for a position that there is no potential for civil or criminal liability for any american official even without a change in current law.

This is precisely the position of Peru, which also withheld its consent from the provisions of the conventions that would theoretically create the possibility of liability.

Meanwhile, the Government of Colombia, which did ratify the conventions, interprets them so that it believes its policy is within the confines of international law.

The Chicago Convention also has been interpreted to give the explicit rights to governments to declare states of emergency in certain aviation zones, and to suspend ordinary air travel rights in such zones. Once warning has been given that such a zone has been created, a state is entitled to protect itself, if it believes necessary, by shooting down a plane.

Now in the case of Peru and Colombia, both Governments have considered flights of cocaine to pose that kind of a threat to their Governments. Frankly, I agree with them that the threat is real and fundamental. So under the Chicago Convention, their actions would appear to be legal under international law.

So the notion that in sharing information with Peru and Colombia we are somehow violating international civil aviation law—taking these international conventions in their totality—is a matter on which lawyers can disagree on. It should not have been the basis for our making or not making policy against the drug cartels.

As I have mentioned, I believe that sovereign immunity already protects the United States. But to deal with the concerns of the Government lawyers who feel otherwise, I would hope the Senate would, with the passage of this amendment, make the immunity so explicit that not even lawyers can argue about it.

Adoption of this amendment on a vehicle certain to become law would also send the message to Latin America that we are not abandoning the effort against narcotics.

As the Phoenix Gazette editorialized on June 1:

Lacking real-time intelligence from the United States, there's no way for Peru or Colombia to know where a drug-filled aircraft is flying or has landed. If these countries can't force a drug trafficker plane to land, the result will be an inability to prevent the movement of massive amounts of pre-processed cocaine from Peru to Colombia. In the end, more cocaine will enter the United States.

As A.M. Rosenthal of the New York Times has written in his column of June 17, entitled "Saving the President," the cut-off of information on drug planes by the United States is "an error that has to be reversed if [President Clinton's] word is to be trusted in Latin America."

This amendment would swiftly reverse this error, put our Government back in the business of providing information to Latin American countries about the movements of drug planes, and help deny the drug traffickers open skies. I ask that the full text of this amendment be printed at the conclusion of my statement. I ask for the yeas and nays.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Do I hear objection?

Mr. COATS. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2199) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2200

(Purpose: To provide transfer authority for improving counterproliferation activities of the United States)

Mr. COATS. Mr. President, on behalf of Senator DOMENICI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. DOMENICI, for himself, and Mr. BINGAMAN, proposes an amendment numbered 2200.

Mr. COATS. 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 208, after line 24, insert the following:

(c) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

Mr. DOMENICI. I want to thank the managers of the defense authorization bill, Chairman NUNN and Senator THURMOND, for accepting this amendment. I believe it will assist the Department of Defense in protecting our national security.

The amendment deals with the fact that more and more nations are acquiring, or are seeking to acquire, chemical, biological, and nuclear weapons, and the means to deliver them. These weapons are commonly known as weapons of mass destruction because a single weapon can kill hundreds or thousands of people.

Despots and dictators already have chemical and biological weapons and some are racing toward a nuclear capability. It is even possible that these weapons could soon be in the hands of international thugs, terrorists, or transnational criminal gangs. The truth is, the proliferation of weapons of mass destruction represents a very real threat to the security of this Nation as well as American interests around the globe. And, unless we develop a capability to deal with this reality, we are placing the security of our Nation and its people at serious risk.

Proliferation is a problem most observers fear from rogue nations like Iran, Iraq, Libya, and North Korea. Notwithstanding the fate of democracy and political reform in the former Soviet Union, we must not forget Russian and Ukrainian abilities to produce and deploy weapons of mass destruction. Despite the efforts of this administration we have not yet been able to negotiate a system of strict accountability over the nuclear and chemical weapons in the former Soviet Union.

There has been more talk than action to prevent loose nukes, and the feared brain drain of Soviets capable of building nuclear and chemical weapons. Efforts by the Defense and Energy Departments to deal with the brain drain have been delayed time and again. In fact, recent press reports show that a number of former Soviet scientists are now on the North Korean payroll.

The capacity to assemble nuclear, chemical, and biological weapons and their means of delivery is spreading well beyond Russia, China, India, and Israel. This is simply unacceptable. While some of our colleagues are still fighting a rear-guard action over issues related to future nonproliferation it is time to recognize the extent of the proliferation that has already happened.

The bottom line is that the proliferation of weapons of mass destruction is the most perilous and profound security problem the United States faces in this post-cold war era. The threat is real.

To deal with this threat, last December, then Secretary of Defense Aspin outlined the beginnings of the Defense Counterproliferation Initiative. The Defense Department has since moved toward the development of a comprehensive strategy. It must become a national strategy. Nothing less than a comprehensive, national strategy will be necessary for the success of this initiative.

The strategy became clearer in May of this year when the Department of Defense provided an interagency report to the Congress on nonproliferation and counterproliferaion activities and programs. The report was presented to a very distinguished group of policymakers, scientists, and military professionals at the Los Alamos National Laboratory on May 6. Attendees included the distinguished chairman, Senator NUNN, Deputy Secretary Deutch, and Vice Chairman of the Joint Chiefs of Staff Admiral Owens.

The report argues that the Nation should devote an additional $400 million per year to address shortfalls in our counterproliferation efforts. These shortfalls are identified as areas for progress. At the conclusion of my remarks I would like to include the report's transmittal letter from Deputy Secretary John Deutch and a table showing the 14 areas.

It is clear to me that a viable counterproliferation strategy must be broad-based and embrace all policy instruments including deterrence, active and passive defenses, and, if necessary, military interdiction. I believe the counterproliferation initiative should coalesce into a broad-based, integrated national effort, much like the containment policy that guided us through the cold war's first decades.

The DOD report to the Congress moves us in this direction. But the problem is urgent. I believe we should get moving on the program before 1996. Further, from a management perspective, I believe it would be better to ramp up to the annual funding level identified in the report on a more reasonable progression.

The amendment that has been accepted by the managers gives the Department of Defense great flexibility to jump start this important initiative. It allows the Department of Defense to spend up to $100 million dollars to address the counterproliferation shortfalls identified in the Deputy Secretary's report.

I believe we should devote serious resources to the effort this year and the amendment allows that to happen.

I want to thank the managers again for accepting this amendment.

I ask unanimous consent the abovementioned material be printed in the RECORD.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC May 1, 1994.

MEMBERS OF CONGRESS: Section 1605 of the FY94 Defense Authorization Act directs the Department of Defense to lead an interagency study of nonproliferation activities currently underway in Executive Branch agencies. This letter transmits the required report prepared in a collaborative effort by the Departments of Commerce, Energy, State, and Defense; the Chairman of the Joint Chiefs of Staff, the intelligence Community, the Arms Control and Disarmament Agency, the Office of Science and Technology Policy, and the National Security Council.

President Clinton has identified countering the proliferation of weapons of mass destruction and their delivery systems as "one of the most urgent priorities." A great deal has been accomplished by this administration toward meeting this challenge, and the study provides a welcome opportunity to report to Congress on current activities, progress that has been made, and opportunities for improvement.

The terms of reference for the study as specified in the authorizing legislation required a thorough review of all activities underway in the relevant agencies that are directly or indirectly related to nonproliferation or to counterproliferation. Our charge was to focus on technologies and programs that contribute to nonproliferation and counterproliferation capabilities.

Our review found that federal agencies have achieved significant progress:

1. Through its Nonproliferation Center, the Intelligence Community has established effective interagency procedures to identify intelligence needs for early detection of nonproliferation threats.

2. The Department of Energy maintains an extraordinarily competent and broad technology base that has the potential to make major contributions to nonproliferation and counterproliferation technologies.

3. The Department of Defense has developed an entirely new approach for focusing counterproliferation programs in the areas of technology and acquisition, intelligence programs, and military planning.

4. The Departments of State and Commerce are working on new, expedited export control procedures to support nonproliferation efforts.

5. The Arms Control and Disarmament Agency has strengthened its capability to coordinate arms control and disarmament research through the Arms Control Research Coordinating Committee and Annual Report to Congress on Arms Control Research.

Many agency programs that are not exclusively directed at proliferation make important contributions to this objective, such as reconnaissance systems, theater missile defense systems, and political reporting. But we also found that agencies have different

management practices and procedures that make it difficult to compare easily their proliferation efforts. Thus, this initial study should not be viewed as the final word in identifying gaps or overlaps among agency program efforts. The report does, however, identify fourteen priority areas for additional effort that we believe have the greatest potential for making a contribution to our proliferation technology efforts. Approximately $400 million per year are required to pursue these initiatives. The group assumed that this requirement could be addressed within budget planning ceilings of the agencies for FY96 and later years.

Our effort also identified several areas where additional progress is necessary. First, certain technologies are not currently being pursued adequately; an example is biological agent detectors. Second, generally it has proved easier to develop promising new technology ideas than to field useful new capability. This reflects the absence of a common program structure that enables management and application of resources government-wide to achieve desired ends. It is important to assure that agency efforts are not too fractionated and that a critical mass exists for development and deployment of needed capability. Third, the reorientation of national security programs to the post Cold War world, including to our nonproliferation objectives, is still incomplete. Fourth, our study demonstrates the value of interagency attention and coordination to nonproliferation and counterproliferation technology efforts that are being pursued by several agencies. We describe an ongoing interagency process that can continue the coordination and oversight activity that this Congressionally mandated study has begun.

Sincerely,

JOHN M. DEUTCH.

Figure 1—Recommended increases in annual investment (for FY96 and later) for non/counterproliferation areas for progress

[In millions of dollars]

Real time detection and characterization of BW/CW agents including stand-off	75
Underground structures detection and characterization	75
Hard underground target defeat including advanced non-nuclear weapons (lethal or non-lethal) capable of holding counterforce targets at risk with low collateral effects	40
Detection and tracking of shipments and control and accountability for stocks of WMD-related materials and personnel including worldwide WMD and dual-use item tracking	25
Capability to detect, locate and render harmless WMD in US	10
Enhancement of collection and analysis of intelligence	25
Support of chemical weapons convention and biological weapons convention	10
Support of conclusion of a verifiable comprehensive test ban treaty	10
Capability to detect, locate and disarm, with high assurance and in a timely fashion, outside the United States WMD hidden by a hostile state or terrorist in a confined area	15
Passive defense capabilities enabling military operations to continue in contaminated conditions—actual or threatened (low cost, lightweight)	15
Rapid production of protective BW vaccines	15
Detection and interception of low flying/stealthy cruise missiles	50
Transparency and control of foreign fissile material	15
Safe disposition for foreign missile- and WMD-related materials (except fissile material)	20
Intercept capability in boost phase	(1)
Prompt mobile target kill	(1)

[1] Adequately funded.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator DOMENICI in sponsoring this amendment to provide Secretary Perry an additional $100 million in reprogramming authority to implement the recommendations of the Joint Review Committee on Counterproliferation for additional research in this critical area. Secretary Deutch submitted the recommendations of the Joint Review Committee, which he chaired, on May 2. That report looked toward additional expenditures of up to $400 million in fiscal year 1996 in this area. Our amendment will allow Secretary Perry and Secretary Deutch to jumpstart that initiative if they can find sources of funds for these important research efforts within their budget.

Mr. President, I believe that the central national security problem which this Nation faces following the collapse of the Soviet empire is the proliferation of weapons of mass destruction and of effective delivery vehicles for such weapons, particularly ballistic and cruise missiles. I commend former Secretary Aspin and Secretary Perry and the chairman of the Armed Services Committee, Senator NUNN, for recognizing this and moving out to address the issue.

On May 6 and 7 we had a very timely conference to discuss this issue and Dr. Deutch's report at Los Alamos National Laboratory. I commend Senator DOMENICI for initiating the idea for the conference and appreciate Senator NUNN's and Dr. Deutch's willingness to participate in the conference. That was obvious testimony to the importance attached to this issue in both the executive and legislative branches. The conference allowed us to build on the solid foundation which the report had made to defining a major Clinton administration initiative in this critical area.

Congressional reporting requirements are often greeted in the executive branch with about as much enthusiasm as the bubonic plague. And often, I must admit, that's probably the right degree of enthusiasm. But sometimes a reporting requirement comes along at just the right time and helps catalyze executive branch focus in a critical area. The requirement which Senator NUNN put in title XVI of last year's defense authorization bill for the nonproliferation and counterproliferation report submitted by Dr. Deutch clearly is in this latter category.

Let me conclude by making a couple of points on the counterproliferation initiative outlined in the Deutch report. First, as someone who has followed our nonproliferation policy, particularly in the nuclear and missile areas, fairly closely over the years, I was happy to see the emphasis in the report on our Government's nonproliferation activities. Several of the 14 priority areas identified in the report for additional funding will clearly strengthen our efforts to stem the tide of proliferation and allow us to demonstrate leadership in the multilateral arms control and export control regimes aimed at curbing proliferation.

There is sometimes a sense that use of the word "counterproliferation" connotes a diminution in our efforts to control proliferation before it happens and a focus instead on defeating proliferant states on the battlefield. I know that that was neither Secretary Aspin's nor Secretary Perry's intent in first using the word. I think a fair reading of this report makes it clear that that is not what is intended or contemplated. We will continue to do all we can to show leadership in the various multilateral control regimes, including trying to construct an effective COCOM successor regime.

But these regimes, although effective if we show the necessary leadership, are also imperfect, as our experience in Iraq demonstrated and as our ongoing concerns in North Korea illustrate as well. There are clearly nations which put their economic interests ahead of preventing proliferation and there are clearly willing recipients of critical weapons technologies. So it is entirely appropriate for our CINC's to seek the tools they will need to deal with the sort of contingencies they may face as we enter the 21st century. Being prepared to counter proliferation when it occurs does not and should not diminish our focus on preventing it in the first place.

The second point I will make is that I believe that this report has created the opportunity for a very effective partnership among the Department of Defense, the Department of Energy, and the intelligence community. The Department of Energy's weapons laboratories have a long history of contributing to our national security well beyond the narrow nuclear weapons area because of the depth and breadth of their technical resources, particularly their people. As Judge Bill Clark's blue ribbon panel on our Nuclear Weapons Program pointed out in 1985 when they recommended a memorandum of understanding between DOD and DOE to involve the labs to a greater degree in conventional munitions research, these laboratories can and should make broad contributions to our national security.

At the conference we heard that a similar memorandum of understanding on proliferation technologies is currently under discussion between the two agencies and I believe such an approach is entirely appropriate and can

ensure that we make the best use of our limited overall resources in this critical area. We clearly need to bring our best capabilities to bear in tackling this crucial problem. All three DOE laboratories have long and successful histories of contributing to our non-proliferation efforts, and all three stand ready to build on that record of accomplishment.

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

Mr. COATS. Mr. President, I understand the amendment has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2200) was agreed to.

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2201

(Purpose: To provide for the use of certain funds available for counterproliferation activities)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia Mr. NUNN, for himself and Mr. BINGAMAN, purposes an amendment numbered 2201.

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 208, below line 24, add the following:

(c) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

Mr. NUNN. I offer an amendment that would provide for the use of funds available for counterproliferation technology projects at the Advanced Research Projects Agency for two programs: $5 million for a program to detect, locate and disarm weapons of mass destruction, and $10 million for a joint DOD–FBI Law Enforcement Training Program to expand and improve efforts to deter the possible proliferation of weapons of mass destruction by organized crime organizations in Eastern Europe Baltic countries and the former Soviet Union.

This amendment has been cleared on both sides.

I ask unanimous consent that Senator BINGAMAN be added as an original cosponsor.

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

Mr. NUNN. Mr. President, I rise to offer an amendment that would provide $5 million for a program to detect, locate, and disarm in a confined area, weapons of mass destruction which are clandestinely employed by a hostile state or terrorist, against U.S. military forces outside the United States, or possibly in the United States; and, $10 million for a joint DOD–FBI Law Enforcement Training Program to expand and improve efforts to deter the possible proliferation of nuclear weapons by crime organizations in Eastern Europe, the Baltic countries and the former Soviet Union.

The possibility of criminal trafficking of nuclear materials is a growing problem related to the dramatic growth of criminal activity emanating from the former Soviet Union, the Baltic countries and Eastern European nations.

In addition to the traditional crime threats posed to the United States by organized crime groups in the former Soviet Union, the Baltic countries, and Eastern European nations, the possible theft of nuclear materials by these organized crime groups makes it imperative for the United States to act to prevent the proliferation of illegally acquired nuclear weapons/components and related materials, and in particular to prevent these materials from entering the United States.

There is an urgent need for the United States to develop a program to deal effectively with the threat that foreign organized crime elements in the former Soviet Union, the Baltic countries, and Eastern European nations may be able to steal nuclear weapons, nuclear weapons components, and weapons-grade nuclear materials, and other weapons of mass destruction.

The nuclear threat, with its potential for widespread disaster poses a grave, long-term organized crime danger to the security of the United States.

The best available information to date indicates that there have been no diversions of weapon's grade nuclear materials. However, there have been a significant number of cases involving the theft and smuggling of relatively low-grade nuclear materials from within the former Soviet Union.

Enhanced law enforcement efforts must be taken now to guard against nuclear weapons or weapons-grade material from falling into the hands of outlaw nations, organized gangs, or terrorist bands planning to carry out a catastrophic attack.

Training programs are required to assist the law enforcement agencies of the countries of the former Soviet Union, the Baltic countries, and Eastern European nations to expand and improve their own efforts against the possible proliferation of nuclear proliferation by organized crime.

Lastly, in the event that these weapons of mass destruction are stolen either by organized crime elements or terrorist groups and employed clandestinely against military bases overseas, or, find their way to the United States, we need the capability to detect, locate, and disable them in a confined area. Mr. President, the report by the Joint Review Committee on Nonproliferation and Counterproliferation Activities and Programs has identified this capability as a technology shortfall.

Mr. President, given the threat posed by the proliferation of weapons of mass destruction, it is imperative for the United States to act to prevent the proliferation of illegally acquired nuclear weapons/components and related materials, and in particular to prevent these materials from entering the United States. We must also have the capability to detect, locate and disarm the weapons of mass destruction, in the event prevention fails.

Mr. COATS. Mr. President, we have no objection to the amendment. I urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2201) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2202

(Purpose: To authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities)

Mr. NUNN. On behalf of Senator KOHL, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER (Mr. EXON). The Clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KOHL, for himself, Mr. FEINGOLD, and Mr. PRYOR, proposes an amendment numbered 2202.

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 325, between lines 4 and 5, insert the following:

SEC. 2847. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory boards established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

"(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may, employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of Title 10, United States Code as added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) 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).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

(e) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

Mr. NUNN. Mr. President, this amendment would authorize the Secretary of Defense to create Restoration Advisory Boards at military bases that are being cleaned up and would direct the Secretary to make up to a total of $7 million available in fiscal year 1995 funds to provide financial assistance to the Restoration Advisory Boards to allow them to hire independent technical assistance.

I urge adoption of the amendment.

Mr. KOHL. Mr. President, this amendment should be of interest to any Senator who has a military base with environmental contamination in his or her State. According to the Defense Department's latest report to Congress on the Defense Environmental Cleanup Program, that includes practically every member of this body.

As the Defense Department downsizes or closes bases, there is a growing fear among citizens that environmental cleanup of toxic wastesites will be rushed and that, faced with tight budgets, the Defense Department may make decisions about the cleanup of these sites which are detrimental to the health and well being of citizens living nearby. This fear has become even more acute with the realization that the cost of cleaning up the 13,000 plus Defense toxic wastesites across the country could cost as much as $25 billion.

This amendment attempts to protect the interests of local communities in the cleanup process and give them the means to participate in the difficult decisions about environmental cleanup which lie ahead. It is similar to a bill I introduced on the same subject but I have made a number of changes to address concerns raised by the distinguished chairman and ranking member on the Readiness Subcommittee, and by the Department of Defense and I thank them for their assistance in helping move this initiative forward.

Let me repeat—the Department of Defense supports this amendment. This legislation puts into statute the establishment of citizen advisory boards by the Defense Department and lays out criteria for the make up of these boards. Most important, however, it permits the Defense Department to provide funding to the citizen advisory boards to allow them to obtain independent technical assistance.

By setting a cap on overall spending for technical assistance funding, this amendment does not direct significant funds away from cleanup itself.

This amendment will not delay cleanup of bases, rather it will facilitate environmental cleanup. By ensuring that the views of local citizens can be heard, we can prevent strained relations between civilians and the military and the delays that often arise because of these tensions.

This amendment is not designed to fund more studies. I think we all agree that there have been plenty of studies.

Finally, this bill would not require new spending. Instead, it permits the Department of Defense to spend up to $7.5 million from the defense environmental restoration account and the 1990 base realignment and closure account for this purpose. And let me emphasize, to address the concerns of the Department of Defense, this is completely discretionary.

Mr. President, this is a small price to pay for peace of mind. And, in the long run, investing the local community in the cleanup process will save millions of dollars that might have been spent in litigation down the road.

This bill could have tremendous impact across the country. In my own State, where there is not a large military presence, there are 278 contaminated sites at 47 installations and formerly used Defense sites.

Let me just provide a little background for Senators who may not be familiar with the history of this initiative.

Two years ago, all the parties involved in the cleanup of Federal environmental contamination came together under the auspices of the Keystone Foundation. For the first time, Federal, State, local, and Indian tribal officials, and community, environmental, and labor organizations, came up with a series of recommendations acceptable to everyone to improve public participation in the cleanup of these hazardous sites. These recommendations can be found in the interim report of the Federal Facilities Environmental Restoration Dialog Committee.

The Defense Department endorsed the Keystone recommendations and has been working to implement them.

The cornerstone of this effort is the creation of citizen advisory boards at each installation. These boards are made up of community members selected to give local input on cleanup issues to the Federal agency having jurisdiction over the site. In a pilot program the Defense Department has directed each of the services to assist communities in setting up citizen advisory boards at five installations with environmental contamination.

In an effort to make these boards more independent and give them credibility in their communities, the Keystone participants recommended that the Federal agencies provide technical assistance grants to the boards, much like EPA does at Superfund sites, so the boards can hire experts to help them understand complex environmental impact statements and technical and engineering information provided to them by the Federal Government.

Badger Army Ammunition Plant which is located in Baraboo, WI, is one of five installations designated by the Army to participate in the pilot program to implement the Keystone recommendations. Subsequent to its selection, a citizen advisory board made up of a cross-section of citizens who have been affected or could be affected by the environmental contamination at Badger was created to provide policy and technical advice on key cleanup decisions.

The Board at Badger has been frustrated by its ability to receive technical assistance funding from the Department of Defense to hire independent technical advisers. Instead, the Army has encouraged the board to use the technical advisers employed by the Army. Yet, the environmental contractors working for the Army are not permitted to speak directly to members of the board when they have questions. All questions have to go through the Army.

Although I have no doubt that the Army is operating in good faith, preventing the citizen advisory board from receiving independent guidance on technical matters violates the spirit of the Keystone process and puts the entire credibility of the board at stake. Our amendment would correct this problem.

This bill is about empowering citizens who have taken on the difficult task of working side by side with the military to make sure that clean really means clean. Above all, this bill is about building trust between the Federal Government and our local communities.

I urge my colleagues to support this effort so we can get on with the business of cleaning up our bases and making our communities, the water, the soil and the air, safe for our children.

Mr. COATS. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2202) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2203

(Purpose: To establish as a civil service position the position of athletic director at the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy, and to provide for the establishment of nonappropriated fund accounts for the athletic programs of the academies)

Mr. NUNN. Mr. President, on behalf of the Senator from West Virginia [Mr. BYRD] I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, proposes an amendment numbered 2203.

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 249, between lines 7 and 8, insert the following:

SEC. 1068. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

Mr. NUNN. Mr. President, this amendment would require that the service academy athletic directors be civil service positions and that the academy athletic programs be administered through nonappropriated fund accounts.

I urge adoption of the amendment.

Mr. BYRD. Mr. President, the media is again reporting on purported scandals at the Naval Academy. This time, the stories concern the Naval Academy Athletic Association's purchase of a condominium for the Naval Academy's athletic director and an alleged all-expenses paid Army-Navy football game weekend junket for Naval Academy officials and supporters, at a time when academy sports programs were being cut. The director of the Naval Academy Athletic Association has defended the decisions that were made. I do not offer a judgment on the actions or the allegations. I would observe, however, that given the unique institutional arrangement between the Naval Academy and the NAAA N-triple A, as the athletic association is called, the appearance of impropriety is difficult to avoid.

The unique institutional arrangement between the Naval Academy and the NAAA is almost a century old. The NAAA, a tax-exempt organization created to promote and support Naval Academy athletics, receives no Government funds. Its revenues, derived from sales of tickets, television rights to Navy football games, membership dues, and investments, provide the NAAA with a $7 million dollar a year budget. From this, the NAAA pays the Naval Academy's athletic director's salary, some other Academy athletic officials' salaries, and provides full or partial funding for most Academy athletic programs. The athletic director, who oversees all Naval Academy sports programs as well as coaching the football game, is provided a residence within the Naval Academy grounds in Government-provided housing. The NAAA's budget is reviewed and approved by a board of control and by the Naval Academy's Commandant of Midshipmen and the Superintendent of the Academy.

This does not sound very scandalous. However, the athletic director of the Naval Academy has another job. He is also the director of the NAAA. The associate director of athletics at the Naval Academy is also the treasurer of the NAAA. The condominium that the NAAA purchased as an investment currently serves as the residence of the athletic director while his residence on the Naval Academy is being renovated. A second residence purchased by the NAAA as an investment in 1982 was until recently rented to the Naval Academy's associate director of athletics, and treasurer of the NAAA, for $600 per month. According to his rebuttal to a June 13 Baltimore Sun article, the athletic director argued that purchasing a condominium for his use while his other residence was being renovated made sound fiscal sense, much wiser than renting. As investments, these property purchases may be sound, but having the stewards of the investment decisions benefit from the purchases so directly raises troublesome questions about conflicts of interest.

In 1993, the NAAA recommended the elimination of four varsity sports that cost some $250,000 a year to maintain. A fifth varsity sport was reduced to club status, ending its financial support by the NAAA. According to the athletic director, quoted in the Baltimore Sun on June 13, the recommendations were based upon "brigade and fan interest, availability of competition, and revenue potential" as well as finances. None of those decision factors, I would point out, relates to the role of sports in developing leadership, teamwork, or physical endurance in our Nation's future military leaders. That list of decision factors also does not indicate whether the Review Board created in 1992 to protect minor sports concurred in the recommendation.

This situation illustrates some of the pitfalls and potential problems that can arise when conflicts of interest and lack of objective oversight of athletic budgets dominate an athletic program. It is a situation that, while unique to the Naval Academy among the military academy constellation, is not unique to military academies. The highly regarded March 1991 report of the prestigious Knight Foundation's Commission on Intercollegiate Athletics, "Keeping Faith with the Student-Athlete: A New Model for Intercollegiate Athletics," examined the growing abuses in college sports and proposed a reform agenda. Prominent among the report's recommendations is that "no extra-institutional organization should be responsible for any operational aspect of an intercollegiate athletics program. All funds for athletics should be channeled into the university's financial system and subjected to the same budgeting procedures applied to similarly structured departments and programs." This conclusion by the major national commission reviewing the state of intercollegiate athletics should be accorded important weight.

Because of the Service academies' position as federally operated institutions, it seems highly persuasive to me that the concept of financial integrity should be a basic tenet of their athletic programs. The Air Force Academy and the Army's Military Academy at West Point already abide by this tenet. Their athletic directors are also civil service or active duty military personnel, with no dual roles as directors of non-governmental athletic associations.

Therefore, I am offering an amendment that brings into conformity the practice of the Naval Academy with that of the other Service academies and that satisfies the principle of public accountability and financial integrity. This amendment requires that all revenue generated by the athletic program and associated activities at each Academy be placed in a nonappropriated fund account under the control of the Service and the Department of Defense. The receipts from ticket sales, television rights and the lucrative results of intercollegiate athletic events will go directly into the budget of the academies.

Additionally, this amendment directs the Academies to fill the positions of athletic director, the primary policymaker for the athletic department, with either a civil servant or a military officer, and not an employee of an outside organization.

This amendment will codify existing relationships between athletic associations and institutions at the Air Force Academy and at West Point. The Naval Academy should also recognize and correct the relationships between itself and the Naval Academy Athletics Association. The amendment provides for a transition period of 240 days, or 8 months, after the date of enactment of this bill, in order to establish the fund and transition the athletic director position. While it may be difficult to end a long-established practice, the long-term interests of the Naval Academy will be better served by an arrangement that avoids even the appearance of impropriety, and promotes the concept of public scrutiny and accountability.

Mr. COATS. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2203) was agreed to.

Mr. COATS. 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. 2204

(Purpose: To revise the composition of the Commission on Roles and Missions of the Armed Forces)

Mr. NUNN. Mr. President, on behalf of Senator FORD, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. FORD, for himself and Mr. BOND, proposes an amendment numbered 2204.

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 185, between lines 7 and 8, insert the following new section:

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) REVISION.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) APPOINTMENT.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

Mr. NUNN. Mr. President, this amendment would add one additional member to the Roles and Missions Commission. This amendment would require that the new member shall have previous military experience and management experience with the Reserve components.

I urge adoption of the amendment.

Mr. FORD. Mr. President, last year, in the National Defense Authorization Act for fiscal year 1994, Congress directed establishment of a commission to review and report on the allocation of roles, missions, and functions of the Armed Forces.

The intent was to ensure that we have effective post cold war defense forces, with proper alignment of roles and missions.

The Commission is not expected to report until April or May of next year.

While the guidance for establishment of the Commission specifically referred only to the Armed Forces, the role of the National Guard and Reserve components should have been considered a significant element of such a review.

The bill we are considering recognizes that omission by adding a provision that will specifically include the Guard and Reserve components in the conceptual framework of the Commission's review and directs that the Commission address the roles, missions, and functions of the Reserve components within the total force.

Unfortunately, the bill does not specify that the Commission itself must include at least one member representing the National Guard and Reserve.

My amendment would direct that an additional Commission member be added who has previous military and management experience with the Reserve components.

This provision will ensure that the peculiar requirements and benefits of Guard and Reserve components are recognized and considered in the final report.

I urge support for this amendment and I thank the chairman and ranking member for their support.

Mr. COATS. Mr. President we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2204) was agreed to.

Mr. COATS. 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. 2205

Mr. NUNN. Mr. President, on behalf of Senator Sarbanes, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SARBANES, for himself, Mrs. KASSEBAUM, Mr. PELL, and Mr. HELMS, proposes an amendment numbered 2205.

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 198, line 3, insert before "(f)" the following:

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country."

Mr. NUNN. This amendment adds two additional limitations to the statutory structure for the Military-to-Military Contacts program.

I urge adoption of the amendment.

Mr. COATS. Mr. President, we have no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2205) was as agreed to.

Mr. COATS. 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. 2206

(Purpose: To express the Sense of the Senate that the Administration has not adequately funded the Department of Defense's Future Year Defense Program and that the Secretary of Defense should undertake a comprehensive review of the Bottom-Up Review and the Future Years Defense Program and, upon completion of that review, establish required funding levels and priorities, and for other purposes)

Mr. COATS. Mr. President, on behalf of Senator DOLE, 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 Indiana [Mr. COATS], for Mr. DOLE, for himself, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. COATS, Mr. THURMOND, Mr. SIMPSON, and Mr. WARNER, proposes an amendment numbered 2206.

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

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

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base

closure round may cost significantly more than is assumed in the Administration's budget;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

Mr. COATS. Mr. President, this amendment expresses the sense of the Senate that the Department of Defense review the assumptions and conclusions of the Bottom-Up Review and report on the force structure required for an adequate defense.

Mr. DOLE. Mr. President, this amendment is simple and straight forward. The legislation expresses the sense-of-the-Senate that the Department of Defense should reexamine the Bottom-Up Review and President Clinton's future years defense program and report to both the Congress and the President on the force structure required to provide for an adequate defense for our Nation. It further states that it is the sense-of-the-Senate that the President's budget should adequately fund that plan. The reason I have raised this question is that despite all of the rhetoric, we have neither. According to the military experts, the force represented in the Bottom-Up Review is inadequate to meet our stated national security needs. And according to the administration's own experts, even that force is massively under funded.

We have just concluded that commemoration of the 50th anniversary of the landings at Normandy. Many of the Members of this body participated in commemorative events either in Europe or here at home. I think its appropriate for us to debate our defense budget while our reflections on the sacrifices of 50 years ago are fresh in our minds.

THE PRESIDENT'S PROMISES

I have heard the President's pledge for a strong defense, his pledge to field the best equipped fighting force, and his pledge of support of our fighting men and women. The President has stated that he would cut defense no further. He has endorsed the Bottom-Up Review as the guiding document for our Armed Forces for the post-cold-war era. And he has assured us that the Bottom-Up Review Force is adequate for fighting two major regional contingencies, or MRCs, nearly simultaneously.

MORE HIDDEN DEFENSE CUTS

While I have listened to the President's statements, I am concerned about the impact of his actions. In the state of the union address on January 25, 1994, President Clinton stated that the budget he would send to Congress would draw the line against further defense cuts. Let's be clear what this means. It means that the President remained committed to the huge cut of over $127 billion which he sent the Congress last year. The President's 5-year defense plan calls for an additional decline in defense spending of 10 percent in real terms. Regarding these additional cuts, the distinguished chairman of the Armed Services Committee said, "if these additional hidden reductions are not reversed, I believe that they will seriously erode the future capability of our military services." I share the distinguished chairman's view and that is what this amendment is all about—to put the Senate on record on this point.

The fact is, we are entering the 10th consecutive year of defense cuts. The defense budget before us, as reflected in this bill represents a reduction of approximately 33 percent over the 1985 defense budget. By the end of the administration's future years defense program, defense spending will have fallen by 43 percent over fiscal year 1985. We are not cutting defense—we are gutting it.

BUTTOM-UP REVIEW IS UNDERFUNDED

The Bottom-Up Review was commissioned by this administration to properly structure our Armed Forces for the cold-war era. This force is what the administration has told the American people is the minimum needed to ensure our national security. However, according to the administration's own defense experts, the future years defense program simply will not fund the force outlined in this plan. According to the Armed Services Committee's report, "* * * as the Secretary of Defense testified before the committee, the Defense Department's future years defense program actually included $20 billion more in program funding during fiscal years 1996 through 1999 than the Defense funding levels in the administration's own budget can support." In other words, the Secretary of Defense is saying that the administration has underfunded its own defense plan, which the Secretary has called the "Bottom Line" for "America's future security," by $20 billion. Let me add that the $20 billion figure is in dispute. Many defense experts believe the shortfall to be much greater—between $50 and $100 billion. Whatever the exact figure, the fact is that President Clinton's defense budget doesn't support his own force structure.

The committee report goes on to state that if the overall defense budget is not increased in fiscal year 1996, "funding for programs currently included in the Defense Department's planned fiscal year 1996 budget will have to be cut."

The impact is direct. The Secretary of the Navy testified that the Department of the Navy will operate only 330 ships, as opposed to the 346 ships called for in the Bottom-Up Review. Additionally, as the chairman has pointed out, the President's budget request would have funded only 100 bombers during fiscal year 1995 and only 80 bombers in the out years. This, despite the Bottom-Up Review's requirement for 184 bombers. While I appreciate the committee's action to prevent further retirement of heavy bombers in fiscal year 1995 and the commitment of funds to preserve the bomber industrial base, I am concerned by the fact that the President's budget would not have adequately funded the minimum number of bombers required for this Nation's security. It is a fact that the Bottom-Up Review is underfunded and it appears that this administration, while making statements about commitment to a strong defense and demonstrations of support for our troops, is willing to do little if anything to address that problem. The result is the exposure of our fighting men and women to a greater level of risk.

THE BOTTOM-UP REVIEW FORCE IS INSUFFICIENT

The administration's assurances that the Bottom-Up Review Force structure is sufficient to fight and win two major regional contingencies nearly simultaneously is not supported by the facts. Of the most glaring deficiencies is the fact that the number of army divisions called for by the President's strategy will not meet the military's stated needs for fighting and winning a major regional contingency in the Far East and a major regional contingency in Southwest Asia. During the gulf war, the United States deployed seven divisions plus two armored cavalry regiments to Southwest Asia. Recently, General Luck testified that a major regional contingency on the Korean Peninsula would require at least 400,000 troops to reinforce the U.S. Forces already assigned to South Korea. If the United States had to face these two wars "nearly simultaneously," the Army would not be able to deploy all the troops required. Remember that at the same time the United States is fighting these major regional conflicts, it also would have to maintain at least one division in Europe to meet our NATO requirements. And we can't forget the humanitarian missions and peacekeeping operations to which this administration has committed us. The fact is that the administration's Army force structure will not allow us to fight and win two MRCs nearly simultaneously and meet all of our other responsibilities.

I remind my colleagues of the administration original policy of sizing U.S. Forces for what was termed a "win-hold-win" strategy. This strategy held that if the United States were fighting a regional conflict, and during that fight, a second regional conflict broke out, U.S. Forces would hold off the second aggressor until the first had been defeated. I think you will also recall that this notion was so widely discredited that the administration quickly announced that it had abandoned it. However, in my view, the force structure outlined in the Bottom-Up Review, is simply "win-hold-win," with a new label. Like "win-hold-win," the

Bottom-Up Review assumes a late redeployment of critical assets, such as intelligence, command, and control, and air capabilities—that includes bombers, from the first contigency to the second "as circumstances permitted." In fact, the forces required by the Bottom-Up Review strategy and the forces required to implement win-hold-win are remarkably similar. As Dr. Dov Zakheim testified before the House Armed Services Committee, ". . . there is no difference at all with respect to the force levels postulated for the Air Force under the two supposedly different strategies." Closer inspection reveals that the current force structure not only is insufficient for the Bottom-Up Review strategy, it would not even meet the requirements or "win-hold-win." The Air Force that was to be the foundation of "win-hold-win." But, as I have already pointed out, the Clinton administration requested funding adequate for only 100 bombers in the coming fiscal year. Dr. Zakheim went on to say, "since bombers were essential to the effectiveness of the 'win-hold-win' strategy, the cut in bomber forces calls into question whether the administration can do more than support a conflict in but a single theater." The assurance that the current force structure can meet two MRC's is absurd.

In summary, the funding plan does not support the force structure, and the force structure won't do the job.

During World War II, it took this Nation and our Allies almost 2 years to amass the troops and material needed for victory. However, the simple fact of the matter is that we will never again have that kind of time to prepare for war. And you can be sure our enemies have learned from the mistake of Saddam Hussein, the next time we face an aggressor, that aggressor will not allow us with 6 months to prepare for the fight.

Look at the war in Bosnia, Saddam Hussein in Iraq, the nuclear buildup in Iran, and the situation on the Korean Peninsula. It should be obvious to all of us that the world is still a dangerous place. The amendment I have proposed would simply state the sense-of-the-Senate that we want a review of proposed defense spending and the Bottom-Up Review Force structure to ensure that we are ready to meet whatever threat may await us. I urge my colleagues to support this amendment.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2206) was agreed to.

Mr. COATS. 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. 2207

(Purpose: To require the Secretary of Defense to submit to the congressional defense committees estimates of the total cost of procurement of 20 additional B-2 bomber aircraft)

Mr. NUNN. Mr. President, on behalf of the Senator from Vermont [Mr. LEAHY], 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. LEAHY, proposes an amendment numbered 2207.

On page 26, between lines 13 and 14, insert the following:

(e) ESTIMATES OF TOTAL COST REQUIRED.—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B-2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

Mr. NUNN. Mr. President, this amendment requires the Department of Defense to provide to the congressional defense committees estimates of the cost to acquire another 20 B-2 bombers under two different production rate assumptions.

Mr. President, this is information the committee and the Congress will need to obtain.

I wish to make it clear that this is on behalf of Senator LEAHY, who opposed the program, but the information will be informative to all of us.

Mr. LEAHY. Mr. President, earlier today, the Senate defeated an amendment that I cosponsored which would have cut $150 million and close the B-2 production line. As the sponsor of the amendment last year that capped the B-2 program at 20 planes, I strongly oppose spending one additional dime of taxpayer dollars on keeping the B-2 assembly line warm.

The $150 million the Senate approved today is a downpayment for 20 additional B-2 bombers. Incredibly, these funds were approved without any independent estimates on how much these planes will cost.

The amendment I offer this evening does just that. This measure requires the Department of Defense to provide Congress with detailed estimates by January 1, 1995 on how much more the B-2 is going to raid the U.S. Treasury.

I thank the Chairman of the Armed Services Committee for working with me on this amendment. I urge the adoption of the amendment.

Mr. COATS. Mr. President, I do not believe we have any objection to that amendment. I urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2207) was agreed to.

Mr. COATS. 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. 2208

(Purpose: To provide for the review of cost growth in certain Department of Defense contracts and cost comparison studies for certain Department of Defense contracts)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of the Senator from Arkansas, Mr. PRYOR, and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PRYOR, proposes an amendment numbered 2208.

On page 110, between lines 19 and 20, insert the following new sections:

SEC. 357. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 358. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the

cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410*l* of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410*l* of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

Mr. NUNN. Mr. President, this amendment would provide for review of cost growth in certain DOD contracts and cost comparison studies in certain DOD contracts.

Mr. PRYOR. Mr. President, the amendment has two parts which are designed to ensure that the taxpayers are to paying excessive amounts of money to private contractors. I am delighted that this amendment is already include in the House version of this bill. I am hopeful that this reform will quickly become the law of the land.

Mr. President, not long ago, the Senate passed the Acquisition Reform Act which was intended to make our federal procurement system easier for the government to operate and to make it easier for contractors to deal with the government. While I supported that legislation, it is important to recognize that in addition to making our system simpler, we should also strive to make it more efficient and accountable.

As I have stated, my amendment has two parts. The first section requires the DOD Inspector General to review a portion of the existing service contracts at DOD to determine if these contracts have experienced excessive overruns. This requirement is necessary due to the simple fact that all too many GAO reports, IG reports, and hearings like the one I have held on government contracts have documented that too often contract awarded to save money actually end up costing more than the federal employees that were replaced.

Mr. President, this requirement does not prevent DOD from contracting out any services. But, it gives us some independent oversight over these contracts once they are awarded. Perhaps if the contractors and DOD know that the IG will be checking up on these contracts, then the taxpayers will not be forced to pay for the excessive cost growth that occurs all too often when government work has been farmed out to contractors.

The second part of my amendment addresses those types of contracts that are not now subject to a cost comparison. I am speaking about consulting services or, as they are sometimes called, advisory and assistance services. If DOD wants to contract for lawn mowing services, they do a cost comparison between contractors and Federal employees. However, if DOD wants to contract for planning, managing, analyzing and other such services, then there is no requirement that they first compare the cost of using Federal employees versus contractors. This makes absolutely no sense.

Mr. President, again, this requirement to conduct a cost-comparison does not prohibit DOD from awarding any contract. However, for the first time, DOD and others will at least begin asking a very basic question before awarding consulting contracts. Will it cost more to use Federal workers or private contractors to perform this work? This is information that any manager should have before making a decision that will cost the taxpayers large sums of money.

Mr. President, this requirement does allow DOD to consider other factors not related to cost when they are performing these comparisons. For example, these other issues could include the availability of DOD personnel, whether the work is a one-time requirement, or a recurring need.

Mr. President, this amendment sets the dollar threshold for conducting a cost-comparison at $100,000. I think this is a reasonable figure. When the Senate was considering the Acquisition Streamlining bill, there was much discussion of the need to raise the small purchase threshold from $25,000 to $100,000 in order to reduce the paperwork burden on the agencies. The Senate was informed that the vast majority of contract actions, close to 90 percent, were under this threshold. This means that the agencies could now begin to focus on the major contracts over $100,000. I think the same logic applies to cost-comparisons for consulting contracts.

In conclusion, Mr. President, these two requirements will provide DOD and the Congress with much needed information on the cost of using private contractors. This is a small but important step to take towards a more efficient and accountable government. I urge the adoption of this amendment.

Mr. COATS. Mr. President, we have no objection to that.

The PRESIDING OFFICER. The question is an agreeing to the amendment.

The amendment (No. 2208) was agreed to.

Mr. COATS. 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. 2209

(Purpose: To increase the authorization of appropriations for the Army for ammunition in order to provide for an interim bunker defeating capability until the short-range attack weapon is fielded, and to reduce the amount provided for C-135 aircraft modifications)

Mr. NUNN. Mr. President, on behalf of Senators DECONCINI, FORD, and MCCAIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Georgia [Mr. NUNN], for Mr. DECONCINI for himself, Mr. FORD, and Mr. MCCAIN, proposes an amendment numbered 2209.

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 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$848,122,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,592,194,000".

On page 21, between lines 15 and 16, insert the following:

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

On page 27, line 19, strike out "$5,149,708,000" and insert in lieu thereof "$5,152,308,000"

Mr. DECONCINI. Mr. President, on behalf of Senator FORD and Senator MCCAIN, I offer an amendment to the fiscal year 1995 National Defense Authorization bill. Our amendment would authorize completion of research and development, and initial procurement, of the Army's Bunker Defeat Munition.

After submission of the budget request, but prior to the committee's markup of the bill, the Army decided to terminate the Bunker Defeat Munition, or BDM, in favor of another weapon known as the short-range attack weapon, or SRAW, that would be integrated with a warhead known as the multi-purpose individual munition, or

MIPM. The SRAW has been under development by the Marine Corps; the MIPM has been under development by the Army. The Army's decision to terminate BDM reflects a decision to develop the SRAW/MIPM jointly with the Marine Corps. This Army decision was welcome to the Armed Services Committee because the Congress last year had directed the Army and the Marine Corps to integrate these two programs and proceed rapidly to develop and field the weapon.

The Army recommended termination of BDM because of budget constraints, the belief that the SRAW/MIPM would be a more effective weapon, and because the Army hopes that SRAW/MIPM would be available in just a few years.

I understand the committee's position and the budget constraints facing the Army. However, since the Army Headquarters in the Pentagon made this decision, Senator FORD, Senator MCCAIN, and I have been informed that the Airborne Corps and Forces Command have appealed to the army for an interim, limited procurement of BDM weapons. Our military forces have encountered situations in Operation Just Cause, Operation Desert Storm, and in Somalia where existing weapons were shown to be inadequate. Our rapid-deployment forces have an urgent need for an improved capability to breach bunkers, walls, earthen fortifications, and urban fortifications. BDM could be ready for production in a short period and could provide an improved capability until the SRAW/MIPW is fielded.

Our amendment is designed to provide that capability. The amendment would authorize additional funds to complete development and begin production of BDM. It would also establish a legislative cap on the number of BDM weapons that the Army could acquire, to emphasize the point that this weapon will provide a limited, interim capability only.

As an offset, we understand that the Air Force recently terminated a KC-135 tanker refueling system, which would make available more than enough funds to pay for this BDM initiative.

I understand that the amendment is acceptable to both sides. I appreciate the assistance from the committee.

Mr. MCCAIN. Mr. President, I am pleased to cosponsor an amendment to the Fiscal Year 1995 National Defense Authorization Bill. The amendment would restore the $10.4 million requested for the Bunker Defeat Munition Program.

The urgent requirement for a bunker defeat munition was established based on the lessons learned in Operations Just Cause, Urgent Fury, Desert Storm, and Desert Shield; and was reinforced during Operation Restore Hope. Additionally, the Bunker Defeat Munition fully meets the FORSCOM requirements for an interim individual munition to defeat bunkers.

The fiscal year 1995 request reflects Congressional direction. Congress provided funding in fiscal years 1992–1994 to conduct a competitive evaluation of bunker defeat munition candidates; and the fiscal year 1994 Defense Authorization Conference included language directing the Army to pursue a limited, interim program for a bunker-defeat system.

The Army decision earlier this year to terminate the program was based on erroneous affordability assumptions and abandons a simple, cost effective solution. The BDM program testing has been highly successful and the program is on schedule. It can be fielded in the first quarter of fiscal year 1996. It is therefore apparent that the Army decision to cancel the BDM was premature and would leave the Army without an interim capability to defeat field fighting positions for at least another five or six years and wastes the $14 million that has already been spent on the program.

My understanding is that this amendment is acceptable to both sides. The time and attention of the committee to this matter is greatly appreciated.

Mr. NUNN. Mr. President, this amendment authorizes funds to complete R&D and begin production of a bunker-defeating weapon for the Army. It caps total procurement of the weapon at 6,000 rounds.

Mr. COATS. We have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2209) was agreed to.

AMENDMENT NO. 2210

(Purpose: To express the sense of Congress on providing for a twelfth Naval Amphibious Ready Group, and to authorize the Secretary of Navy to take certain actions to facilitate the establishment of such Amphibious Ready Group)

Mr. COATS. Mr. President, in behalf of Senator LOTT, 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 Indiana [Mr. COATS], for Mr. LOTT, for himself, Mr. SHELBY, Mr. COCHRAN, and Mr. HEFLIN, proposes an amendment numbered 2210.

Mr. COATS. 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 22, between lines 9 and 10, insert the following:

SEC. 122. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal Year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD-7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the FY-95 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—If is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of the Navy should extend the existing contract option on the LHD-7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD-7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD-7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of Navy shall immediately begin negotiations to extend the existing contract option for the LHD-7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD-7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD-7 Amphibious Assault Ship.

Mr. COATS. Mr. President, this is an amendment that expresses the sense of the Congress that the Navy should plan for and budget to provide for the attainment of the 12th Amphibious Ready Group. It authorizes the Secretary of the Navy to extend the existing contract option for LHD 7, directs the Secretary of the Navy to negotiate an extension of the contract option, and it authorizes the Secretary of the Navy to recommend a reprogramming of Navy funds for such contracts.

Mr. LOTT. Mr. President, during the Armed Services Committee consideration of the defense authorization bill, I offered an amendment which added money to the Ship Construction Navy

Account for the LHD–7. The Navy currently holds a firm fixed-price option on LHD–7 which is set to expire on December 31, 1994.

The Armed Services Committee agreed, by a vote of 14–6, to keep this option alive. Most everyone knows that the LHD–7 was funded by the Committee with moneys requested for the sealift program. Last week, during consideration of the Johnston amendment, I stated my interest in restoring money to the sealift account—but I also remained dedicated to preserving the Navy's options related to the LHD–7.

This amendment, which I am offering on behalf of myself, Senator COCHRAN, Senator SHELBY and Senator HEFLIN, achieves my objective of keeping the LHD–7 option alive. This amendment, which has been cleared on both sides, is a good amendment. It authorizes the Secretary of the Navy to extend the existing contract option on the LHD–7 and declares that Congress is firmly and unalterably committed to the Navy requirement for twelve Amphibious Ready Groups. In addition, the amendment reaffirms the compelling testimony presented by Navy and DOD personnel that the United States must have LHD–7 if we are going to reach our 12 Amphibious Ready Group requirement.

The LHD serves as the premier warship in the amphibious fleet. Today, LHDs are deployed across the globe, protecting U.S. national security interests. One LHD is sailing off Haiti, supporting the Naval embargo and refugee processing in accordance with United States objectives. Another LHD is sailing off the coast of Somalia, ready at a moment's notice to assist in the evacuation of United States and humanitarian personnel should their lives be placed in danger. In addition, over the previous 6 months, LHDs have supported U.S. and NATO operations in the Adriatic related to the ongoing unrest in Bosnia.

Under the Navy's new strategy "* * * From the Sea," LHD's become the capital ship of the fleet geared toward brown-water operations, operations which are critical to success in regional contingencies. Given the validated military requirement for 12 Amphibious Ready Groups and the fact that seven LHDs are required to reach this force structure, this amendment is a significant achievement because it:

Authorizes the Secretary to extend the contract option on LHD–7; and

Authorizes the Secretary to execute this option if he determines it to be in the best interests of the United States.

I would also point out that in testimony before the Senate Armed Services Committee, the Secretary of the Navy, John Dalton, testified that the Navy wants the ship, needs the ship, but just could not afford this ship at this time. The Secretary's testimony, while significant and clear, is only a small part of the justification for proceeding on this ship now. General Mundy, Commandant of the Marine Corps, stated that "Twelve Amphibious Ready Groups are the minimum number required."

General Hoar, Commander in Chief of the U.S. Central Command testified that we need "LHD–7 and 12 Amphibious Ready Groups to ensure that we maintain the Naval posture that is the backbone of our forward presence." In a required Navy report, signed by the Chief of Naval Operations, Admiral Kelso in March 1993, the Navy stated, "The Navy's goal is 12 ARGs. * * * An additional LHD, the seventh, would be required to fully support the 12 ARG goal. * * *"

UNANIMOUS-CONSENT REQUEST

Mr. President, in order to more fully explain the requirement for LHD–7 and the importance of this amendment, I ask unanimous consent that accompanying this statement, Admiral Kelso's report and a chart documenting the extensive testimony supporting LHD–7 be included in the RECORD.

Mr. President, this amendment authorizes the Secretary to maintain his options on LHD–7. This amendment advances the cause of LHD–7 by authorizing the Secretary to take specific actions—actions which if not taken will result in the Navy and Marine Corps failing to meet their stated military requirements.

I urge the adoption of this amendment.

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

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, April 7, 1993.

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

DEAR MR. CHAIRMAN: I am responding to Senate Armed Services Committee Report 102–352, which directed Navy to report on alternatives to meet amphibious lift goals in light of other expensive programs and declining budgets, and to report on options for maintaining combat logistics capability for the projected reduced fleet.

I am enclosing a copy of our study on amphibious lift alternatives which was prepared by the Chief of Naval Operations' staff with assistance from Headquarters, United States Marine Corps. We concluded that pursuing construction of a new design "LPD like" ship, called LX90 is the best alternative, providing the proper balance of affordability and capability to meet the 2.5 Marine Expeditionary Brigade goal for the years ahead. This conclusion was reviewed and approved by the Defense Acquisition Board in January 1993.

I regret to inform you that due to the recent budget decisions on force structure, the study on combat logistics capabilities is being reworked. That report should be provided by April 15, 1993.

I am sending similar letters to Chairmen Dellums, Inouye and Murtha. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

FRANK B. KELSO, II,
Secretary of the Navy, Acting.

REPORT TO CONGRESS ON AMPHIBIOUS SHIPPING REQUIREMENTS—SUBMITTED BY THE DEPARTMENT OF THE NAVY, MARCH 1993

A. PURPOSE

The Senate Armed Services Committee Report for the Fiscal Year 1993 Defense Authorization Act directed the Secretary of the Navy to report to the defense committees on various alternatives to meet the amphibious lift goal. The Committee expressed concern over the approaching end-of-service life of a large percentage of the current amphibious force, the declining amphibious lift goal, and the viability of the Navy's amphibious shipbuilding plan in an era of decreasing resources.

The Secretary of the Navy was directed to submit a report to the defense committees that assesses five alternatives for meeting amphibious shipping requirements.

Extending the service lives of existing ships.

Purchasing different types of amphibious ships to fill the requirement.

Purchasing and using some number of commercial-type vessels to augment amphibious vessels in the assault.

Changing the relative portions of the assault force carried in the assault echelon (AE) versus the assault follow-on echelon (AFOE).

Expanding the portion of the Marine Corps forces supported by prepositioning ships.

This report provides background and a summary assessment of each alternative. The Navy, with OSD review and concurrence, concludes that the best shipbuilding alternative is a new-construction amphibious ship, currently identified as LX, and that the current doctrine vis-a-vis AE/AFOE and prepositioning is better than the two alternatives examined.

B. BACKGROUND

The Service's fiscally constrained amphibious lift goal is 2.5 Marine Expeditionary Brigades (MEBs). This force must be structured with the flexibility to construct Amphibious Ready Groups (ARGs) to fulfill requirements for forward deployments. The Navy's goal is 12 ARGs consisting of at least three ships; a large helicopter deck ship (LHA, LHD), a ship with secondary aviation support capability (LPD, new LX), and one or more ships as required to support ARG lift requirements (LSD, LST, LKA). Amphibious lift is traditionally measured by assessing five carrying capacities: troops, vehicles, cargo, VTOL spots, and LCAC spots. However, the lift fingerprints must be properly combined for a ship to effectively support a combatant force. For example, the secondary aviation capability of the current LPD and the planned LX is critical to allowing ARGs to be split into two forces, a capability that has been used many times in the past. The Service currently meets the MEB and ARG goals and, despite the large number of ships scheduled to retire, plans on continuing to maintain 2.5 MEBs of lift into the 2020s through an achievable amphibious ship construction program.

As of 1 January 1993 there were 60 active amphibious ships (including 2 LCCs that do not contribute to the lift goal) and 8 ships appropriated or under construction (4 LDHs, 4 LSDs). Forty-five of these ships are scheduled to retire between now and 2007. The block obsolescence problem the Committee

highlights is a specific concern that the Navy is addressing. Figure 1 shows the lift capability of the current force (including appropriated ships) using the planned retirement schedule; the display assumes no further ships are authorized. Without additional ships, the lift shortfall becomes critical in 2004.

The Navy has long recognized the block obsolescence problem and began planning in 1988 by approving a Tentative Operational Requirement (TOR) for a ship class (LX) to replace vessels retiring during the next decade. In 1990, the Defense Acquisition Board (DAB) approved Milestone 0 for the LX and directed a Cost and Operational Effectiveness Analysis (COEA) to study the best means to meet lift goals through Fiscal Year 2010. The LX COEA examined the cost of alternative LX ship designs to maintain wartime and peacetime forward presence amphibious lift goals. The operational effectiveness of the alternatives was examined in terms of suitability for MEB and ARG operations; support of the ship-to-shore buildup of Marines with landing craft and helicopters; and survivability against enemy threats. The COEA showed that in addressing the future lift shortfall, the Navy should not replace retiring amphibious ships on a one-for-one basis. Rather, we should make up the shortfall by replacing smaller and frequently single-dimension ships with medium sized, multidimensional ships. The new ships must provide both a full service aviation capability for several helicopters and over-the-horizon (OTH) surface assault capability similar to the capabilities currently provided by LPD class ships.

The Navy plans to procure 12 LX-class ships in addition to the eight LHD and LSD class ships authorized or under construction. These 20 ships (under construction or planned) coupled with the 15 ships remaining from the current force will result in a 35-ship amphibious force in 2008—11 LHA/LHDs, 12 LSD41/LSD49s, and 12 LXs. This compact, flexible force will support 11 Amphibious Ready Groups (ARGs) for forward presence and provide in excess of 2.5 MEBs lift, with the exception of a minor vehicle lift shortfall after 2007, as indicated in Figure 2. An additional LHD, the seventh, would be required to fully support the 12 ARG goal, but is unaffordable under the current fiscally constrained shipbuilding plan. The Defense Acquisition Board reviewed the COEA ad shipbuilding plan and gave Milestone I approval for LX program development in January 1993.

DOCUMENTATION OF LHD-7 REQUIREMENT

Gen Mundy, Commandant, USMC; 12 Apr 94—Testimony to SASC, Regional Defense Subcommittee; "12 ARGs are the minimum required."

Gen Hoar, CINC CENTCOM; 3 Mar 94—Testimony to SASC; We need "LHD-7 & 12 ARGs to ensure that we maintain the Naval posture that is the backbone of our forward presence."

Adm Owens, Vice Chairman, JCS, Chairman, JROC; 9 Feb 94—Testimony to SASC; 12 ARGs "is the number we should continue to use as our goal."

Adm Kelso, CNO; Mar 1993—Required Report; "The Navy's goal is 12 ARGs. . . ." "An additional LHD, the 7th, would be required to fully support the 12 ARG goal. . . ."

USMC Publication; 1994—Concepts & Issues, Page 2-6; "USMC needs 12th Big Deck (LHD) to support worldwide Forward presence. . . ."

Navy Publication; Aug 1993—Naval Surface Forces, Page 13; Sustaining 12 ARGs is a "top-level objective."

Adm Arthur, VCNO; 11 Dec 92; "Navy/Marine goal of 12 ARGs validated by JROC and is needed to support 3 forward deployed ARGs mandated by JCS."

Adm Jeremiah, Vice Chairman, JCS; 31 Aug 92; "JROC determined Navy must maintain amphibious lift capability to support both crisis response and our forward presence requirements (12 ARGs)."

Mr. COCHRAN. Mr. President, I am pleased there is authorizing language included in this bill to permit funds to be appropriated to keep the option to build LHD-7 alive. The importance of this ship to the Navy and Marine Corps has been strongly stated at hearings and is clearly spelled out in the report accompanying this bill.

I appreciate the support of the managers and all others interested in this ship.

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

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no further debate, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 2210) was agreed to.

Mr. COATS. 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. 2211

(Purpose: To establish conditions on certain contracts between the Federal Government and lessees and transferees of certain Department of Energy property)

Mr. COATS. Mr. President, in behalf of Senator THURMOND, who has offered this on behalf of Senator BOND, 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 Indiana [Mr. COATS], for Mr. BOND, proposes an amendment numbered 2211.

Mr. COATS. 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 371, between lines 6 and 7, insert the following

SEC. 3159. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier * * *

Mr. COATS. Mr. President, this amendment would require certain DOD contractors to certify that they have had no access to privileged information DOD contracts.

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

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 2211) was agreed to.

Mr. COATS. 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, I know that all Senators are anxious to know what we plan from here on.

I can give them a report to the best of my knowledge. We have just handled 44 amendments, and these have been worked out over the last several days. So they are now part of the bill.

There are several more amendments that are being cleared. I know of only one more amendment that could require a rollcall vote. That is the one that is about to be presented by Senator WALLOP.

My understanding is it will require a rollcall vote. I do not know the context of amendment now except in a general fashion. I will be working with others on the amendment. But we certainly can have and probably will have one more rollcall vote.

The Senator from Wyoming has indicated to me that he does not intend to take a lot of time on this amendment, but that he prefers not to have a time agreement at this point.

Mr. President, that is where we are at the moment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. WALLOP. Mr. President, I can assure the Senator from Georgia that it is not my intention by not entering into a time agreement to spend a lot of time. My honest feeling is that we can perhaps do this more quickly without a time agreement than with one.

AMENDMENT NO. 2212

(Purpose: To require a thorough evaluation of the risks and costs of a potential deployment of United States forces to the Golan Heights for peacekeeping operations before any such deployment)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 2212.

Mr. WALLOP. 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 219, after line 19, insert the following:

SEC. 1033. DEPLOYMENT OF UNITED STATES FORCES FOR PEACEKEEPING OPERATIONS ON THE GOLAN HEIGHTS.

(a) LIMITATION.—None of the funds authorized to be appropriated for the Department of Defense by this or any other Act may be expended for support of any deployment of personnel of the Armed Forces of the United States to the Golan Heights as part of a multilateral peacekeeping force, as a unilateral peacekeeping force, or in conjunction with a peace agreement between Israel and Syria that results in the withdrawal of the Israeli Defense Force from the Golan Heights until the Secretary of Defense submits to Congress, in consultation with the Joint Chiefs of Staff, a written report on a potential deployment and the limitation in this subsection ceases to be effective by operation of subsection (d).

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) An evaluation of potential risks or threats to United States forces from acts of terrorism, civil unrest, limited armed conflict, or attacks by paramilitary groups presently occurring in south Lebanon, or similar or related potential acts.

(2) An estimate of the size of the United States armed force necessary to deploy for the peacekeeping mission and the types of military equipment and material necessary to deploy for such mission, and an estimate of the near-term and long-term costs of the deployment and of the performance of the peacekeeping mission.

(3) An analysis of the availability of the personnel, funds, equipment, and other resources necessary for performance of the mission.

(4) An assessment of the potential effects of the long-term assignment of a substantial United States armed force to the Golan Heights on United States global war fighting and strategic capabilities outlined in the Bottom-Up Review of the Department of Defense prepared by direction of the Secretary of Defense in 1993.

(5) An analysis of the responsibilities resulting from, and the implications of, a United States deployment on the Golan Heights with regard to sharing strategic intelligence and warning with Israel, Syria, or both Israel and Syria.

(6) An estimate of the likely duration of the deployment and the conditions under which the deployed United States forces would be withdrawn from the Golan Heights.

(7) An evaluation of alternatives that could make the deployment unnecessary.

(c) UNCLASSIFIED VERSION REQUIRED.—The Secretary of Defense shall submit to Congress an unclassified version of any classified report submitted under this section.

(d) CONDITION FOR TERMINATION OF LIMITATION.—(1) The limitation on use of funds in subsection (a) shall cease to be effective at the end of 30 days of continuous session of Congress after the date on which Congress receives a report under subsection (a) unless, within such 30-day period, Congress enacts a joint resolution disapproving deployment of personnel of the Armed Forces of the United States to the Golan Heights.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Mr. WALLOP. Mr. President, the Senator from Wyoming has not been on the floor. Is this the pending business? Do I need to set something aside?

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. Mr. President, the time has come for Congress to begin considering a range of issues having to do with the administration's apparent willingness to see United States forces deployed on the Golan Heights as part of the Middle East peace settlement.

Mr. President, before any such commitment is reached or finalized, Congress and the American people deserve to be consulted and informed.

So in this regard with respect to the administration and the Congress, I rise to offer an amendment that would require the Secretary of Defense, in consultation with the Joint Chiefs of Staff, to submit a report to Congress clarifying the most significant issues that should be addressed before consensus can be reached on this matter.

My amendment would prohibit the expenditure of funds appropriated for their deployment until 30 days after the Congress receives this required report.

My amendment makes no judgment regarding the merits of a United States deployment on the Golan Heights, or the return of this territory by Israel to Syria. That is not the business of Congress, and it is not the intention of the amendment. It is not intended either to inhibit or to promote any particular outcome in this regard. It simply requires that the Congress be given information that it needs to be a genuine participant in the formulation of U.S. policy in this area.

My amendment would not only satisfy Congress' need for information but it is consistent with the administration's recently released policy on peacekeeping operations.

According to the White House report on this subject, published in May of this year—Mr. President, I show for the benefit of the Senate this document called "The Clinton Administration's Policy on Reforming Multilateral Peace Operations." According to this report on this subject, "Congress and the American people must be genuine participants in the processes that support U.S. decisionmaking on new and ongoing peace operations."

Let me restate that. "Congress and the American people must be genuine participants in the processes that support U.S. decisionmaking on new and ongoing peace operations."

If the President, and if the administration, meant these words, if they are to have any meaning at all, my amendment should be welcomed at both ends of Pennsylvania Avenue.

The questions in my amendment require the Secretary of Defense, or essentially those that are raised by the administration's own stated policy—again, according to its May 1994 report, when U.S. forces are involved in "peace operations," the following factors are to be considered: Whether participation advances U.S. interests, and both the unique and general risks to American personnel have been weighed and are considered acceptable; whether personnel funds and other resources are available; whether U.S. participation is necessary for the operation's success; whether the role of U.S. forces is tied to clear objectives and an end point for U.S. participation can be identified; whether domestic and congressional support exists or can be marshaled; and whether command and control arrangements are acceptable.

In addition to these considerations, Mr. President, the administration's policy states that if there is a chance that U.S. forces may be required to engage in what they call "peace enforcement"—that is, actually confront hostilities—the following factors must be considered: whether there exists a determination to commit sufficient forces to achieve clearly a defined objective; whether there exists a plan to achieve those objectives decisively; and whether there exists a commitment to reassess and to adjust as necessary the size, competition, and disposition of our forces to achieve our objectives.

Mr. President, it is my hope that the administration would view these factors as more than issues that need casual consideration. It is my hope that when they produced this document, they intended for it to be followed, that it was a statement of policy. Our experience in Somalia made clear that such considerations should be elevated to the level of requirements that must be fulfilled prior to U.S. engagement.

In any event, Congress deserves to know how the administration views these matters prior to the deployment of U.S. forces as part of any peace operation. This is absolutely essential if these operations are to gain and sustain domestic support. And if we are to avoid in the future foreign policy fiascoes, such as those that have already taken place in Somalia, Bosnia, and

Haiti, if the administration is serious about making Congress and the American people genuine participants in the processes that support U.S. decision-making on new and ongoing peace operations, they should then embrace my amendment. These are their words; this is their plan; this is their published policy. This is merely a reflection of that.

Some have argued that it is premature to seek the kinds of answers posed by my amendment. Mr. President, I argue that it is overdue. Administration officials have publicly and repeatedly stated at congressional hearings, in speeches, and elsewhere, that the U.S. would be willing to send our forces to the Golan Heights as part of an Israeli peace settlement. Perhaps we will, and perhaps we should. But questions that the administration itself poses need to be answered, and Congress needs to be a participant. So the time is now for the administration to begin to make Congress what they wished in their policy—to be a genuine participant in this decision.

In terms of timing, and whether it is premature to issue a report, let me note that my amendment does not require that a report be done by any date certain. It simply states that before any funds may be expended for deployment for U.S. forces, Congress must have 30 days to evaluate such a report. In this regard, the report could be submitted this year, it could be submitted next year, or any other time in the future, for that matter. This gives the administration time to consider evolving political and strategic circumstances. But, at the same time, it protects Congress' need for detailed information prior to the deployment of U.S. forces.

Mr. President, it has also been argued that any amendment on this subject, even one that simply requests information, as does mine, could upset the delicate negotiations that are now ongoing. But, Mr. President, if the outcome of these negotiations is in any way contingent upon an American commitment to deploy Americans for the purposes of the Golan Heights, it is essential for the negotiators and for our own administration to know whether such a commitment is realistic and sustainable.

The word of the United States is on the line. It has nearly been pledged, Mr. President, and it has been pledged without asking Congress, or informing Congress of the nature of the risk that may be taking place.

Our commitment in the world must be a sustainable commitment, and in order for that to take place, Congress is entitled to know, and must know, what the risks are, what the benefits are, what our purpose is, how do we get in, and how do we get out. This type of an assessment is every bit as much in Israel's interest as it is in our own.

The worst thing we could do for Israel, or the peace process, would be to make an unrealistic commitment, or to consider a deployment that is not up to the task. Before Israel is to withdraw from a strategically vital piece of land, it must know with certainty that the vacuum created will be filled. I have no objection to our being considered as the means, or part of the means, to filling that. But we who must pay for—in treasure and blood—the privilege of this, are entitled to know before making that commitment.

We saw what happened in Somalia when the United States engaged our forces prior to adequately preparing them—or the American people, for that matter—for the challenges they would face. As the result of an American domestic outcry, they were withdrawn as quickly as they were deployed. We must not permit this to happen on the Golan Heights. No Israeli withdrawal would be preferable to one based on a hollow or unsustainable U.S. security guarantee.

So, Mr. President, before the Congress and the American people are in a position to evaluate how realistic it is for the United States to make a commitment of its own forces as peacekeepers or peace enforcers on the Golan Heights, we must have the basic information requested in this amendment. The administration, again I say, should welcome this opportunity to put the horse before the cart; to put in place their own policy, which was stated in May of this year.

So before our country and our people get into the business of guaranteeing the borders of friends and allies against hostile neighbors, we should think long and hard about the potential consequences of such an action. In this regard, I urge the Senate to recall comments made by Winston Churchill on the practical aspects of the Munich agreement of 1938, which consisted of a Franco-British guarantee on the border of Germany and Czechoslovakia. He remarked that:

> While a policy of guaranteeing foreign borders is always hazardous, it may be justified in cases where the borders to be guaranteed have just been strengthened.

But as Churchill also noted:

> To make a border indefensible and then guarantee it is the height of folly. The guarantor sponsors the deal primarily to avoid military confrontation, but does so in a way that ensures that any confrontation would occur on even more unattractive terms. The interest of the guarantor becomes to find every reason not to deliver on his pledge. This encourages potential aggressors and dispirits the party whose borders are guaranteed.

Finally, when war comes, the guarantor must face the military realities he tried to avoid by sponsoring a militarily mindless diplomatic deal. We must never allow our close friend and vital ally, Israel, to be placed in such a situation. If adopted, my amendment assures us the process by which this would never happen. To our friend and ally, this is important; to our own people, this is important; to America's reputation in the world, this is important.

I urge adoption of my amendment.

Mr. NUNN. Mr. President, I understand Senator WALLOP's concern that the Congress be fully consulted before making a commitment to deploy U.S. military forces to the Golan Heights. I believe, however, this amendment is premature, based primarily on the strong, strong letter I received from Secretary of State Warren Christopher, dated June 24, 1994. He notes that since the Madrid conference of 1991, successive U.S. administrations—not simply the Clinton administration, but also the Bush administration—have assured Israel and Syria that the U.S. would be prepared to help guarantee border security arrangements in support of an Israeli-Syrian agreement.

The Secretary goes on to say that it is clearly premature to be discussing this issue prior to a formal request, which has not been made.

He then states:

> In the event we are requested to play a role in the issue of border security, such a request would be considered only after full consultation with the Congress and in accordance with our constitutional processes.

The Secretary requests that we avoid legislation which has the effect of prohibiting U.S. participation in peacekeeping operations in the Golan, which the Wallop amendment would do.

Mr. President, in light of Secretary Christopher's announcement that no formal request of the United States has been made to date and that any such request would be considered by the administration after full consultation with the Congress, I really do not believe this amendment is required. Although I can see a downside to the amendment, I do not see really an upside to the amendment.

It may not do any harm, but it could. I believe it is much better to face this question when that question properly arises and we do have the assurance of the Secretary of State that the Congress would be fully consulted on this matter, and in his own words such a request would be considered only after consultation with the Congress and in accordance with our constitutional processes.

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

Mr. NUNN. I am glad to yield for a question.

Mr. WALLOP. Apparently the Secretary or his people have not read the amendment that is stated. This does not prohibit nor does it have the effect of prohibiting U.S. participation, and it does not ask for the report to be made directly or in any other time. It merely says that before such a commitment is made, that the Congress receives the

report, be fully consulted, and that the funds be fenced for 30 days. It requires the United States to do nothing today or tomorrow. The timing of it would be entirely up to them. It prohibits nothing. Would you agree with that by reading the amendment?

Mr. NUNN. I would say to the Senator from Wyoming, the way I read the amendment, it does require a report, and a rather narrow report.

Mr. WALLOP. But at no particular time, is that not the case? Just prior to the commitment to deploy these troops, is that not the case?

Mr. NUNN. Let me just read the amendment because that is the best evidence. It says:

None of the funds authorized to be appropriated for the Department of Defense by this or any other Act may be expended for support of any deployment of personnel of the Armed Forces of the United States to the Golan Heights as part of a multilateral peacekeeping force, as a unilateral peacekeeping force, or in conjunction with a peace agreement between Israel and Syria that results in the withdrawal of the Israeli Defense Force from the Golan Heights until the Secretary of Defense submits to Congress, in consultation with the Joint Chiefs of Staff, a written report on a potential deployment and the limitation in this subsection ceases to be effective by operation of subsection (d).

And then subsection (d) says here "Condition for Termination of Limitation":

The limitation on use of funds in subsection (a) shall cease to be effective at the end of 30 days of continuous session of Congress after the date on which Congress receives a report under subsection (a), unless, within such 30-day period, Congress enacts a joint resolution disapproving deployment of personnel of the Armed Forces of the United States to the Golan Heights.

And it goes on to state that if the continuity of session is broken, and so forth.

I would say to the Senator that this does not preclude, as I read the amendment, the deployment of peacekeeping forces. But what it does is it sets up a potential obstacle to that and it sets up a thorough report.

Frankly, I think all the information in the report is relevant and would be something we want in a normal process of consultation. I would have to talk to him, but I would think the State Department and the Secretary of State would be reluctant to set up something that appeared to be a hurdle in the eyes of those who are struggling in the Middle East to make peace and to come to some agreement between Israel and Syria, because someone in the Middle East might not read the amendment the same as we would read it here and might say, well, if it has to go to Congress and Congress has 30 days, if we go out on the limb and make an agreement that we may very well end up having the role played by the United States blocked by the Congress.

I think it is the misreading of this amendment in the Middle East that would be the most dangerous side of the amendment.

I do believe that the information that the Senator has asked for is all relevant information and would be things that we would have to consider.

I just urge our colleagues not to pass an amendment like this that could be misread by people in the Middle East who are, particularly in Israel, going out in terms of their effort to secure peace and a settlement.

I just would not want it to be misread or anyone to think that the Congress of the United States was saying, at 9:30 at night, with very little consideration of this on this bill, that we are basically posing an obstacle to them getting some kind of settlement, which we all hoped for over the years.

Mr. WALLOP. Mr. President, if the Senator will yield for a question, surely there should be a hurdle. Surely the President of the United States should not be able, without consulting the Congress and without giving us some means of controlling that commitment, to commit U.S. forces to a situation of extraordinary danger without such a report in our hand and without the ability of the Congress to act on it.

I mean, that is not inconsistent with anything I have ever heard the distinguished chairman say about the commitment of U.S. forces. It is not meant to say that we cannot negotiate such a thing, but it is meant to say that we do follow what the President himself, in his report, said we should follow.

Mr. NUNN. Mr. President, I understand where the Senator is coming from. I understand his concerns. But, given the assurances of the Secretary of State, I just do not believe this amendment is necessary. I believe it could cause problems, and I do not see the necessity of it.

Mr. WALLOP. Mr. President, will the Senator yield for one more question?

Mr. NUNN. I am glad to yield for a question.

Mr. WALLOP. Does the Secretary of State set forth a procedure in there by which the Congress can act before this commitment is made permanent?

One of the things that worries me is that the Secretary of State, the President of the United States, and others, have acted as though this commitment has already been made. But if the Secretary of State lays down the procedure by which we can act before the commitment is ultimately made, perhaps that is all right, but I did not detect it.

Mr. NUNN. I think the Senator makes a correct point there. I do not think the Secretary lays down any detailed procedure here. I do think he makes a firm commitment and he makes it very clear that they are going to basically consult with the Congress and not make anything effective until such time as Congress has been completely consulted.

I cannot conceive of that mission being undertaken by our country, signed off on by the President and Secretary of State, without extensive consultation and advanced consultation with Congress. But exactly how the consultation will take place, no; the Secretary does not say that.

Mr. WALLOP. In fact, I would say that I can conceive of it because they have been saying it, and that is one of the reasons.

This is not meant to prohibit either the President or the Secretary of State or the United States from entering into an agreement and a commitment. It is only to ask the President and his Secretary of State to fulfill the promise they made to the American people in the report of May of this year.

Mr. NUNN. I understand the Senator's position on that, and I think that I believe he is reading the amendment that way. I am just not at all sure it will be read that way around the world.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

Mr. President, I want to respond to the Senator from Wyoming and the amendment that he has proposed.

We are talking at a time when two countries that have been at war since 1948, over 45 years, seem to be talking—though not directly; through intermediaries—about making peace.

It is possible that peace is overtaking the area. But the steps we see day to day—the arrangement with the PLO, the possible conclusion of an agreement with Jordan—each one of these steps is a step over a chasm. And when we talk about having a condition put down before an agreement can be executed, it lends another moment of instability.

In my view, the Senator from Wyoming, in terms of the process, is not incorrect. I think that we should be consulted before troops go out. I think we ought to know about the extent of harm that might befall our troops. I think we ought to get a better idea how long we may be committed to an action.

But, Mr. President, there is no treaty. This is certainly premature. The Secretary of State says so.

I have a note from Senator PELL, who asks that we include his statement in the RECORD. Senator PELL is the chairman of the Foreign Relations Committee. He says:

I oppose this amendment, which could have a very negative impact on U.S. foreign policy interests in the Middle East. The amendment would prevent the use of DOD funds—

And he describes what the amendment would do. In the next paragraph he says:

This amendment is unnecessary; President Clinton has already committed in writing to consult with Congress before making any

commitments to Syria or Israel in a peace accord.

Moreover, the amendment prejudges the outcome of the Syrian-Israeli peace talks * * *

It might also diminish the incentive for the Syrian Government to sign a peace agreement * * *

Mr. President, just to be sure, I will submit this statement for the RECORD so that there is not any editorializing or paraphrasing by myself.

I ask unanimous consent to print Senator PELL's statement in the RECORD.

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

AMENDMENT ON THE USE OF U.S. TROOPS IN GOLAN SETTLEMENT

I oppose this amendment, which could have a very negative impact on U.S. foreign policy interests in the Middle East.

The amendment would prevent the use of DoD funds to support the deployment of U.S. troops to guarantee a Syrian-Israeli peace agreement, unless the Secretary provides certain information to the Congress.

This amendment is unnecessary; President Clinton has already committed in writing to consult with Congress before making any commitments to Syria or Israel in a peace accord.

Moreover, the amendment prejudges the outcome of the Syrian-Israeli peace talks and would have very significant consequences in the Middle East. It would send a negative signal to the Rabin government in Israel, which has made courageous sacrifices in seeking peace with its neighbors.

It might also diminish the incentive for the Syrian government to sign a peace agreement with Israel.

Finally, I would note that neither Syria nor Israel has asked the United States to send troops to the Golan Heights. If we pass this amendment, we would be limiting U.S. options before any proposals are even on the table.

There is no compelling reason to pass this amendment now, but in light of the reasons I just outlined, there are a number of good reasons to defeat it. I therefore urge my colleagues to vote against the amendment.

Mr. LAUTENBERG. Senator PELL says:

Finally, I would note that neither Syria nor Israel has asked the United States to send troops to the Golan Heights. If we adopt this amendment, we would be limiting U.S. options before any proposals are even on the table.

Mr. President, I think that pretty well describes it.

There is all kinds of symbolism attached to discussions that go on in the Middle East, and anything that suggests a precondition or a condition that is not part of a discussion I think could be very upsetting.

I think that this is a poor time. We are at the current hour on a Friday night before the Independence Day holiday. It is obvious, by virtue of the votes that have been taken here now, that we do not have a full complement of Senators here. Many people felt that we would not have any further votes.

But whoever does remain ought to certainly take into account that we have an opportunity to witness an incredible peace agreement being initiated, and we ought not to interfere in any way. This suggests that there is a kind of a precondition by structuring permission to have to be obtained before we can participate. I think we ought to be hands off, except for whatever we can do behind closed doors to help the process. I think it would be a negative influence. I think it is poorly timed, and I hope that we will be able to defeat this amendment.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I join the distinguished Senator from New Jersey. I wish I did not have to, because I believe that the Senator from Wyoming has nothing really but the best interests in his heart in wanting to put forward this legislation.

I do believe that it effectively sets up a series of questions, many of which are not answerable in advance, and all of which could cause serious problems right now.

There are many in the Middle East who, kindly put, are mischief makers to the peace process. I think specifically on pages 2 and 3, subsection 1, 4, and subsection 5 present the real opportunities for mischief to be made to really delay what is the most pivotal peace process in the Middle East, that between two longstanding enemies, Syria and Israel.

How can one really evaluate the potential risk or threat from acts of terrorism? If they say this is a criteria, clearly there are those that will go out of their way to show that they can in fact commit acts of terrorism.

Even without this we have had acts of terrorism in the United States at the World Trade Center. I think, in a sense, this resolution could precipitate some things that are better left unprecipitated.

It seems to me that even to have to state the degree to which one would utilize intelligence information and implications of utilizing that intelligence information is something that one does not know prior to any kind of military maneuver.

If one is smart, you use intelligence and you use it fast and you use it wisely and you use it well and that is part of a military commander's decision. I do not really believe it should be the decision of the Senate of the United States.

I think that at this time, and particularly this weekend, with Mr. Arafat going to Gaza, with the unpredictability of both sides to the reaction of the trip, for us to pass a resolution that has this kind of scope and could be possibly provocative would be a terrible mistake.

I do want to thank, though, the Senator from Wyoming. I do know he means well and I do know this is put forward in a most sincere way. But, regretfully, I would strongly oppose this resolution.

I thank the Chair and I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, with all due respect to the sponsor of the amendment, I could not help but think earlier this week when I read an op-ed piece in the New York Times just about the time the foreign operations bill was on the floor that we might see an amendment of this nature. And I thought it would be precipitous at best to have this amendment on the foreign operations bill or the defense authorization bill.

We are talking about prejudging what might or might not happen as we go forward in the Middle East to bring about a real peace settlement.

I yield to nobody in my antipathy toward the country of Syria. I feel it is a terrorist nation, a nation that trained, protected, and helped the terrorists who blew up the Marine barracks in Beirut, killing almost 250 brave Marines, during, incidentally, a time that the toughest, most hawkish administration since I have been in the Senate was in office. Yet the White House gave strict orders that the sentries should not even have live ammunition in their weapons; the same hawkish administration that made sure that the things that might have protected those Marines were not in place, tank traps and so forth.

But, be that as it may, Syria was involved in the murder of those Marines.

But, we have finally the possibility of peace in the Middle East. We have seen years of efforts at peace by both the Israelis and the Palestinians finally begin to bear fruit. I cannot believe there is any Member of this body that does not believe today that the Prime Minister of Israel and the Chairman of the Palestinians, Mr. Arafat, have really taken an historic step, not to make themselves friends of each other, because they never will be. Prime Minister Rabin and Chairman Arafat will never be friends. They will probably never really trust each other and they will never forgive each other.

But they are making it possible for the children of Israelis and the children of Palestinians to live in an era when there may actually be peace, when there may no longer be the fear that they will die simply because they are Israelis or they are Palestinians.

Should we not, as a country that has been more involved in that part of the world than any nation on Earth, stand ready to help the parties in any way that we can to bring about lasting peace, not just for the generations in power on either side today, but for the children that will be there tomorrow and into the next century?

Should we not, as the United States, a country that spends tens of billions of dollars, plus so much of our efforts, diplomatic, strategic and otherwise in that area, should we not do everything possible to help them? That means not closing any doors in advance.

The Senator from New Jersey is right. The Senator from California is right. Let us not close doors before those doors are even opened. Let us not put locks on doors that might be opened in the future.

That is for the parties to decide. And when they do, then, if the United States is to play a role, let them come to us at that time and then let us decide, as a great and powerful Nation and one with so much of an interest here—let us decide then on the facts before us what we are going to do. But let us not make the decision tonight at 10 minutes of 10 on a Friday night when already one-fifth of the Senate has left this body to go back to their home States.

There is no treaty between Syria and Israel. So we cannot decide today about a multilateral peacekeeping force in the Golan Heights. We cannot say to the parties that are there that we are going to close off any options before we are even asked to be involved. If we are asked to be involved—and I think both the Senator from Wyoming and I may well agree on this—if we are asked to be involved I believe it is a legitimate question for the U.S. Senate, whether we should be involved.

I suggest it would be good for our country and our administration for us to stand here and debate that issue. But we have not been asked.

Mr. President, I suspect most of the people who are here listening to this debate in the galleries or back home do not realize that we have American troops in a peacekeeping force in that part of the world. When Egypt and Israel signed what was a historic document, a peace treaty—again not signed because both sides loved each other, but because they saw the benefits of peace—we sent American troops there who have stayed there. And it worked. It worked because both sides knew those American troops were a tripwire as much as anything else. And we have spent so much of our efforts, so much of our time bringing the parties this close together. Let us not close off any option.

I will have some very strong views on this floor if we are asked to trust the Syrians or do anything with them. But until that day comes let us not reject any options.

So, Mr. President, as the distinguished Senator from Georgia, my good friend with whom I have served now for 20 years knows, a number of these amendments that were not on my foreign operations bill, were going to be on his—or vice versa. I would say to my good friend from Georgia, that he got this one. But he also got my speech which I would have given in opposition to it, had it been on my bill.

I yield to my friend from Georgia.

Mr. NUNN. I would say based on world events, there will be some of these left over to you when we get your bill back up.

I do not want to cut anyone off but I know people in their offices and people who are trying to get out of town—either tonight or early in the morning—would like to bring this debate to a conclusion because this is the last amendment that, I believe, is going to be contested.

I think we have about 10 or 12 other amendments being worked out. I believe most of those can be worked out. I think after this vote we will be able to basically tell people—depending on what the leader wants to do on final passage—there will be no more votes.

We may have a vote on final passage but that will not take long.

So I would say to my friend from Wyoming, I do not want to push him because I know this is an important amendment. But if he is about ready to bring this debate to a close I will give him the final word here. I do not know if the Senator from Michigan wants to speak.

Mr. WALLOP. Mr. President, I do not have long. I would like to answer some of the points that were brought up.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I particularly thank the Senator from California for realizing that, in the view of the Senator from Wyoming, this is a pro-Israel amendment.

Mr. NUNN. Could I ask my friend from Wyoming, if he would be willing to vote at 10:15? That will give 20 minutes.

Mr. WALLOP. Yes. Absolutely. That is longer than I need.

UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. There are some people who need to get back here. Is there objection to voting at 10:15 by anyone here on the floor? If not—I do not see anyone who objects—I ask unanimous consent that the vote on, or in relation to, Senator WALLOP's amendment occur at 10:15 p.m., with no second-degree amendments in order thereto, and that the time between then and now be equally divided between Senator WALLOP and myself.

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

The Senator from Wyoming is recognized.

Mr. WALLOP. On the 28th of June in the New York Times, Abe Rosenthal, a friend of mine, had a column called "Americans on the Golan: Will Congress Debate the Issues?" I will just read three short paragraphs from it.

There are two issues. The second is whether it is wise to commit U.S. troops as peacekeepers to the heights, one of the world's more dicey pieces of strategic real estate.

But first to be decided is whether Congress has not only the right but the obligation to study the risks and benefits beforehand.

It goes on to say,

Essentially—but sending U.S. troops to the edgy Golan is American business. Recent history shows that it is far better now for the U.S. and its allies if the American public has a good idea of what it is getting into. That happened before the Persian Gulf—but not before Vietnam.

If I were an Israeli, I think I would oppose asking for U.S. troops. Israel's strength as a small ally is that it has not asked that foreign lives be put at risk for Israel.

Inevitably, the payoff for an American detachment on the heights would be loss of Israeli freedom of action for the kind of military pre-emption that has helped protect the country so far.

Mr. President, I ask unanimous consent the entire piece be printed in the RECORD.

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

[From the New York Times, June 28, 1994]

AMERICANS ON THE GOLAN

(By A.M. Rosenthal)

This is the time for Americans and Israelis to start talking in their own countries about whether American troops should be stationed on the Golan Heights.

That was the opening of this column on Nov. 30, 1993. Now the Clinton Administration says it expects to send U.S. troops to the heights as part of an international force if Syria and Israel come to a peace agreement. But still there has been no debate in Congress and none scheduled.

There are two issues. The second is whether it is wise to commit U.S. troops as peacekeepers to the heights, one of the world's more dicey pieces of strategic real estate.

But first to be decided is whether Congress has not only the right but the obligation to study the risks and benefits beforehand.

Israel's Labor Government wants peace with Syria quickly. Over a few years, Israel would turn back the mountain ridge and high plateau from which Syria fired down on Israeli villages for 20 years—until Israel captured the Golan in 1967.

The present Israeli Government feels that prize of peace is worth the risk. Prime Minister Yitzhak Rabin believes that peace with hard-line Syria could open the way to peace with many more Muslim countries.

The Syrians stall—unwilling to give the full diplomatic recognition Israel demands, even for those coveted heights on the road to Damascus. But one day President Hafez al-Assad is likely to grab the deal, a bargain.

Israel tells him that its political clock is running out. Israel will hold an election in 1996 and campaigning will start in 1995. Many Israelis oppose giving back the heights. The Labor Party wants to put the heights controversy behind it by campaign time.

None of the three governments involved want a Congressional debate about U.S. troops. Whatever President Assad knows about public discussion he detests. And, like most American governments, the Clinton Administration prefers to present diplomatic done deals before getting involved in Congressional headaches.

For the Israeli Government, a U.S. commitment about troops is critical to rounding up Israeli voters. So Israeli officials and the American Israel Public Affairs Committee argue hard against Senate legislation, expected to be introduced this week, to order a

Defense Department study before a commitment is made.

The report would include assessments of how large the U.S. force might grow, the risk that Iranian-paid Holy War military groups in Lebanon would target American soldiers, possibly with secret Syrian approval, and how long the American commitment might last.

Israeli Laborites see this movement for debate as coming from Israeli and American opponents of the current peace negotiations. To some extent that is true. But it also comes from U.S. friends of Israel simply concerned about the impact on U.S.-Israeli relations if American troops take serious casualties under a commitment made without advance Congressional backing.

I think Israel should be getting much more than handshakes and promissory notes from Arab nations in exchange for land. But I also think that any risk Israelis take for peace are essentially up to them.

Essentially—but sending U.S. troops to the edgy Golan is American business. Recent history shows that it is far better now for the U.S. and its allies if the American public has a good idea of what it is getting into. That happened before the Persian Gulf—but not before Vietnam.

If I were an Israeli, I think I would oppose asking for U.S. troops. Israel's strength as a small ally is that it has not asked that foreign lives be put at risk for Israel.

Inevitably, the payoff for an American detachment on the heights would be loss of Israeli freedom of action for the kind of military pre-emption that has helped protect the country so far.

As an American friend of Israel, I am queasy about Israel becoming more dependent on the U.S. On an issue of this importance, Congressional discussion could clear up legitimate doubts, or confirm them.

Israel and Americans who oppose Congressional consideration will probably win—a bad victory. Today, the movement for debate comes from American friends of Israel. If that is blocked, some soon tomorrow the demand will come from her enemies.

Mr. WALLOP. Mr. President, one of the reasons why I raise this is because, notwithstanding the claims of the Senator from Vermont and the Senator from New Jersey and others that it is premature—on the 14th of June, in front of the House Foreign Affairs Committee, Assistant Secretary of State for Near East Affairs, Robert Pelletreau said, "I think it is fair to say at this point that an international presence on the Golan, as part of security arrangements, is envisaged. And I think there is a large expectation that the United States will be part of that international presence."

These are not daydreams of the Senator from Wyoming, these are statements from this administration.

I would say to the Senator from Vermont, the last I looked this was the defense authorization, and the last I thought, that this was the place where you dealt with the commitment of U.S. troops and expenditure of U.S. funds?

Mr. LEAHY. If the Senator will yield briefly?

Mr. WALLOP. Actually, I will yield on time not allotted to me.

The PRESIDING OFFICER. Who yields time, so we can keep track?

Mr. LEVIN. I yield 30 seconds to the Senator from Vermont.

Mr. LEAHY. The fact is, this amendment was going to come up in the foreign operations bill, had that bill stayed on the floor. We were told that it would. I am not suggesting that the Senator has no right to bring it up on this bill. I just think it is a mistake to bring it up at this time, prior to any request by either Israel or Syria for this kind of help.

Mr. WALLOP. I thank the Senator for his clarification. I do believe that it is appropriate to be on the defense authorization because, after all, this is a moment in time when military capability, authorized by this, may or may not be committed.

Mr. President, I am not trying to do anything that the administration itself has not said was its policy. But, one of the things I ask the Senate to consider is, when they say in their report of May of this year that participation in U.N. and other peace operations—in addition to the factors listed above, "We will consider the following factors: Participation advances U.S. interests and both the unique and general risks of American personnel have been weighed and are considered acceptable."

For heaven's sake my colleagues, is it to be the view of those opposing this amendment that we ought not to weigh the unique and general risks to American personnel and consider them acceptable?

This is not being put in play as a means of stopping the peace process. Far from it. But is anybody here to tell me that the negotiators are able to make a commitment of the United States before involving the Congress and before getting the sense of whether or not these things can take place?

Mr. President, it is sincere and in Israel's interest that they be able to depend upon us if we commit. Surely the Senators from California, New Jersey, and others, will admit, that if the United States makes a commitment, we have to be able to be dependent in that commitment.

In a democracy, how can it be that we can be dependable if we put off until the end the political commitment that is so necessary to sustain the military and a security commitment?

In other words, we have somehow or another to find the means by which the word of the United States can be relied upon by all parties, and including having brought the Congress in prior to the time American blood is to be shed, or exposed.

The Senator from Vermont was talking about, we are closing off options for the children of tomorrow having this opportunity. Of course they are going to have the opportunity, but is that opportunity to be guaranteed solely with American blood without asking the Congress in advance?

If the commitment has not been made, there is no problem. Nothing happens. There is nothing. In fact, if they make the commitment, nothing happens until such time as they wish to duly send the troops, and then they have to answer the questions that the President himself has said are the policy of the United States.

That is not too much to ask. It is only 30 days. Weighing the risks to Americans is in the interest of Israel; weighing the risks to Americans is in the interest of Syria; weighing the risks to Americans is in the interest of American families committing them. But most of all, the reputation of the United States is on the line when that commitment is made, and we cannot be blackmailed into it and sustain it in a democracy. We must be participants in advance.

Nothing about this amendment has anything more than that. It does not prohibit peace negotiations, but surely it does not say that the negotiator of the United States is able to commit without getting the guarantees of political support and sustainability from the Congress of the United States.

Mr. President, I retain whatever time I may have.

Mr. NUNN. Mr. President, I yield to the Senator from Michigan the remainder of my time.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Michigan has 8 minutes and 40 seconds under his control.

Mr. LEVIN. I yield to the Senator from New Jersey 4 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Michigan. I do not think I will need 4 minutes.

But somehow or another, Mr. President, when a debate like this takes place, often it starts to go astray, and when it does, we begin to invite other things. I do not know who has an exclusive here on whether or not we are going to put our troops in danger and making judgments upon that.

Every one of us has the right and the obligation to be certain that if we put our troops someplace, that we provide them with the material and the cover to take care of them. Unfortunately, sometimes we have not done that and the Senator from Wyoming is right to be on the alert.

But, on the other hand, here is an agreement that has yet to be drawn, the inference drawn from a hearing in which a State Department representative says that there might be an international presence, and certainly the United States would play a part, in the judgment of that individual. Perhaps so.

But we are here to protect the people's interest, and I have no problem in believing the President of the United States has enough judgment and

enough character to stand up when he sends a letter from his Secretary of the Department of State and says that he intends to do that. Obviously that is not good enough word for the Senator from Wyoming.

Nevertheless, we tread where we ought not. There is an agreement very carefully studied, very carefully negotiated that could fall apart at any moment, and bloodshed is not new in that area.

Mr. President, the last thing we need to do is contribute to any instability, any uncertainty about what an agreement might look like. I would caution all of our colleagues here, let us stay out of this for the moment. The dialog has taken place; we understand it. Now we can vote upon it and make certain that everyone is aware, that the record clearly contains a concern about those whom we might station there, whom we might send there.

But I do not think we ought to preempt a treaty unless we want to make this generic and say that any time we send our troops into conflict that there has to be consultation. There is something, for the information of all, called the War Powers Act that calls for us to get involved at a time when we expose our people to harm's way.

But tonight it does sound—and I believe the Senator from Wyoming when he says he intends this to be friendly to Israel. I think what it has to be is friendly to the world and friendly to the United States, and we ought to make sure that our friendship exists by stepping out when it is not yet our turn to become involved. I thank the manager.

The PRESIDING OFFICER [Mr. WOFFORD]. Who yields time? The Senator from Michigan.

Mr. LEVIN. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes and 10 seconds.

Mr. LEVIN. I yield myself 4 minutes.

Mr. President, this resolution would introduce into the most delicate of negotiations a significant element of uncertainty. I do not think it is even too strong to say that this could—this could—be a monkey wrench in negotiations which we have been trying to promote.

Now why is that? We have a War Powers Act. We have procedures on the books. When American troops might be put in harm's way, we have a statute which has certain requirements in it. That applies everywhere in the world under all circumstances from the perspective of American law.

Then, all of a sudden, precipitously, without any prior consideration by the committees that have jurisdiction, we have an amendment on the floor on a Friday night at 10 o'clock, when at least 20 Senators are not here and are not even aware of this, we have an amendment being offered which suddenly, in one place in the world, introduces new procedures, new hoops, new restrictions. The one place in the world where the negotiations for peace are probably the most significant of any peace negotiations going on now, at least to American security and American foreign policy and American interests; the one place in the world, in the Middle East, new procedures are introduced, a new restriction, a new requirement that can only be read as a complication. We have a process that applies everywhere in the world—it is called the War Powers Act—before the President of the United States can introduce troops when there is a prospect of combat.

That is what the Congress has passed; that is the law of the land. I urge us to follow the strong recommendation of the Secretary of State. He has written Chairman NUNN a letter urging us—urging us—not to take steps that will make progress more difficult, and those are his words.

He is referring to an amendment, which I think quite clearly is the amendment of the Senator from Wyoming, that would place restrictions, restrictions that are not placed on him otherwise, restrictions that the War Powers Act did not place on him, restrictions that are not placed on him anywhere else in the world but in the most difficult, delicate and, I believe, most important of all negotiations occurring at this time.

So let us not place this restriction on funds. The Secretary of State has made a commitment in this letter that in the event we are requested to play a role—notice, in the event we are requested to play a role on the issue of border security, such a request would be considered only after full consultation with the Congress and in accordance with our constitutional processes.

I ask unanimous consent that the full letter of Secretary of State Christopher be printed in the RECORD.

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

THE SECRETARY OF STATE,
Washington, DC, June 24, 1994.

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

DEAR MR. CHAIRMAN: It has come to my attention that the Senate may soon consider an amendment to the fiscal year 1995 Department of Defense authorization bill which may have the effect of prohibiting United States participation in peacekeeping operations in the Golan.

The nature of border security arrangements in the Golan must be decided by Israel and Syria, in the context of their bilateral negotiations. Since the Madrid Conference in 1991, successive U.S. Administrations have assured Israel and Syria that the United States would be prepared to help guarantee border security arrangements in support of an Israeli-Syrian agreement, subject to our Constitutional process, and that the Administration is willing to consider a U.S. force presence on the Golan should the parties make a request. Moreover, in the past the United States has participated in arrangements such as the MFO in the Sinai which have been instrumental in helping Egypt and Israel reach a lasting agreement. Foreclosure of the option on a U.S. presence would be perceived by both parties as a lessening of our support. It would very likely cause a major disruption in the peace process, since we would no longer be able to provide our full support for security arrangements the parties may deem necessary to underpin a peace agreement. Without the possibility of such an assurance, a peace agreement may simply not be possible.

We ask that you take whatever steps are appropriate to ensure that this issue is not included in this, or other pieces of legislation. Notwithstanding our assessment that such a proposal may raise grave Constitutional concerns regarding the President's duties as Commander in Chief and his authority to conduct foreign relations, it is clearly premature to be discussing this issue prior to a formal request. As co-sponsor of the peace process we must put ourselves in the position to taking steps that will make progress more difficult, or even block it entirely. In the event we are requested to play a role on the issue of border security, such a request would be considered only after full consultation with the Congress and in accordance with our Constitutional processes.

With best regards,

Sincerely,

WARREN CHRISTOPHER.

Mr. LEVIN. Mr. President, I hope this amendment will be defeated if it is not tabled. It introduces an element of uncertainty and confusion, an element which does not exist in any other negotiations going on in the world from the perspective of this Congress. It applies only in the Middle East and only in the Golan Heights, and of all places where I would think we ought to be promoting negotiations and not adding new restrictions and allowing the State Department to play the kind of role that it is playing constructively to promote negotiations it should be in the Middle East. We should not be introducing this note of uncertainty which could end up to be a monkey wrench in critical negotiations.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield myself the remainder of my time, which is?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. WALLOP. Mr. President, let me begin by saying that the Senator from New Jersey said that we have the obligation when we deploy our troops to provide them with material and cover, and, indeed, we do. But the greatest obligation we have as a nation is to provide them with a sustainable political

commitment because no amount of material or cover is going to protect them once deployed if we do not have that here.

Now, notwithstanding the arguments that have been made, this is less than the War Powers Act and is intended to be. And this is not an inhibition to further negotiations, nor is it intended to be. But this is a reflection of President Clinton's policy, and it is not to inhibit negotiations but, in fact, Mr. President, to enhance them because if our negotiator cannot make certain that his commitment can be delivered, that negotiator has nothing with which to negotiate.

But more to the point, it is said "in the event we are to play a role." That is a quote from the Secretary's letter. We do not have any requirement for the Secretary to do a single thing except in the event that we are to play a role. But in that event, Mr. President, we are entitled to know what the risks and the unique characteristics of the involvement are. That is all this amendment asks.

Now, these are not new rules, as the Senator from Michigan said, and these are not new procedures. These are things which the administration has said are its policy.

Now, are we to believe that the policy statement published in May of this year is not a reflection of the administration's policy? And, if not, when will we have the one that is a reflection of it?

All this amendment seeks to do is to reflect what the Secretary of State, the Assistant Secretary of State, others—I believe the Vice President—have said in statements that there is a coming commitment of deployment of U.S. troops in the Golan.

Now, if that is not the case, they should not be saying it. If it is the case, they should be preparing for it—nothing more, nothing less. This has no ulterior motive than to try to say that when the United States is prepared to give its word, it is prepared to back it up with a sustainable political commitment.

Mr. President, I yield back the remainder of our time.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I note the statement of the Senator from Wyoming that this is less than the War Powers Act.

Now, if it is less than the War Powers Act, it is not necessary because we already have the War Powers Act. If it is more than the War Powers Act, it introduces that note of uncertainty here and here alone, which is going to be the disturbing influence in those negotiations.

If it is less than the War Powers Act, it is not needed. If it is more than the War Powers Act, it is dangerous, and, in any event, it introduces an element of uncertainty and confusion into negotiations which need our support and do not need us to introduce an element of uncertainty.

I yield back whatever time I have.

Mr. WALLOP. Will the Senator from Michigan yield for just one question?

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

Mr. LAUTENBERG. Regular order.

Mr. MITCHELL. Mr. President, does the Senator have a question he wishes to ask?

Mr. WALLOP. I was merely——

Mr. MITCHELL. I ask unanimous consent the Senator be permitted to ask the question.

Mr. WALLOP. I will be very brief, Mr. President.

I ask the Senator from Michigan or the chairman, is it not the case that no President of either party has ever engaged in the War Powers Act in a peacekeeping operation? That is why it is less and that is why it is relevant.

Mr. NUNN. I would have to say to the Senator I cannot give him a precise answer on that tonight. I would have to go back and do some research. I would not want to venture on that one. I would say that I would take his word for it.

Mr. President, I think we are ready to vote.

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

Mr. NUNN. Certainly.

Mr. MITCHELL. Mr. President, I am advised that this is the last amendment which will require a recorded vote, and that there will be no request for a record vote on final passage. I am going to ask that question now so that if no Senator responds, I will take that to mean there will be no recorded vote on final passage so that Senators can regard this as the last vote prior to the recess.

So is there any request by any Senator for a recorded vote on final passage of the bill?

Hearing no response, therefore, there will not be a request for a recorded vote on final passage, and we are going to final passage right away. I wish to make that clear. There will be a few amendments that will be accepted and not require recorded votes. So we are going on good faith here in attempting to accommodate as many Senators as possible. We will finish the bill tonight. It will be passed by a voice vote so that everybody has that understanding. Accordingly, this will be the last rollcall vote.

Mr. NUNN. Mr. President, are the yeas and nays ordered on the amendment?

The PRESIDING OFFICER. They are ordered.

The question now is on agreeing to amendment No. 2212.

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

The legislative clerk called the roll.

Mr. MITCHELL. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

Mr. DOLE. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. GREGG], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

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

The result was announced—yeas 3, nays 67, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—3

Nickles	Thurmond	Wallop

NAYS—67

Akaka	Exon	Mathews
Baucus	Feingold	McConnell
Bingaman	Feinstein	Mitchell
Boren	Glenn	Moseley-Braun
Bradley	Gorton	Moynihan
Breaux	Graham	Murray
Bryan	Grassley	Nunn
Bumpers	Harkin	Packwood
Burns	Hatch	Pressler
Byrd	Hatfield	Pryor
Chafee	Heflin	Reid
Coats	Hollings	Riegle
Cochran	Hutchison	Robb
Conrad	Jeffords	Rockefeller
Coverdell	Kassebaum	Roth
Craig	Kempthorne	Sarbanes
Danforth	Kohl	Sasser
Daschle	Lautenberg	Smith
DeConcini	Leahy	Stevens
Dole	Levin	Warner
Domenici	Lott	Wofford
Dorgan	Lugar	
Durenberger	Mack	

NOT VOTING—30

Bennett	Bond	Brown
Biden	Boxer	Campbell

Cohen	Inouye	Mikulski
D'Amato	Johnston	Murkowski
Dodd	Kennedy	Pell
Faircloth	Kerrey	Shelby
Ford	Kerry	Simon
Gramm	Lieberman	Simpson
Gregg	McCain	Specter
Helms	Metzenbaum	Wellstone

So the amendment (No. 2212) was rejected.

FREE ELECTRON LASER

Mr. ROBB. I rise to engage in a colloquy with my colleague regarding the development of a high-average-power Free Electron Laser [FEL] at the Continuous Electron Beam Accelerator Facility [CEBAF] in Newport News, VA.

As my colleague knows, CEBAF is a national nuclear physics user facility managed by the Southeastern Universities Research Association for the U.S. Department of Energy. Its mission is to enable members of the physics community to conduct frontier basic research in nuclear physics and supporting disciplines. CEBAF is a pioneer in the development of superconducting radiofrequency technology and uses the most advanced application of this technology in the electron beam accelerator.

Through experimentation with this technology, CEBAF scientists discovered that it is particularly adaptable to driving high-average-power free electron lasers. This discovery is important because the development of such a free electron laser could be tremendously useful to the military, science and industry. In fact, it has already undergone peer review and has passed with flying colors.

The next step for CEBAF is to build and demonstrate an industrial laser which can be used to develop and test processes for manufacturing.

Does my colleague from Georgia with his knowledge of the Technology Reinvestment Program believe that the CEBAF free electron laser is a project that could merit funding through the TRP?

Mr. NUNN. I say to my colleague from Virginia that the CEBAF free electron laser project does indeed seem to be the very type of technology that the TRP was created to advance. I look forward to working with my friend from Virginia to ensure that this worthy project receives every consideration in the TRP competition.

A TIME FOR SOUND JUDGMENT

Mr. DORGAN. Mr. President, I rise to comment on our policy toward North Korea and to discuss my vote on a recent amendment offered by the Senator from Arizona [Mr. MCCAIN]. I reluctantly opposed his amendment, and I would like to explain why.

The McCain amendment raised a critical issue: what our government's policy should be in dealing with North Korea, a nation that has seemed bent on breaking its nuclear nonproliferation treaty commitments.

And the amendment itself contained a good bit of common sense. Whatever new talks may occur, we should unquestionably be prepared to support our ally, South Korea, in deterring or even repelling an armed attack by North Korea. I would also urge that we should be vigilant to a fault in preventing the production and export of nuclear weapons by North Korea. Furthermore, if North Korea reneges on its nonproliferation treaty obligations, I would support the imposition of international sanctions.

On the other hand, I find it troubling that so many of my colleagues feel compelled to engage in what could be seen as verbal saber rattling. I am concerned that so many need to second-guess the President at a very sensitive moment in our relations with Pyongyang.

As the Senate debated Senator MCCAIN's amendment, the Clinton administration was mounting a major diplomatic effort to secure support for economic sanctions against North Korea. Yet former President Carter, in another example of his willingness to work for the cause of peace, took on a very delicate parallel mission at the same time. There has been criticism of this trip and of President Clinton's policy. However, with hindsight, we see that the Administration may have been on the right track.

The two Koreas are working to schedule a historic summit meeting to discuss the nuclear proliferation issue. North Korea has stated that it will allow international inspectors to remain on the job. And North Korea has offered to halt its nuclear development program.

I do not think this means that the crisis is over. However, these steps may hint at an eventual resolution of the crisis in Korea.

Lastly, let me echo the comments of Senator EXON, the distinguished chairman of the Armed Services Subcommittee on Nuclear Defense and Arms Control. He incisively argued against approving such a sensitive resolution without first having considered it at a Senate hearing. Equally remarkable, Senator MCCAIN sought to attach his amendment to the Federal Aviation Administration reauthorization bill.

There is a time for everything in its season. But this is the season for sound judgment, not ill-considered resolutions. Therefore, I was constrained to oppose the amendment.

AMENDMENT NO. 2148

Mr. MOYNIHAN. Mr. President, earlier today the chairman and ranking member of the Armed Services Committee urged the Senate to accept an amendment offered by Senator NICKLES which prohibits the Department of Defense from providing funds to any institution of higher learning which will not permit military recruiting on campus. A similar amendment was adopted by the House by a nearly 100 vote margin. The Nickles amendment had the sponsorship of a substantial number of Senators, including the ranking member of the committee.

Mr. President, my colleagues should understand that this amendment was designed among other things to punish institutions which refuse to permit recruiting by the Department of Defense because it discriminates against individuals on the basis of their sexual orientation. It is a statewide policy in New York not to permit discriminatory practices and the State University of New York adheres to that policy.

It was clear that Senate support for the amendment was—as in the House—overwhelming and that a rollcall vote would not alter the outcome. Particularly given the fact that the chairman and the ranking member of the Armed Services Committee urged the Senate to adopt the amendment. A lengthy debate would not have altered this foreordained outcome.

I urged the authors of the amendment and the managers of the bill to accept a modification of the amendment which would exempt institutions which have acted pursuant to a mandatory statute, rule, regulation or court order. This would have permitted institutions to comply with the New York rule without becoming the victims of reprisal. But the sponsors of the legislation would not accept the modification.

Some have argued that an institution which does not permit recruiting should not accept research funds. Nonsense. The Department of Defense discriminates in recruiting. So far as I am aware it does not discriminate in distributing research grants. Would not the New York State policy of refusing to condone discrimination apply to research grants as well as recruiting if they were awarded on a discriminatory basis?

Mr. President, opposition to discriminatory policies in the military is widespread. It has been denounced by no less a stalwart than our most distinguished former colleague Barry Goldwater.

I cannot but believe that we will revisit this issue. The legislation will not take immediate effect. It calls for regulations to be promulgated.

The provision the Senate has adopted today will weaken our military. It will keep research funds out of the hands of some of the Nation's finest educational institutions.

Mr. President, schools should not be punished for taking a principled stand on recruiting. Today my colleagues are compounding the error of excluding competent persons from the armed services by also withholding research funds from some of our most competent researchers.

FEDERAL PROCUREMENT REFORM

Mr. BINGAMAN. Mr. President, I rise to commend Defense Secretary Perry

for moving out on the regulatory side of procurement reform. Wednesday he signed a memorandum to the Department, directing the maximum use of commercial products and commercial specifications in future procurement actions. By the same token, he directed that the use of unique, detailed military specifications [MILSPECS] only be by exception. I applaud Secretary Perry for his courage and vision.

The action Secretary Perry took is an important step in the continuing process of Federal procurement reform. This action was specifically recommended in February 1993 by the Acquisition Law Advisory Panel, chartered by language in section 800 of the fiscal year 1991 Defense authorization.

The Panel recognized that while many changes were needed in statutes to empower reform in the executive branch, the heart of acquisition reform ultimately lies in cutting through the underbrush of excessive regulation and specification that plagues the procurement system.

Mr. President, there should be no illusion about how hard it is going to be to effect real procurement reform. But it is critical to quit talking about all the procurement horror stories and start taking action to prevent them. The time for action has come. Secretary Perry is uniquely qualified to take the necessary actions. Wednesday's memo demonstrates again his willingness to do his part. The House's action earlier this week to pass their acquisition reform bill shows that Congress is willing to do its part.

This year both houses have now passed bills based in large part on the section 800 panel report recommendations. We are moving to change the body of federal procurement law to make it easier to contract with small and women-owned or controlled business, expedite contracting, and save time and money by buying commercial items, whenever possible.

I hope that we can complete action on S. 1587, Senator GLENN's procurement reform bill, before the August recess. In doing so, we will be reinforcing Secretary Perry's commitment to buy commercial items and use commercial specifications.

Certainly, there will be some cases where it is necessary for the government to use MILSPECS. In the case of a unique combat weapons system, which must operate under the harshest conditions, military specifications for many components can protect lives, as well as taxpayers' interest. But in the vast majority of Government procurements, the use of commercial products and commercial specifications is the most inexpensive and sensible choice.

The Defense Department is the biggest purchaser in the Government, so the use of commercial items in Defense Department procurements has the potential to save billions of tax dollars. The market place and level of customer sales determine the quality and price of the product for the Government.

No more will the Services have to pay for wasteful layers of bureaucracy and paperwork associated with the old MILSPEC system. We should see fewer $500 coffeepots and be able to buy cookies from the same distributor as the local market, instead of from those willing to cook from 20 pages of Government specifications.

Secretary Perry has taken an important, indeed crucial step to implement our reform efforts, by making the procurement of commercial items and use of commercial specifications the first choice. Hereafter, program managers will have to justify their need for noncommercial items and MILSPECS to higher-ups.

The burden of proof will be on those who advocate MILSPECS, whereas in the past, it has been on those who advocated commercial specifications. I'm glad he stepped out on this issue and am confident that he and the DOD will lead the way on acquisition reform.

Mr. CONRAD. Mr. President, I rise to comment briefly on S. 2182, the fiscal year 1995 Defense authorization bill. First, I want to commend Senators NUNN and THURMOND for doing an excellent job of maintaining U.S. defense capabilities within tight budget restrictions. S. 2182 authorizes $263.3 billion, $300 million below the President's request, but roughly in line with the limits imposed by the 1993 Budget Act.

S. 2182 funds key modernization initiatives as well as a significant increase in military readiness accounts in an effort to ensure that our forces are properly trained and equipped to do their job. The bill also includes a 2.6 percent pay raise for military personnel, 1 percent above the budget request. I am pleased with this increase and believe it is necessary to provide the men and women of our armed forces with the adequate compensation they deserve.

S. 2182 authorizes 1.526 million active duty personnel and 995,300 reserves—over 2.5 million highly trained, capable, and motivated men and women dedicated to defending our country. They are equipped with the world's most advanced weapons, and we continue to modernize our forces. I am convinced that the military forces authorized in this legislation are strong enough to guarantee our security at home and our interests around the world.

The committee has made an especially important decision to maintain a strong long-range bomber force and reject the sharp cuts in the force proposed in the budget. The Department of Defense budget request reduced the bomber force from the current number of over 190 total B-52, B-1, and B-2's to 126. The core of the proposed cuts was a reduction of the B-52H force from 94 to less than 50. Cutting so many B-52's would leave us unable to fulfill the conventional requirements identified in the Bottom Up Review and the nuclear requirements necessary to retain a credible deterrent.

The Pentagon's Bottom Up Review [BUR] identified a requirement for 100 deployable heavy bombers for a major regional contingency [MRC]. The 126 total bombers proposed for fiscal year 1995 would not provide 100 deployable bombers, meaning we could not even meet the requirements for one MRC, much less the two nearly simultaneous conflicts assumed in the BUR. In fact, the BUR recommended a total bomber force of up to 184 aircraft. The fiscal year 1995 budget submission is not even close to this number.

The most cost-effective way to maintain our bomber force capability is to retain more bombers, especially B-52's. The B-52H is reliable, flexible, and does not require multibillion dollar upgrades to be conventionally capable. Only the B-52 can deliver air-launched cruise missiles [ALCM's], the Have Nap precision attack missile, Harpoon antiship missiles, and 12 different types of sea mines. The B-52 can also be easily modified to carry advanced precision-guided munitions currently under development.

In addition to its conventional mission, the B-52 plays a key role in our country's strategic nuclear deterrent. The B-52 is tasked to carry roughly a quarter of our Nation's strategic arsenal and is the only leg of the nuclear Triad that can easily be recalled and relocated. The administration has not fully recognized this nuclear role in its plans. Adm. Henry Chiles, Commander of the U.S. Strategic Command, expressed his concern with the proposed B-52 cut when he stated before the Senate Armed Services Committee in April, "I * * * have concerns about future bomber force adequacy if B-52 numbers are severely reduced." I am told that STRATCOM would like to have 32 B-52's reserved for a nuclear role. We can only accomplish this if we retain more B-52's.

The Senate Armed Services Committee has recognized the shortfall in the proposed bomber force and has taken strong action to retain our bomber capabilities. I commend the Armed Services Committee for its actions. The committee has retained the entire force of B-52's and required the Air Force upgrade them all to carry advanced precision guided munitions. S. 2182 also contains funding to acquire additional precision-guided munitions and to convert ALCM's to a conventional role, a move that will enhance the capability of B-52's. All of these actions will improve our capabilities in the near term, while more advanced munitions are being developed.

I also commend the committee for including a provision requiring that all

500 Minuteman III missiles be retained until Congress has fully reviewed the final results of the ongoing Nuclear Posture Review [NPR]. It would be imprudent to take down our ICBM's prematurely, and any decision affecting the makeup of our strategic forces must involve Congress. I fully expect that Congress will be briefed and consulted prior to the release of final NPR conclusions. Personally, I believe that we should continue to maintain a land-based ICBM force as a part of the Nuclear Triad. Discussion of sharp cuts in the Minuteman III force should be delayed until START II is fully ratified and implemented.

Mrs. HUTCHISON. Mr. President, I rise in support of S. 2182. The post-cold-war era has brought about tremendous changes in our security environment. Shaping our military forces to meet the new and the old challenges requires strong leadership of the type that the senior senators from Georgia and South Carolina have provided to the committee.

As we draw down our military forces to the lowest levels since just prior to the outbreak of World War II, we must be mindful that the threats we face are still global in nature and that the readiness and training requirements of a smaller military must be more rigorous to meet the various threats we must face.

Mr. President, I am very concerned that cuts in our defense spending will leave us with a military force structure that is incapable of conducting two major regional contingencies at the same time. This would be disastrous, not only for the United States, but also for our allies.

Right now the United States has the 12th largest army in the world. We have never had the largest army in the world even though we do have the best. While I do not advocate that we have the world's largest army, I think it is useful to have some perspective that the world's 12th largest army could find itself fighting a war in two or more places at the same time. That, without question, is demanding extraordinary capability from a very small force. We are quite fortunate, that we do have the world's best Navy, Air Force, and Marine Corps.

Mr. President, despite recent well publicized attempts at personal diplomacy in Korea, the situation remains serious. North Korea's nuclear weapons program continues unabated threatening the peace and stability of the region. The U.S. Congress has a duty and an obligation to ensure that our forces stationed in Korea and those who may be sent there in the event of hostilities are well equipped and well trained.

When Kim Il Song launched the Korean war 44 years ago the first United States forces to arrive at the scene were under the command of Lt. Col. Brad Smith and they were known therefore as Task Force Smith. The soldiers of Task Force Smith were brave soldiers but were disastrously ill equipped, their antitank projectiles literally bounced off North Korea tanks and Task Force Smith suffered horrendous casualties. As the current military draw down began Army Chief of Staff, Gen. Gordon Sullivan recalled the dark days at the beginning of the Korean war and warned that there must be no more Task Force Smiths. By this he meant that never again should we send soldiers into combat unless they are well trained and properly equipped with the best weapons available.

The tragedy of Task Force Smith was, in many respects, unfortunately repeated in Somalia in 1993, when the commander on the ground requested tanks and armored personnel carriers and his request was delayed and delayed here in Washington and never approved. As we learned in the hearings in the Senate Armed Services Committee, as a direct result of that lack of response to the request of the commander on the ground, soldiers did not have the equipment they needed when they had to fight.

Today our forces in Korea are faced with a dangerous and uncertain threat. We must learn the lessons of Somalia and do all we can to ensure that there are no more Task Force Smiths and no more lapses like Somalia. In Korea, we must ensure that our commander has everything he needs to deter the North Koreans from starting another Korean war and, should deterrence fail, everything he needs to decisively defeat a North Korean attack. Nowhere do our forces face a greater likelihood of armed conflict than on the Korean Peninsula.

Unlike Somalia, where the United States had no strategic national interests, Korea is important to the United States. South Korea is a long time ally and its security is critical to stability throughout Northeast Asia. And we must take firm action to assure that the Nuclear Non-Proliferation Treaty is not ignored by North Korea. Nuclear proliferation in North Korea must not be tolerated or surely it will not stop there. A nuclear game of one upmanship will surely be provoked.

There can be no higher priority than United States forces in South Korea. This time there must be no equivocation, and even if it is up to Congress, we must provide our forces in South Korea with everything they need.

Mr. President, in closing, I must state my deep concern for the continued decline in our defense expenditures. I fear that we are repeating the mistakes made in the 1970's. Since 1985, our defense spending will decline by 40 percent in real terms by the end of the current 5-year defense plan. In my opinion, the primary responsibility of the Congress is to provide for the common defense. We must be careful that we not fail in our constitutional responsibility with regard to the defense of this Nation. I will support this bill today, but we must assess carefully next year if we are moving too fast in the downsizing of our military and are therefore hurting our readiness.

Mr. President, on April 19, 1951, Gen. Douglas MacArthur appeared before a joint session of the Congress. One of the most memorable line from his address was, "In war there is no substitute for victory." As we again face a potential conflict on the Korean Peninsula, we should remember that in peace there is no substitute for preparedness. Thank you, Mr. President.

PERSIAN GULF SYNDROME: MORE RESEARCH IS NEEDED

Mr. DASCHLE. Mr. President, it was almost 4 years ago that then-President George Bush ordered the deployment of American service men and women to the Persian Gulf. And less than a year later, these soldiers were given a hero's welcome upon their return home. Kuwait had been liberated, and relatively few lives had been lost in the process.

But the effects of the Persian Gulf War did not end there. Not for the men and women who are now disabled by illness.

We have all heard about their "mystery" illness, which has become known as Persian Gulf Syndrome. Common symptoms include extreme fatigue, joint and muscle pain, short-term memory loss, diarrhea, unexplained rashes, night sweats, headaches and bleeding gums. In addition, women veterans have experienced chronic or recurring yeast infections and menstrual irregularities.

So far, doctors have been unable to come up with a single diagnosis that would explain such a wide variety of symptoms.

We do not know for sure why these veterans are ill. What we do know, however, is that they were potentially exposed to a wide range of toxins and environmental hazards during their service in the Gulf. The list includes possible exposures to: smoke from oil well fires set by retreating Iraqi soldiers; industrial chemicals and pesticides; depleted uranium used in munitions; diseases endemic to the Persian Gulf; vaccines to prevent anthrax and botulism; antinerve agent pills; and chemical and/or biological agents. One toxin alone could be causing these symptoms, or they could be the result of two or more toxins working together. At this point, we simply do not know.

One thing is certain, however. More research on Persian Gulf Syndrome is needed.

We must not sit by while veterans get progressively sicker. Instead, we must try to find out why they are sick and how we can best treat their illnesses.

I do want to acknowledge that many research efforts are underway to determine the cause or causes of these illnesses. But I am not convinced that we are doing all we can to get to the bottom of this problem.

Already, we know that two important types of research are needed. It's my hope that the Senate will approve funding for them today.

First, we should authorize an epidemiological study of Gulf War veterans and their immediate family members. This will allow researchers to study their illnesses thoroughly, as well as consider whether these illnesses are being transmitted from veterans to their spouses and children.

Second, we should authorize funding for research into the health effects of pyridostigmine bromide, an antinerve agent that was distributed to the almost 700,000 American soldiers who fought in the Gulf War. This drug was meant as a proactive response to the possible use of chemical weapons by Saddam Hussein.

The issue we must investigate is this: is pyridostigmine bromide, a drug meant to protect against the health effects of chemical weapons exposure, actually a cause of the debilitating health problems our Gulf War veterans are suffering from today?

Pyridostigmine bromide has long been used in the treatment of Graves' disease, a neurological disorder. However, it has not been proven to be safe or effective for repeated use by healthy persons under any circumstances.

In order to administer this unapproved drug to almost 700,000 healthy soldiers, the Department of Defense obtained a waiver from the Food and Drug Administration. The FDA based its decision on two assurances from DOD.

First, DOD pointed to 10 years of military research as evidence that this drug is safe. Second DOD promised to inform all soldiers about the investigational nature of the drug and to administer it on a voluntary basis.

We now know that the Defense Department's claim of safety was not supported by its own research. We know that our soldiers were not adequately warned about the risks of taking this drug. And we know that at least some soldiers were ordered by their superiors to take this drug.

We know all this because of an extensive investigation by the staff of the Senate Veterans' Affairs Committee into the use of pyridostigmine bromide during the Gulf War. The findings of this investigation were released during a committee hearing on May 6.

The Veterans Committee staff found that in almost all of the Defense Department studies cited as evidence of pyridostigmine bromide's safety, the subjects had been screened to weed out those who might be hypersensitive to the drug. Yet during the Gulf War, this drug was passed out indiscriminately to all soldiers, regardless of their medical makeup.

The Veterans Committee staff reported other troubling findings: DOD scientists concluded that pyridostigmine may actually make individuals more vulnerable to certain chemical agents; recent research indicates that when used in combination with pyridostigmine, the pesticide DEET becomes 10 times more toxic than when it is used alone. DEET and many other pesticides were widely used during the Gulf War; and the side effects associated with use pyridostigmine are strikingly similar to the symptoms reported by ill Gulf War veterans.

Clearly, the possible role of pyridostigmine bromide in the illnesses of our Gulf War veterans needs to be thoroughly investigated. Independent research into both the long-term health effects of this drug and the synergistic effects of pyridostigmine bromide and pesticides or other environmental hazards should be undertaken.

Mr. President, I believe that authorizing more research into the health effects of Gulf War service is just one of the steps that the Congress should take to help these ailing veterans. Additionally, we must ensure that these veterans receive the health care and compensation that they deserve.

Title 38 now guarantees Gulf War veterans free priority health care for conditions that may be related to toxic exposures during service. Unfortunately, many veterans have reported that this legal guarantee of care is often not adhered to by the VA in practice.

Specifically, veterans have encountered VA doctors who do not give much credence to the possibility that their illnesses may be attributable to various toxins. They also report having to wait several weeks for a doctor's appointment and then several hours before they get to see that doctor. This clearly does not qualify as priority care.

VA is working to change this, however. Secretary Brown recently issued a directive to all VA medical center directors that instructs them to provide Gulf War veterans with timely and compassionate care, to assist them in applying for a Persian Gulf health registry examination, and to provide medical staff with the latest information on Gulf War illnesses. The directive also contains a clinical protocol which is to be followed when a VA doctor is unable to diagnose a veteran's illness.

Many Gulf War veterans are also having trouble paying their bills because they are too sick to work. Unfortunately, however, those veterans suffering from undiagnosed illnesses are not currently eligible for compensation from the VA.

I recently introduced legislation to correct this problem. My bill, S. 2178, would require the VA to provide compensation to veterans disabled by undiagnosed illnesses which become manifest to a degree of 10 percent or more within 3 years of leaving active duty. Further, it would specify that VA must pay this compensation until such time as it can show that a veteran's illness is unrelated to his or her Gulf War service.

I wish to thank Senators AKAKA, DECONCINI, CAMPBELL, MOSELEY-BRAUN and KENNEDY for cosponsoring this legislation, and I invite our colleagues to join us in this effort.

Finally, I know that many of my colleagues may be concerned about the cost of additionally research or of compensation for undiagnosed illnesses. In these days of tight budgets, this is an understandable concern.

I would simply point out, however, that the costs of war do not end simply because both sides have put down their weapons.

So again, Mr. President, we must not ignore the plight of our veterans who are suffering from Persian Gulf Syndrome. I hope that the Senate will fund the research required to get to the bottom of the debilitating illness and will provide ailing Gulf War veterans with the assistance they need and deserve.

In 1991, they stood tall for freedom. It is time for their Government to stand up for them.

NATO

Mr. LEVIN. Will the distinguished Chairman of the Committee on Armed Services yield for a question?

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

Mr. LEVIN. As the distinguished chairman is aware, the Subcommittee on Coalition and Reinforcing Forces of the Committee on Armed Services held joint hearings this year with the European Affairs Subcommittee of the Foreign Relations Committee. These hearings contributed excellent insights on the future of the NATO alliance and other important issues.

Our plan this year was to have a short portion of the committee report devoted to these hearings. In fact the staff prepared an excellent summary of the hearings which was to have been incorporated into the report. Unfortunately, the language was inadvertently left out of the committee report. Would the distinguished chairman allow the NATO language to be printed in the RECORD as a part of the Senate deliberations on our bill?

Mr. NUNN. I thank the distinguished Senator for bringing this to my attention. I would certainly support the Senator's recommendation.

Mr. LEVIN. I thank the Chairman. I recommend that the following language be made a part of the RECORD:

NORTH ATLANTIC TREATY ORGANIZATION

The committee has closely followed historic developments in the North Atlantic Treaty Organization (NATO) since the end of

the Cold War. In the Joint Declaration of Twenty-Two States, signed in 1990, the NATO allies and the members of the then-Warsaw Pact (including the Soviet Union) declared that they were no longer adversaries and affirmed their commitment "to refrain from the threat or use of force against the territorial integrity or political independence of any State." Russia and other former Soviet states reaffirmed these principles in the 1992 Helsinki Summit Declaration and subsequent CSCE documents.

Last January, NATO heads of state approved President Clinton's plan to further recognize the new political and security realities in Europe with the Partnership for Peace program. Many nations from the former Warsaw Pact, both eastern European and former Soviet republics, have enthusiastically applied to participate in the program, viewing it as the road to greater security and economic cooperation with the West. Partnership for Peace provides a foundation for stronger, eventually permanent, political and military ties between NATO and its eastern neighbors, without drawing new lines to replace the old Iron Curtain. The Partnership establishes a cooperative, work-oriented relationship between the alliance and potential new members. It provides an opportunity for current NATO member nations to gain confidence in the readiness and ability of Partners to fulfill the obligations and mutual security guarantees of the North Atlantic Treaty through direct contact and practical cooperation. NATO's openness to expanding its membership eventually creates an important incentive for the newly independent republics of eastern Europe and the former Soviet Union to foster freedom and democracy.

Recognizing that these developments have closely interrelated security and political ramifications, the Armed Services Subcommittee on Coalition Defense and Reinforcing Forces has held joint hearings on the subject of NATO's future with the Foreign Relations Subcommittee on European Affairs, soliciting the views of a broad range of policy experts with many years of combined experience in European security issues. While their views, and those of committee members, vary on the proper timing for extension of full NATO membership to other nations in Europe, all agree that much work remains to build a solid, larger and more relevant NATO alliance on this new foundation of the Partnership for Peace.

The committee notes that while the public clearly understood NATO's original mission of providing for the common defense of western Europe, it has almost no knowledge of NATO's role in the stability of Europe after the Cold War. The changes to NATO's mission, pronounced at various ministerial meetings in Europe, are distant echoes at best to a public unattuned to alliance pronouncements and preoccupied with economic problems, crime, and America's involvement in Somalia. In recent years, the NATO infrastructure account, which funds critical alliance projects essential to NATO's integrated military force structure, has suffered from this lack of attention to NATO's role in the stability of Europe and the newly independent nations on its perimeter. The committee strongly recommends the authorization of the full $219.0 million requested by the administration to meet United States obligations to the NATO infrastructure fund.

With all of these factors in mind, the committee strongly encourages the Department to work toward demonstrating significant progress toward in the coming year, especially in the following areas:

INTEGRATION OF NEW DEMOCRACIES AND RELATIONSHIP WITH RUSSIA

The committee expects the Partnership for Peace program to show substantial evidence of progress toward integration of additional nations into the working structure of NATO. NATO's charter provides procedures for the addition of new members at any time upon the assent of current member nations. Even as NATO's Members debate the precise timing of full membership expansion, there can and should be concrete progress toward integration of Partners through joint activities and expanded consultation.

The committee notes with approval the Administration's efforts to encourage stronger bilateral ties between NATO and Russia, especially at the military-to-military level, and encourages the Department to pursue aggressively policies that increase security cooperation and decrease competition between the Alliance and Europe's largest nation.

MULTINATIONAL PEACEKEEPING

In addition to pursuing integration of nations through Partnership for Peace, the committee encourages the Department and its representatives to work through NATO's institutions swiftly to modernize NATO doctrine and practice. This effort has lagged since the adoption of new strategic principles at the 1990 NATO summit in London, and the adoption of a new strategic concept which recognized "increased opportunities for the successful resolution of crises at an early stage." As former SACEUR General John Galvin has observed, NATO declared its intention to move away from the concept of forward defense and become more multinational, more mobile, more flexible, more ready for rapid response in time of crisis. The Alliance should be ready to respond to situations requiring peacekeeping operations, as well as humanitarian and natural disasters.

The crisis in Yugoslavia has evoked historic responses from NATO, including multinational enforcement of a blockade at sea, a no-fly zone in the air and close air support for United Nations forces on the ground. NATO has fired the first shots in anger in its history and caused casualties. Whether NATO's responses are viewed as insufficient or excessive, they underscore the urgent need for further development of the doctrine, procedures and new internal structure which the London and Rome summits promised. These developments will, in turn, require changes in NATO's operational capabilities, command and control procedures, equipment and personnel priorities. The concept of combined joint task forces, recently endorsed by NATO, is an important step in the right direction which should be fleshed out at the earliest opportunity. Alliance action to prevent or respond to aggression will continue to require, first and foremost, the combined political will of many nations. But the committee encourages the Department to provide strong leadership in rapidly adapting NATO's institutions to conduct multinational peacekeeping and peace enforcement operations more effectively in the future, so that the Alliance will be ready when there is political will to act.

FOSTERING DEMOCRACY

The U.S. should also take a more urgent approach to using NATO forums and related institutions to prevent ethnic and regional unrest in Eastern Europe that poses a threat to democracy and human rights on the continent, and could pose a security threat to NATO allies of the United States. The committee notes that the Partnership for Peace framework agreement requires each participating nation to recommit itself to the basic principles of respect for borders and international law, adherence to internationally-recognized standards of human rights and civilian control of the military. As former CSCE Ambassador Max Kampelman has testified, inaction by NATO at the outbreak of hostilities in the former Yugoslavia severely undermined these principles. The committee encourages the Administration to take into consideration the demonstrated performance of each state in making good on these commitments, and encourages NATO to be willing to reduce or terminate its cooperation with a partner state if its performance is lacking. Toward this end, the Department should consider recommending that NATO seek a periodic public accounting or report by the Council of Europe, Conference of Security and Cooperation in Europe, or other monitoring body on the human rights and democratic principles performance of partners.

ADVANCED BATTERY TECHNOLOGY RESEARCH

Mr. KOHL. I would like to address a question to the distinguished chairman on the issue of advanced battery technology research. As he may recall, in the FY94 conference report to the FY94 Defense authorization bill, the conferees agreed that portable power is vitally important to the soldier in the field and they called for a strong program in battery research, with an emphasis on low cost, recyclable and pollution-tolerant battery systems. The following programs are central to that effort: the advanced non-metallic rechargeable battery system, the safe rechargeable battery for the SEAL Delivery Vehicle, low cost reusable alkaline batteries for Sincgars radio, low rate "AA" lithium carbon monoflouride batteries for Navy applications, high rate "AA" lithium carbon monoflouride batteries for Army applications, the "AA" zinc air battery for military applications, and the no lead added zinc carbon cell.

Mr. NUNN. I appreciate the Senator from Wisconsin drawing the Senate's attention to these vital programs. As the Senator may know, we have included funds in our bill for battery research.

Mr. KOHL. I would like to urge the Chairman to give every consideration during the Defense authorization conference to the advanced battery technology programs I mentioned.

Mr. NUNN. I agree that we need to ensure that we provide the services with the funds to develop the next generation of batteries, and I will work in conference to see that we fund those programs that are most essential to that effort.

MANUFACTURING TECHNOLOGY FOR THE ADVANCED RESEARCH PROJECTS AGENCY

Mr. BYRD. Mr. President, I would like to address a question to the distinguished Chairman of the Committee on Armed Services. Would the distinguished Chairman agree that the $371.1 million the Committee has recommended for Manufacturing Technology for the Advanced Research

Projects Agency, (ARPA), $4.0 million is available for the Institute for Advanced Flexible Manufacturing Systems?

Mr. NUNN. The distinguished Senator from West Virginia is correct, and I believe that the Department of Defense will continue this important program. It is my understanding that the Institute for Advanced Flexible Manufacturing Systems has been working with the Department of Defense for several years and that the department has been pleased with the results of the research conducted at the institute.

Mr. BYRD. Will the distinguished Chairman work with our colleagues in the House of Representatives to ensure that this project is included in the conference report?

Mr. NUNN. As the distinguished Senator is aware, we can never foresee the outcome of the conference. As I recall, however, this program has done well in the conference discussions in previous years and we will certainly give it every consideration this year.

THE ELECTRIC AND HYBRID VEHICLE TECHNOLOGY PROGRAM

Mrs. BOXER. Mr. President, as we debate the Department of Defense Authorization Act, I would like to take this opportunity to bring to the Senate's attention a part of this bill which has important implications both for the advancement of military technology, the defense conversion efforts of our industries and for better air quality for us all.

The Electric and Hybrid Electric Vehicle Technology Program administered by the Advanced Research Projects Agency develops vehicle energy technologies. The purpose of this program is to support the development of electric and hybrid-electric vehicles and to explore their potential to enable the armed forces as well as the commercial sector to achieve energy cost savings and comply with environmental goals in a safe, affordable high performance vehicle. These are truly "dual use" technologies, offering benefits for both the military and commercial markets.

These technologies involve power generation such as fuel cells and free-piston engine generators with the capability of using multiple fuels, power control technologies that use advanced motor and controller designs; energy storage devices such as flywheels, high energy density batteries and efficient battery charging; and strong, affordable composites for use in vehicle manufacturing.

These developments are what some scientists are calling spin-on technologies because progress on the civilian side to provide clean fuel vehicles also have military applications.

By reducing the amount of heat given off by the propulsion systems and operating quietly on battery power, the electrically powered vehicles are expected to be less vulnerable to detection in combat situations. This could lead to nearly silent vehicles for use in scouting enemy terrain or armored personnel carriers without exhaust pipes to escape detection by infrared detectors. In addition, some of the more advanced weaponry in the future will require mass electrical storage.

The goal for these military vehicles is to achieve ranges of 300 miles using hybrid electric vehicle systems, which are a combination of electric and conventional fuels, while maintaining current speed, acceleration and other performance requirements.

A company in Georgia has used an ARPA grant to develop a computer-controlled battery charger that could provide faster charging for military vehicles in wartime and for commercial electric vehicles now.

At McClellan Air Force Base in California, defense conversion companies and other high-tech companies are developing energy efficient, low cost and strong fiber composite materials for military and civilian vehicles. FMC Corporation, which built the Bradley Fighting Vehicle, is developing an electric drive test vehicle.

There are many more examples coast-to-coast that I won't take the time to detail here. But it is important to remember that advances in electric vehicles is also important for non-combat military vehicles. There are more than 136,000 vehicles in the Air Force, Army, and Navy. That's more than a quarter of all vehicles in the federal fleet. Many of these operate in communities with severe air quality. Placing a significant number of such clean fuel vehicles in these communities would enhance our efforts to improve the environment.

Mr. President, I would like to ask the distinguished chairman of the Senate Armed Services Committee if he would be willing to answer questions, of a clarifying nature, regarding proposed authorizations for dual-use electric and hybrid vehicles?

Mr. NUNN. I would be pleased to respond to the Senator's questions.

Mrs. BOXER. Of the $30 million authorized to be appropriated in fiscal year 1995 for electric and hybrid vehicles in section 142 of the bill, $15 million is designated for procurement of electric and hybrid-electric vehicles for military and commercialization of such vehicles for noncombat uses.

The chairman may be aware that the U.S. electric utility industry is currently undertaking a program known as EV America that is intended to commercialize electric vehicles through cost-sharing partnerships with the Federal Government to purchase electric vehicles and the placement and testing of those vehicles in private and government fleets of which the Department of Defense is the largest fleet operator in the Federal Government.

I would like to ask the chairman does the committee intend that this funding could be used to support a program for a private sector, cost-sharing effort to commercialize electric vehicles for nonmilitary uses, such as the EV America demonstration program?

Mr. NUNN. The Senator is correct. Such a cost-sharing activity, as you describe, would be eligible.

Mrs. BOXER. Finally, it is my understanding that section 231 of the bill authorizes $35 million in the Technology Reinvestment Project [TRP] for projects involved in demonstrating agile manufacturing enterprises.

Mrs. BOXER. As the chairman is no doubt aware, one of the most critical technological advances required to reduce the production cost of electric vehicles is the ability to incorporate flexible manufacturing principles into their production. A highly successful, California-based advanced transportation technology consortium, CALSTART, has developed a program to demonstrate agile manufacturing techniques through the creation of an agile manufacturing plant at northern California's Alameda Naval Station, which is scheduled for closure.

Is it the understanding of the chairman that such a demonstration would be particularly suited to receive funding pursuant to the TRP agile manufacturing program?

Mr. NUNN. Yes, it is and I expect that the Department will consider this critical program carefully during its competitive review of TRP proposals.

Mrs. BOXER. I wish to thank the distinguished chairman for his informative responses and his continuing leadership on these important programs.

HIGH ALTITUDE AURORAL RESEARCH PROGRAM (HAARP)

Mr. STEVENS. Mr. President, I would like to raise a matter addressed on page 86 of the committee report accompanying S. 2182 with the distinguished chairman of the committee, Senator NUNN, and the ranking member, the senior Senator from South Carolina, Senator THURMOND.

I very much appreciate the authorization of funding to continue research conducted by the Air Force Geophysics Laboratory and the Office of Naval Research through the High Altitude Auroral Research Program, known as HAARP. I concur wholeheartedly with the committee's description of this project and the level of funding included for fiscal year 1995.

The last section of the committee report on this matter has resulted in some uncertainty over how the Air Force and Navy may proceed on this project, and I hope that the chairman and the ranking minority member of the Armed Services Committee can assist in removing any ambiguity.

The Air Force has made clear that development of the HAARP research

facility will hinge on the results of testing and utilization of the subscale components now undergoing installation. The committee, and the Congress need to understand the expected schedule and cost to execute the HAARP initiative.

Is it the intent of the committee that funds for fiscal year 1995 be held back until the Department of Defense commits itself to funding the full-scale facility in the fiscal year 1996 budget request?

Mr. NUNN. I would respond to the Senator that the clear intent of the committee is that the funds can be obligated if the Secretary of Defense informs the Congress that, if the trials are successful, the project will be included in the future years defense plan, and full funding for the project will be requested in budget requests in future years. Is that the understanding of the Senator from South Carolina?

Mr. THURMOND. The Senator is correct. The committee did not intend that the entire cost for a full-scale facility be included in the budget request for the single year 1996.

Mr. STEVENS. I thank the Senators, and further ask whether it was the intent of the committee that, prior to the obligation of such funds as may be appropriated pursuant to this authorization, the Secretary of Defense provide the committee with a report detailing the anticipated future cost of the HAARP facility, and the schedule for construction and need for additional authorization and appropriation in future years?

Mr. NUNN. The Senator from Alaska is correct. Recognizing the limited construction season available at the HAARP site, the committee understands that this project will proceed incrementally, and subject to the results of planned testing and evaluation. The Secretary's report, detailing the anticipated future costs and objective schedule for the HAARP facility will trigger the release of funds authorized for fiscal year 1995 for the HAARP initiative. The Secretary should submit this report by February 1, 1995.

Mr. THURMOND. I join the chairman of the committee in endorsing this project, and concur that the Secretary's report should indicate the anticipated future costs and schedule for the HAARP facility.

Mr. STEVENS. Mr. President, I thank my two colleagues for their consideration of this matter, and their clarification of the committee's report. I look forward to working with them on this matter.

SECTION 2826

Mr. CHAFEE. I would like to engage the sponsor of section 2826 of S. 2181 in a colloquy concerning certain language in that section. As the Senator from Nebraska is aware, section 2826 authorizes the conveyance to the Hall County, NE, Board of Supervisors of property located in Hall County, NE, the site of the Cornhusker Army Ammunition Plant. Specifically, I would like to obtain his interpretation of the language in subsection (b), which states:

> The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

My understanding is that the Cornhusker Army Ammunition Plant, in Hall County, NE, has been listed on the national priorities list, and thus cleanup of contamination at this site is governed by the Federal Superfund Program, as established by the Comprehensive Environmental Restoration, Compensation and Liability Act or CERCLA. Under section 120(h) of CERCLA, the Secretary must, among other things, include in any deed transferring the Cornhusker site a covenant warranting that first, all remedial action necessary to protect human health and the environment has been taken before the date of transfer, and second, any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States. Does the Senator from Nebraska agree that the phrase "completes any environmental restoration required" means compliance with CERCLA, including section 120(h)?

Mr. EXON. Yes, the Cornhusker Army Ammunition Plant is subject to all requirements of CERCLA.

Mr. CHAFEE. I thank the Senator from Nebraska, Thank you, Mr. President.

ANTIBOYCOTT PROVISIONS OF THE EXPORT ADMINISTRATION ACT

Mr. LEVIN. Mr. President, I rise to speak on a problem that has come to my attention concerning sales of military equipment to foreign nations and the antiboycott provisions contained in the Export Administration Act. Those provisions prohibit foreign nations from requiring U.S. persons to help them boycott countries or companies from boycotted countries that are friendly to the United States.

Mr. President, in the case of foreign military sales from the United States to foreign governments, our Government does not help foreign nations with their boycotts. But if a foreign country wants to purchase equipment through the foreign military sales channel and the Defense Department will not direct a sole source contract that has the same effect as a boycott, the foreign country has another channel to achieve the same goal. They can separate out the specific item of boycott interest and direct a U.S. company to buy it from a specific company, thereby excluding the boycotted company.

Although this option is apparently not a technical violation of our current laws against boycotts, it is not right. It permits a backchannel means of perpetuating a practice we all find reprehensible, as the antiboycott provisions of the Export Administration Act make clear.

Mr. President, I want to close off this possibility, and I want to work with the chairman of the Senate Banking Committee, Senator RIEGLE, whose committee which has jurisdiction over the antiboycott provisions of the Export Administration Act is in the process of reauthorizing that act, to help resolve this problem.

Mr. RIEGLE. I wish to thank my colleague from Michigan for bringing this matter to my attention and I share his concerns. The Senate and the House yesterday extended the current Export Administration Act for a 60-day period, since the act was scheduled to expire yesterday. During the period of interim extension, I plan to work with my friend from Michigan to see if we can find an appropriate way to resolve this problem with some germane language to the Export Administration Act.

END OF EMBARGO LONG PAST DUE

Mr. WELLSTONE. Mr. President, today we again consider alternative approaches to ending the UN-sponsored arms embargo on Bosnia-Herzegovina. We do so just a few short weeks after the Senator approved, by narrow margins, another pair of conflicting amendments on this issue. The first required the President to lift the embargo unilaterally, the second multilaterally. Believe it or not, the Senate approved them both.

At that time, I indicated that my patience regarding the embargo had worn thin. In my floor statement, I said:

> The senseless slaughter of innocent noncombatants, and the persistent ethnic cleansing campaigns, must be stopped by forceful NATO and UN action. We cannot continue to allow the UN and Bosnian Muslim forces to bear the brunt of persistent Serb harassment and attack. To do this, I believe we must lift the embargo—now. If possible, we should do it with the assent of the international community, in full recognition of the implications of that action.
>
> That has not always been my position. For many months, I opposed lifting the arms embargo. But I returned from my sobering trip last December convinced that the embargo policy is no longer sustainable. We must send a strong signal of our willingness to at least allow the Bosnian Muslims to defend themselves.

I still believe this, with all my heart. The genocidal violence that has wracked the Balkans must be stopped, and if we are unwilling to send U.S. troops to intervene in the war (and I believe that would be a serious mistake) then we should at least be willing to allow the Bosnian Muslims to better defend themselves. The arms embargo has unfairly, even though unintentionally, penalized the Bosnian victims of this conflict. It should be lifted now. But I do not believe that we should lift it unilaterally in the midst of delicate negotiations involving our allies and the warring parties, before taking into

account the potentially grave implications of that decision for those negotiations, and thus for peace in the region. Requiring the President to unilaterally lift the embargo now could scuttle the last—albeit dim—hopes for peace in the Balkans for a very long time.

But despite progress toward a peace plan, prepared by the UN-sponsored "contact group" and scheduled to be finalized by U.S., Russian, and European foreign ministers in Geneva on July 5, we are now here debating these amendments. We are debating them now not because of anything happening in Bosnia, but because the Defense bill happens to be on the Senate floor. That is not the way to make policy. We should be developing or re-assessing U.S. policy in relation to the changing military and political situation in the Balkans, not the schedule of the Senate.

During the past week, I have consulted with many people about this issue—regional experts, concerned constituents, administration officials, and others. I have heard personally from President Clinton and his senior foreign policy advisors, and I understand the grave implications of this vote from the President's perspective for the peace discussions now underway. I urged the Majority Leader to make several key changes in the—amendment to reflect new developments in the peace discussions, to reiterate the requirement that the President shall promptly propose a resolution in the Security Council to terminate the arms embargo and, if that effort failed, to consult Congress within 5 days regarding its unilateral termination by the U.S. He agreed to make these changes.

In addition, I asked the Administration for a letter which outlined its plans for the future, and clarified U.S. intentions with respect to lifting the embargo. I ask unanimous consent that a copy of this letter be printed in the RECORD following my remarks. A key commitment made in the letter, from my perspective, was an agreement to consult with Congress immediately regarding the unilateral termination of the embargo should the peace negotiations collapse due to continued Serb resistance. With that assurance, I agreed to vote for the Nunn-Mitchell-Warner amendment, which included my changes, despite my serious doubts about the prospects for a peaceful solution. Even with those doubts, however, I do not believe we can afford to allow this last chance for peace to slip away. I have tried to responsibly weigh the risks for peace, and the profound consequences of our lifting the embargo unilaterally for the people of the Balkans and for the peace discussions as called for in the Dole amendment, and have concluded that it would severely undermine prospects for the negotiations.

But as I have said before, if the international community is unwilling to act to lift the embargo, and is unwilling to intervene more forcefully by military and other means to protect humanitarian aid delivery and noncombatant populations in the enclaves, then we must act to lift the embargo unilaterally, and provide certain limited and defensive military materiel, in the form of the heavy artillery and mortars which they lack, to the Bosnian Muslims. It is unjust and immoral to allow them to continue to be pounded by Serb attacks without adequate means of protecting themselves.

I will vote for the Nunn-Warner-Mitchell amendment, and against the Dole amendment, for the reasons I have described. Despite our differences, I know that my colleagues on both sides of this debate continue to share the same goal: to stop the killing and stabilize the situation in Bosnia so that a more just peace can be sought under the auspices of the international community. With the changes I have secured in the amendment, and the assurances I have received from the administration, I urge my colleagues to join me in supporting the Nunn-Mitchell-Warner amendment and opposing the Dole amendment.

DEPARTMENT OF STATE,
Washington, DC, July 1, 1994.

Hon. GEORGE J. MITCHELL,
U.S. Senate.

DEAR SENATOR MITCHELL: I am writing to reaffirm the Administration's support for lifting the international arms embargo on the former Yugoslavia imposed by United Nations Security Council Resolution 713 of September 25, 1991. It has been our long-held view that the arms embargo has unfairly and unintentionally penalized the victim in this conflict and that the Security Council should act to remedy this injustice. At the same time, as you know, there has been no international consensus to take this step and acting unilaterally to lift the embargo would have grave policy implications that we would all have to be prepared to live with, were we to take this course.

That said, in recent days the efforts of the Contact Group have helped to move us significantly closer to an international consensus for lifting the embargo in the event the Bosnian Serbs remain the obstacle to a peace settlement. While there are still some very minor refinements to be made, they will be ironed out early next week, and the peace proposal will be reviewed by foreign ministers in Geneva on July 5 and presented to the parties very shortly afterward as a reasonable basis for a peaceful settlement. Along with this proposal, it is expected that the parties will be presented with a package of incentives and disincentives designed to maximize the chances of their accepting the proposed compromise.

This package embodies a phased approach that seeks to steadily escalate pressure on the Serbs to agree to the major territorial concessions required by the Contact Group proposal. Due to our very strong insistence, this package includes lifting the arms embargo as one of the possible consequences of a Bosnian Serb rejection of the territorial proposal. In this regard, if we determine after consulting with our Allies and Russia that the Contact Group negotiations have not produced the results we seek, you can be sure that we will take the lead in pressing for implementation of this part of the incentives package. To this end, we would take immediate steps to propose or support a resolution at the United Nations Security Council to terminate the arms embargo on Bosnian and Herzegovina. Further, if the Security Council for some reasons fails to pass such a resolution, the Administration would consult with Congress immediately thereafter regarding possible further action, including unilateral termination of the arms embargo as called for in the Mitchell amendment to S. 2042 of May 12, 1994.

I hope this clarification of the Administration's intentions regarding the arms embargo on the former Yugoslavia is helpful to you as the Senate considers the implications of unilateral action on the Bosnian arms embargo. The Administration strongly prefers the alternative you have introduced with Senators Nunn, Warner, Kassebaum and Robb to that introduced by Senator Dole and others.

Sincerely,

STROBE TALBOTT,
Acting Secretary.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I announced earlier that there would be no rollcall vote on final passage of this bill, and that will be the case. There will be no more rollcall votes this evening.

The next rollcall vote will occur on Tuesday, July 12. I will have a more detailed announcement on it momentarily. In response to questions by some Senators during this vote, we will have a recorded vote on the conference report when this measure comes back from conference. So Senators will have an opportunity to vote on the conference report on this measure. I thank the chairman and ranking member for a truly outstanding job in pushing this very difficult bill through to this stage. I appreciate their efforts and the cooperation of all Senators.

Mr. NUNN. Madam President, I thank the leader and, of course, I say, as I have said so many times, without the leader basically making his time available to arrange time agreements and to consult with Senators and to take all the steps that are necessary—not seen, but are absolutely essential—to make a bill like this one go through, we could not do it.

So I say to the leader, my friend, Senator MITCHELL from Maine, I thank him very much and all of his very capable staff and all of the floor staff. The floor staff is absolutely superb. We are blessed on both sides of the aisle with very capable people on the floor staff.

We are not through yet, but I thank all of my staff. Arnold Punaro, David Lyles, Andy, John, the whole crowd in the back there, Dick, P.T., Monica, Danny, Frank, and Rick; they all do a terrific job, and we are very grateful to them. We are blessed with a professional, superb staff that are not only

qualified in every respect, but have unquestioned integrity. I am thankful to all of them. I know Senator THURMOND feels the same as I do about the capable staff.

COMMAND OF U.S.S. "JOHN S. McCAIN"

Mr. NUNN. Madam President, tomorrow at the highly accomplished shipyard at Bath Iron Works in Bath, ME, a very important ceremony will take place. We will have two of our Senators there, two members of the Armed Services Committee, Senator COHEN and Senator MCCAIN. The ceremony taking place is the commissioning of the Aegis destroyer, the *John S. McCain*.

This is the second major naval combatant named in honor of the McCain family, which includes three great Navy heroes: Our own distinguished colleague, Senator JOHN S. MCCAIN; his father, John S. McCain, Jr.; and his grandfather, Adm. John S. McCain. Admiral McCain, Jr. and Admiral McCain, Sr. will be the names the ship will bear.

The ship will be appropriately homeported in Pearl Harbor in the Pacific where all three McCains served with such great distinction.

The senior Adm. John S. McCain served as a carrier task force commander in World War II; his son Adm. John S. McCain, Jr., was Commander in Chief of the U.S. Pacific Command. His son, retired Navy captain and now U.S. Senator JOHN S. MCCAIN fought in the Vietnam conflict and, we all know, was shot down and was a prisoner of war.

Cindy McCain is the sponsor of the ship. I know an impressive contingent from the Senate will join her and her husband at this exciting event for the McCain family, marking an important addition to our defense capability.

I know all my colleagues in the Senate join me in saluting the McCain family, sending our best wishes and congratulations on this important occasion and wishing the U.S.S. *John S. McCain* (DDG–56) "fair winds and following seas."

I know we will all be with them tomorrow in spirit.

Mr. MITCHELL. Madam President, I thank the distinguished chairman for his comments.

I had the pleasure of attending and speaking at the launching of the U.S.S. *John S. McCain* at the Bath Iron Works, Maine's largest employer, and one of the greatest contributors to the national defense with an outstanding record of superb shipbuilding for over a century.

In the 15 years I have served in the Senate, I have attended all but one of every launching and commissioning that has happened at the Bath Iron Works. I regret very much I will be unable to attend tomorrow's commissioning because I will be in a meeting of the Senate Finance Committee at which time we are marking up the health care bill.

I assure my colleagues and my friends at Bath Iron Works I would much prefer to be in Bath tomorrow, but that will not be possible.

We hope to complete action on the health care bill in the Finance Committee tomorrow.

So I extend my best wishes to all concerned and my congratulations especially to our colleague and friend, Senator McCain.

Mr. NUNN. Madam President, I believe Senator THURMOND maybe would like to make a statement now and we have a number of cleared amendments, and then we are about to wind this one down.

Mr. LEVIN. Madam President, will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized.

ADVANCED FIELD ARTILLERY SYSTEM

Mr. LEVIN. Madam President, I rise to speak on the Advanced Field Artillery System, or AFAS. This is an issue that was treated during the Committee markup, in the Subcommittee that I chair, and because of new developments it is important to review the language in the Subcommittee report that is now part of the Committee's report.

Madam President, the AFAS system is our next generation field artillery system, and the program has undergone numerous changes during the last year. The Armed Services Committee approved full funding for the program, but the Committee report noted two basic concerns. The first concern was the Army's reliance on a liquid propellant gun technology that is not mature. The second concern was the lack of an acquisition strategy by the Army and the lack of Pentagon approval of such a strategy.

Because of these concerns, the Subcommittee I chair recommended that the Army delay issuing the Request For Proposals (or RFP) until: First, the Defense Acquisition Board reviews the program later this year; second, the Army justifies its reliance on the LP gun technology, and third, the Pentagon has approved the Army's acquisition strategy.

Madam President, in light of numerous developments since our markup, the recommendation is no longer necessary. I am concerned that the language in our report may cause the Pentagon to believe that the Committee does not fully support the AFAS program and thus may withhold funds from the program, or delay it in a manner that undermines the program. I want to state that the Committee did fully fund the program, which reflects its strong support, and would not want to see the program cut or delayed in such a manner.

Madam President, I wish to describe briefly the reasons why. Earlier this year, the Army had a draft acquisition strategy for the AFAS that was flawed. I worked with the Department of the Army and of Defense to help correct that strategy. The Armed Services Committee staff also reviewed this issue and recommended a course of action, including a delay in issuing the Army draft RFP.

The Army then changed its acquisition strategy to achieve many of the important objectives lacking in the first Army acquisition strategy. At the time of our markup, the Army had not finalized its new acquisition strategy, as the Committee report notes. But since then, the Army has adopted an acquisition strategy that is sound, and which the Department of Defense approves.

In addition, the Army has taken important steps to establish an alternative technology for the AFAS gun, called "Unicharge," that will provide an important fallback in case the liquid propellant gun technology does not prove successful.

So, Madam President, the Committee's two primary concerns have been addressed since our markup, and I wish to express my view as Chairman of the relevant subcommittee that it is not necessary that the Army delay issuing the Request For Proposals. The developments that have taken place since our markup satisfy my primary concerns about the program. I believe the Army should issue the RFP when it is ready to do so, and I believe the Subcommittee would agree with my assessment.

I thank the Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I wish to associate my remarks with the able chairman of the Armed Services Committee in what he had to say concerning of passage of this bill and also concerning the McCain family, who have rendered a great service to our Nation. Three generations have served, and we are very proud of them.

Madam President, we have completed many long and arduous hours of debate on this Defense bill; therefore, I will be brief in my closing comments.

It has been my privilege to have served on the Senate Armed Services Committee since 1959, the last 21 years with my friend and colleague, the able Chairman of the Armed Services Committee, Senator NUNN. Together, we have worked on many defense bills—always with the goal to provide resources and the best technology for the finest Armed Forces in the world.

Although it does not provide everything we both wanted, and in my judgment, is bare bones, this bill will allow

our Armed Forces to provide a defense that meets the needs of the coming fiscal year.

Madam President, as I said in my opening statement on this bill, the budget level we considered is the lowest in terms of percentage of gross domestic product since 1948. It represents 17 percent of the Federal budget, which is the lowest since 1940. Despite these startling statistics as well as the comments of our service chiefs that we are on the razor's edge in terms of readiness, the administration is calling for another 10 percent reduction in the Defense budget over the next 4 years. During the debate on this bill, the Senate vetoed several amendments that would have had an adverse impact on readiness. I am putting the administration on notice that we will also veto future Defense budgets that put readiness at risk.

Madam President, the successful conclusion of the bill was achieved by the hard work of many people: the Senators who brought up the many thoughtful and productive amendments; the Senate floor staff, on both sides, who skillfully guided our debate; my colleagues on the Armed Services Committee; and Senator NUNN, whose skillful leadership and management of this bill made it appear deceptively easy. I thank each of them for their hard work and contribution in finalizing the national defense authorization bill for fiscal year 1995.

I also want to express my appreciation to Mr. Greg Scott and Mr. Charlie Armstrong, from the Legislative Counsel's Office, for their work on drafting and correcting the bill and the many amendments that were considered during this process. They do not get much visibility, but they deserve a great deal of the credit for the successful completion of this bill.

Finally, Madam President, I want to recognize the hard work of the Armed Services Committee staff. Under the leadership of Richard Reynard and Arnold Punaro, the staff worked untold hours in preparing briefing/background papers and assembling information so that the Senate could make the decisions that we reached today.

I ask unanimous consent that a list of the entire Armed Services Committee staff be printed in the RECORD.

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

SENATE ARMED SERVICES COMMITTEE STAFF

MINORITY

Dick Reynard, Charlie Abell, Les Brownlee, Chris Cimko, Menge Crawford, Don Deline, Jon Etherton, Pamela Kidd, Melinda Koutsoumpas, George Lauffer, Steve Madey, Jack Mansfield, Tom Moore, Joe Pallone, Steve Saulnier.

MAJORITY

Arnold Punaro, Kathy Bognovitz, Jamie Bond, Monica Chavez, Dick Combs, Kelli Corts, Christ Cowart, Madelyn Creedon, Rick DeBobes, Marie Dickinson, John Douglass, Debra Duncan, Andy Effron, Rick Finn, Dave Fuchs, Danny Ginsberg, Shelly Gough, Creighton Greene, P.T. Henry, Bill Hoehn, Julie Kemp, David Lyles, Kirk McConnell, Mike McCord, Frank Norton, Kathleen Paralusz, Cindy Pearson, Jeff Record, Jacki Spivey, Christy Still, Jan Wise.

Mr. THURMOND. Madam President, it is to the Senate's credit that we completed the Defense bill before the Fourth of July recess. What an appropriate way to celebrate the birth of our great Nation by restating our ongoing commitment to its security. I wish everyone a glorious Fourth of July and look forward to bringing before the Senate the conference report on this bill.

As I understand it is agreeable that we will have a final rollcall vote on the conference report.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from South Carolina and thank him for his superb job as usual on this defense bill. Without him, we could not pass this bill. Without him, we would not have the kind of defense bill that we do.

Madam President, one of the highlights of my year and I suppose one of the highlights of my last several years was going to the Normandy commemoration this year, seeing the veterans there who had sacrificed so much and risked so much 50 years ago.

Senator THURMOND did not get to go. I believe he was probably the only World War II veteran who was attending a high school graduation of one of his own children. But that is the reason he did not get to go.

But our committee rejoiced with him when we returned by having a very private committee celebration of his participation in Normandy.

The interesting thing about our colleague from South Carolina is when he joined up to go into World War II he was already 41 years old at the time. I doubt that that happened on very many occasions. He not only volunteered to go to war, he volunteered to take perhaps the most dangerous mission anyone volunteered for. That was to be in one glider that went in in the Normandy invasion.

We represented Senator THURMOND at Normandy at this 50 year anniversary but not nearly so well as he represented this country 50 years ago in his service, his courage and his dedication.

He has continued that same pattern of courage and dedication and absolute commitment to our Nation's security in his entire public career.

So, Senator THURMOND, we are grateful to you and we continue to be grateful for your service, not only now but everything you have done over the years for this country. You have been a wonderful public servant and you are a tremendous colleague here on the floor and in this committee.

Mr. THURMOND. Madam President, I thank the chairman for his kind remarks.

I have been in the Senate now almost 40 years and I want to say I have not served with a more able chairman of the Armed Services Committee than our able chairman now. We have had many fine chairmen, but none have served more ably and been more dedicated than Senator NUNN.

Mr. NUNN. I thank my friend and colleague.

Madam President, I believe we are prepared to go through a number of other amendments that have been worked out on both sides of the aisle.

AMENDMENT NO. 2213

(Purpose: To strike section 3154, relating to the transfer of the responsibility for the production of tritium from the Department of Energy to the Defense Nuclear Agency)

Mr. NUNN. Madam President, the first amendment that I send to the desk is an amendment on behalf of Senator JOHNSTON. I ask that the amendment be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. JOHNSTON, proposes an amendment numbered 2213.

Mr. NUNN. Madam 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 366, line 5, strike "TRITIUM PRODUCTION." and all that follows through page 367, line 15 and in lieu thereof insert: "Nuclear Weapons Council Membership. Section 179(a)(1) title 10, United States Code, is amended to read as follows: '(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.'"

Mr. NUNN. Madam President, this amendment would strike the section in the bill transferring responsibility for new tritium production from the Department of Energy to the Defense Nuclear Agency.

In addition, the amendment would add an additional representative from the Department of Energy to the Nuclear Weapons Council, bringing the DOE membership on the Council to two.

Madam President, this is a provision that we have talked about a great deal. Our committee is not satisfied with what the Department of Energy has done in this area. Senator JOHNSTON knows that.

We have talked to the Secretary of Energy about it. We have gotten certain commitments that we hope will be completely implemented and fulfilled from the Department of Energy. So we are reluctantly agreeing to change this provision in our bill which would have transferred responsibility from the Department of Energy to the Defense Nuclear Agency for tritium production.

I know Senator THURMOND has a statement on this. He at this stage has

some reluctance on this amendment, but I would defer to him for any comment on this amendment.

This amendment is not yet agreed to, Madam President. I hope the Senator from South Carolina will agree, but at this stage he has certain reservations.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, this amendment troubles me very much, and it should trouble all Senators. Before I begin, I want to commend the distinguished Senators from Georgia and Nebraska for their perceptive insight into the mess at DOE. I was very much heartened when the Senator from Nebraska included in his subcommittee markup this provision to transfer responsibility for tritium production from DOE to DOD. I was heartened because I feel that we can trust the Department of Defense to do everything it can to ensure that the nuclear stockpile does not wither away for lack of tritium, whereas I believe that the Department of Energy no longer deserves our trust in this matter. It is so important, so imperative, to the Department of Energy to allow its policy to be molded and formed by so-called stakeholders such as the Natural Resources Defense Council and other anti-military special interest lobbies. It is so important to them to have the cachet of antinuclear groups that DOE is willing to put us at risk of losing our nuclear stockpile by cunningly devised deferral and delay.

Madam President, I wish to be more specific about these DOE plans.

First, Mrs. O'Leary truly has surrounded herself with a team of professional antinuclear activists. It appears that all her close advisors have worked for most of their professional lives to rid the world—or at least the United States—of all things nuclear. It appears she has no advisors who are seasoned, experienced veterans of work in the trenches of national security. It appears that the men who built our successful nuclear deterrent have no impact and are ignored. It is said that one of the first things Mrs. O'Leary did at DOE was to take down the pictures of nuclear warships, like the *Nautilus*. That was a symbolic indication of what was to come.

Second, DOE keeps delaying the start of a new tritium source. Last year, DOE told us that they needed to begin construction of a new reactor by the year 1999. This week, they say it is 2000. Are we going to see a delay of 1 year per year? I would not be surprised. They are looking for every excuse not to start a reactor. I understand that; I understand why Mrs. O'Leary's league of antinuclear activists cannot bring themselves to start building a reactor. How could they face their professional peers? In fact, I am willing to go on record today with a prediction that the environmental impact statement on new tritium production capacity, due next spring, will choose the alternative of trying to use an existing commercial light-water reactor to make tritium for nuclear weapons. That way, this antinuclear crowd will not have to put a nuclear reactor in their DOE budget; and, what is even better, making tritium in a commercial reactor will immediately become a focus of attack for blurring the civil-military barrier more acrimony, and more delay.

Third, it does not matter to the policy team at DOE that they are putting us at risk of running out of tritium. As it is, their "best case," that they can have tritium production by 2009, only works if they eat into our tritium reserve. But what happens if we need more tritium than they plan? DOE admits, in the report on New Tritium Production Capacity submitted June 24, that "the date by which new tritium production capacity would be needed can move up or back * * * by several years." Madam President, I ask that this report, and the accompanying letter from the Secretary of Energy, be placed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. THURMOND. If this happens, and DOE admits that it could, we run out of tritium. We start losing nuclear weapons at the rate of hundreds per year. Madam President, why wouldn't DOE do the natural thing in a case like this: Accelerate their new production reactor program to avoid this disaster? That would mean that these former denizens of antinuclear lobbying groups would have to advise the Secretary to start a new reactor now, before it is too late. I cannot believe they will ever do that.

Fourth, even in the face of an emergency, this Department of Energy will never seek exemptions to the National Environmental Policy Act for any nuclear activities. This is particularly galling to South Carolinians. We have dangerous radioactive solutions in our canyons there. We have aluminum-clad fuel sitting corroding in pools of water. Rocky Flats, in Colorado, has plutonium metal in unsafe, inflammable form. But will DOE declare an emergency to circumvent an environmental impact statement so they can process these materials to a safe form? No, of course not; not for a nuclear project. They will enforce enormously expensive procedures to make radiation exposures as low as reasonably achievable on other projects; but here, where radiation exposure is clearly higher due to DOE's failure to act, they do nothing. But, let it be a pet project of theirs, let it be an environmental project to build a water system for a town in Colorado, let it be the importation of foreign reactor fuel to store at Savannah River, then DOE declares an exemption to NEPA, so that no EIS is needed. It is all right for this Department of Energy to declare NEPA exemptions for projects that pass their test of "no nukes."

Madam President, I do not trust DOE. Many Senators do not trust DOE. If they want to earn our trust, they will have to show us that the man in charge of national security programs, Secretary Curtis, is not dominated by antinuclear policy advisors and can fix this program.

So, Madam President, I am disappointed that the chairman has decided to remove this provision which would put our nuclear defense in safe hands again. Recently, so I am told, the chairman, the Senator from Nebraska, and the Senator from Louisiana met with the Secretary of Energy and her deputy on this matter, and received assurances that DOE would not continue to allow its national security policy to be dominated by antinuclear extremists.

EXHIBIT 1

THE SECRETARY OF ENERGY,
Washington, DC, June 24, 1994.

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

DEAR MR. CHAIRMAN: Enclosed is the second annual report to Congress on the Development of New Tritium Production Capacity under section 3134 of the National Defense Authorization Act for Fiscal Year 1993. The four technologies assessed to be technically adequate for the new tritium capacity are: the heavy water reactor, the modular high-temperature gas-cooled reactor, the light water reactor and the proton linear accelerator. With regard to light water technology, the Department is evaluating both advanced light water designs for a new facility and potential use of existing commercial reactors if a new facility is not constructed. This report considers only options requiring new construction.

Based on the current stockpile projections outlined in the FY 1994–FY 1999 Nuclear Weapons Stockpile Memorandum approved by the President on March 1, 1994, the Department estimates that a new tritium production source should begin operations in fiscal year 2009. To meet this date, construction should begin by approximately fiscal year 2000 to 2001 for the reactor technologies and in fiscal year 2003 for a proton linear accelerator.

Further reductions in the weapons stockpile and reduction of working inventory levels of tritium could be indicated by the Department of Defense Nuclear Posture Review. This would provide additional time before a new tritium production source is needed. In that event, a revision of the estimated dates associated with new tritium production capacity will be provided to Congress. New estimates could be provided, for example, in the report required by section 3145 of the National Defense Authorization Act for Fiscal Year 1994, which relates to tritium contingency options.

The Department of Energy and the Department of Defense are continuing to work together to assure that sufficient levels of tritium are available to support stockpile requirements and that a contingency plan is available to address unforeseen tritium needs.

If you have further questions, please call me, or have a member of your staff contact D. Vic Reis, Assistant Secretary for Defense Programs. He can be reached on 202-586-2179.

Sincerely,

HAZEL R. O'LEARY.

REPORT TO CONGRESS ON THE DEVELOPMENT OF NEW TRITIUM PRODUCTION CAPACITY

UNDER SECTION 3134 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

JUNE 1994 APPENDIX A

EXECUTIVE SUMMARY

Section 3134 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) requires the Secretary of Energy to provide annually a report to Congress on the development of new tritium production capacity. This is the second report responding to that direction.

This report provides a revised estimate of the date by which new production capacity will be necessary and a revised estimate by which construction of such capacity should begin, based on current assumptions. As in the previous report, part of the five-year tritium reserve would be depleted to bridge a two-year shortfall after which the reserve would be replenished. The report discusses uncertainties associated with current assumptions and the impact on the date for a new production capacity and the associated date for construction. This report also addresses the relationship of new tritium production capacity with the plutonium disposition options and discusses the ongoing planning for tritium schedule contingencies.

Based on the current stockpile projections outlined in the approved FY 1994-FY 1999 Nuclear Weapons Stockpile Plan, the Department estimates that new production capacity should begin operations in fiscal year 2009. To meet this date, construction should begin by about fiscal years 2000 to 2001 for the reactor technologies and in fiscal year 2003 for a proton linear accelerator. Further reductions in the weapons stockpile and reduction of working inventory levels of tritium could provide additional time before a new tritium production capacity is needed.

The Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement will be addressing these technologies in detail to support eventual decisions on the technology and location for a new tritium production source. The Draft Programmatic Environmental Impact Statement will be available for public comment beginning March 1995.

I. INTRODUCTION

A primary mission of the Department of Energy is to support national security by maintaining the nuclear weapons stockpile, including providing nuclear materials to meet national defense requirements as determined by the President. Tritium, a radioactive gas with a decay half life of 12.3 years, is one of the nuclear materials most critical to the Nation's nuclear deterrent. Because tritium must be replenished, the Nation's nuclear defense program requires a steady, assured supply to ensure its availability for the enduring stockpile. Currently, the United States does not have any tritium production capacity available.

This is the second of the annual reports responding to the requirement contained in section 3134 of Public Law 102-484 for a report on the new tritium production capacity of the Department of Energy. The previous report (Ref 1-1) described the bases for the selection of the four methods (technologies) for the production of tritium and assessed the capability of potential suppliers to support the technologies. The selections were based on assessments of the technical risk of each technology and considered such factors as cost, safety, enviromental impacts, and technical maturity. The previous report also included estimates of the dates for the availability of a new production capacity and for the initiation of construction of the new capacity, based on assumptions at the time.

This report provides a revised estimate of the date by which new production capacity will be necessary and a revised estimate by which construction of such capacity should begin, based on current assumptions. As in the previous report, part of the five-year tritium reserve would be depleted to bridge a two-year shortfall after which the reserve would be replenished. The report discusses uncertainties associated with current assumptions and the impact on the date for a new production capacity and the associated date for construction. This report also addresses the relationship of new tritium production capacity with the plutonium disposition options and discusses the ongoing planning for tritium schedule contingencies.

This report will be submitted annually until the construction of the new tritium production capacity is completed, as required by secton 3134.

2. DATE FOR NEW PRODUCTION CAPACITY

The date for a new production capacity is based on an analysis that considers such factors as the current tritium supply, the estimated size and composition of the active stockpile, the need to maintain the five-year reserve, the tritium decay rate, non-defense uses of tritium and the amount of tritium recovered from decommissioned weapons. The analysis appears at Appendix A (classified).

Based upon current assessment of the stockpile needs outlined in the approved fiscal years 1994-99 Nuclear Weapons Stockpile Memorandum, delivery of required quantities (⅔ goal quantity[1]) of new tritium to the stockpile is estimated to be required by fiscal year 2011, or one year later than previously reported. To achieve this goal, the new production capacity would need to start producing tritium by approximately fiscal year 2009.

The date by which new production capacity would be needed is significantly influenced by the projection of the size and composition of the enduring stockpile in the next century, which are uncertain factors. The Nuclear Weapons Stockpile Memorandum may be affected by the Nuclear Posture Review being conducted by the Department of Defense in response to a changing international environment. In addition to the uncertainties related to the size and composition of the enduring stockpile, other significant assumptions relate to tritium requirements for non-defense needs, the need to maintain a five-year reserve of tritium to support the enduring stockpile, and the assumption of indefinite cessation of nuclear testing. Based on the particular selection of parameters for all of the uncertain factors, the date by which new tritium production capacity would be needed can move up or back from fiscal year 2011 by several years.

3. DATE FOR THE CONSTRUCTION OF NEW PRODUCTION CAPACITY

The four technologies (methods) considered for the new production capacity are: (1) A heavy water reactor; (2) a high temperature gas-cooled reactor; (3) a light water reactor; and (4) a proton linear accelerator. The estimated duration of construction for these technologies differ in relation to the complexity of construction. The previously reported construction start[2] dates for these technologies were based on a conservative schedule, allowing for contingencies in the pre-construction, construction, and pre-operational phases.

Based on the date of fiscal year 2011 for the need for new tritium production capacity cited in the above section, the projected construction start dates would be approximately fiscal years 2000 to 2001 for the reactor technologies and fiscal year 2003 for the proton linear accelerator. In addition, the previous report cited that construction of the technologies would have to be preceded by approximately five years of research, development, testing, contractor selection, engineering, regulatory review and site selection.

The Department of Energy is preparing an Environmental Impact Statement on a new tritium production capacity. A Draft Programmatic Environmental Impact Statement is expected to be issued by March 1, 1995, and a Final Programmatic Environmental Impact Statement will be issued to enable the Secretary of Energy to issue a Record of Decision on the site and technology for a new tritium production capacity by the end of calendar year 1995. The Department of Energy has prepared a Tritium Supply Plant Roadmap (Ref 3-1) to provide a comprehensive planning tool to support the decision process leading towards a new tritium production capacity.

The Department of Energy is undertaking a statistical risk-based approach to attempt to quantify the incremental risk assumed by deferring the initiation of construction and preconstruction activities. This approach will permit more flexibility in the decision process in an era of budget constraints in determining a date for the start of construction. Complementary to accommodating uncertainties in meeting the date for a new tritium production capacity, the Department of Energy is preparing a Tritium Contingency Report (See section 6).

4. METHODS AVAILABLE FOR THE PRODUCTION OF TRITIUM

The technologies (methods) selected in the previous report and still considered technically adequate are: (1) A heavy water reactor; (2) a high temperature gas-cooled reactor; (3) a light water reactor; and (4) a proton linear accelerator. Of the technologies selected in the previous report, the Department of Energy assessed that the proton linear accelerator technology needed to be further developed to approach the level of detail available for the reactor technologies. The Department of Energy continues to develop engineering and cost data for the proton linear accelerator to reduce the technical risk associated with this option. The information that is being developed includes preparing a pre-conceptual design and performing testing relating to accelerator performance and environmental and safety characteristics.

5. CAPABILITY OF POTENTIAL SUPPLIERS

The previous report concluded that sufficient industrial support exists to establish new production reactor capacity, provided sufficient lead time is available and foreign vendors can be used where required. This conclusion is unchanged.

6. ACTIONS TO ADDRESS TRITIUM SCHEDULE CONTINGENCIES

In conjunction with the Department of Defense, the Department of Energy is assessing potential contingency actions to be taken in the event that new production capacity is

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Footnotes at end of article.

not in place in time to satisfy tritium demand requirements. These contingencies address mitigating a potential shortfall in our tritium inventory which could arise as outcomes of events such as those listed in Section 2. A formal report previously submitted to the Congress examines tritium supply and demand contingency options.

7. RELATIONSHIP TO PLUTONIUM DISPOSITION OPTIONS

In reports accompanying the fiscal year 1993 and 1994 Energy and Water Development Appropriations Acts, the Department of Energy was requested to study the viability of reactor options for the disposition of excess plutonium in conjunction with the potential to produce tritium collaterally. Based on its early reviews, the Department of Energy concluded in Ref 7-1 that three different reactor concepts could be used to dispose of plutonium and collaterally produce tritium. The Secretary in January created a Department-wide project to review all options available for the disposition of plutonium, including reactors. The selection of a preferred alternative for plutonium disposition will be made in time to be included in the draft Programmatic Environmental Impact Statement covering disposition of plutonium when the draft is published for public comment. This is scheduled for August 1995. If a reactor were to be selected for the plutonium disposition mission its ability to perform the tritium production mission also could be evaluated. Subsequent to the selection of generic technologies, additional time may be required to support site and specific technology selections. The Department of Energy will continue to assess the possibility and plan accordingly.

8.0 REFERENCES

1-1. Report to Congress on the Development of New Tritium Production Capacity, U.S. Department of Energy, June 1993.

3-1 Tritium Supply Plant Roadmap, U.S. Department of Energy, Office of Weapons Complex Reconfiguration Program, Draft C, December 28, 1993.

7-1 Plutonium Disposition Study, U.S. Department of Energy, July 2, 1993.

FOOTNOTES

[1] The "goal quantity" refers to the new production capacity determined to have been required in 1988 to support the nuclear weapons stockpile requirements. The present goal is now 3/8 of the 1988 goal.

[2] Start of construction is defined here as the placing of concrete for the first major tritium supply structure. Site preparation and clearing work would be required approximately one to two years earlier.

Mr. NUNN. Madam President, I hope the Senator from South Carolina will agree to this amendment. I know that it gives him a great deal of trouble. I have talked at length with Senator JOHNSTON, the head of the Energy Committee, on this. I know that he has talked to the Senator from South Carolina. He has pledged to me to monitor this very carefully and he has pledged to see that the Department of Energy, to the extent that he can as committee chairman, carries out its commitments and exercises much more dedication and vigilance in this area than they have in the past.

So I hope that the Senator will be willing to accept this amendment.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, in view of the assurances given to the Senators I mentioned, I am willing to yield to the opinion of the chairman, whose advice has been so wise in the past. But I assure the Senate and DOE that I will be watching.

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

Madam President, the Defense authorization bill for fiscal year 1995 contained a provision that would transfer the responsibility for the production of tritium to the Defense Nuclear Agency. This transfer would occur beginning in fiscal year 1996 and would include the responsibility for new production of tritium that would be required after 2009. As contemplated under the provision, the Department of Energy would retain all of the tritium handling responsibility, by the DNA would be responsible for manufacturing the tritium. Once produced by the DNA, the tritium would be delivered to the DOE for weapons replenishment and other purposes.

This provision is clearly a departure from the past practice and, understandably, not supported by the Department of Energy.

The situation which the United States is currently facing is also a departure from past practice. There is a very real concern that the Department of Energy may, for the first time, not be able to meet its future tritium production requirements.

Tritium is a key component to maintaining a reliable nuclear weapons stockpile. Unlike the other materials in nuclear weapons—plutonium and uranium—tritium decays very rapidly and must be replaced. Half of any given quantity of tritium disintegrates in 12.3 years.

We still need a supply of tritium beginning after 2008. The important and far reaching arms control agreements, such as START I and START II have allowed a reduction in the amount of tritium that is needed and have pushed into the future the date when new tritium is required. But even though that the amount is reduced to less than half that of what was contemplated just 6 years ago, and the time when the new tritium is needed has been extended to 2009, the DOE must still begin to plan to meet the reduced requirement on a timely basis.

Several years ago we were able to defer the tritium production plans. But we are now at the end of that deferral period. Planning must resume.

The Congress, through the Armed Services Committee and the Energy and Water Appropriations Committee has an obligation to ensure that the nuclear weapons stockpile is adequately funded and maintained.

For that reason I am concerned that the Department focus serious effort and attention on tritium production. Over the past few weeks, Senator EXON and Senator JOHNSTON and I have discussed the tritium issue with Secretary O'Leary and are cautiously optimistic that the DOE will actively and seriously engage in planning for and meeting future tritium production requirements.

Mr. JOHNSTON. I fully agree with the Senator from Georgia that we need a new tritium source and that the Department of Energy needs to begin planning for it now. Were I to agree that the Department of Energy is unable or unwilling to provide that source, I would support transferring the responsibility to an agency that would do the job.

But I am not convinced that the situation justifies so drastic a solution at this point. To the contrary, I suspect that transferring DOE's tritium responsibilities to the Defense Nuclear Agency, which has no experience in this line of work, could well delay the day when a new tritium source comes on line.

The Defense Nuclear Agency is now engaged in nuclear weapons effects research and testing. It has no expertise in producing tritium. It has no facilities for producing this material. It has never built or operated a tritium production reactor. It has never tried to get a license from the Nuclear Regulatory Commission to build or operate a reactor. It may not be fully covered by the Price-Anderson Act indemnification scheme.

Tritium production would become an anomaly within the weapons complex. The Department of Defense would still be dependent upon DOE to design, test, manufacture, assemble, and retire warheads, of which tritium would be only one of many component parts. Indeed, DOE would still be responsible for handling and processing the tritium that is produced by DNA.

Giving the Defense Department responsibility for producing tritium also runs counter to the need to maintain civilian control of the production of nuclear weapons materials, which has been bedrock principle of our nuclear weapons program for nearly 50 years. While the military has gained custody over finished weapons over the years, the production responsibility and control of the technical expertise has remained in civilian hands in the Department of Energy and should continue to do so.

I think we should be spending our time and effort fixing what is wrong at the Department of Energy rather than starting from scratch with another agency.

This provision has already helped focus the Department of Energy's attention on the problem. The Department is now in the process of evaluating potential tritium sources and will complete the NEPA process on a new source next year. The administration has committed to request funds for new tritium supply in next year's budget. The Secretary of Energy has given us

her personal assurances that the Department will meet its national security responsibilities.

I would urge the managers of the bill to accept these assurances and agree to strike the transfer provision. Leave the tritium production responsibility where it is and let the committee of jurisdiction work together to see that the Department fulfills it.

Mr. EXON. As chairman of the Armed Services Subcommittee responsible not only for the Department of Energy National Security Programs, but all of the Strategic Programs at the Department of Defense, an assured future supply of tritium is a key concern. I am pleased that the Department of Energy is committed to its National Security Mission, including the production of tritium. Secretary of Energy O'Leary has recently reaffirmed her commitment to national security and to begin the process for planning a new supply of tritium.

The second annual tritium production report recently submitted by the Department lays out tentative schedules for addressing the tritium production issue. In this report DOE indicates that new tritium production must be in place to produce tritium by 2011. Production by 2011, while eating into the reserve of tritium, would fulfill the Department's responsibilities for tritium production.

In the report, DOE also indicates that the nuclear posture review now in progress, may change the tritium requirements. While, it clearly would be beneficial to DOE, from a planning and budgetary perspective, if the nuclear weapons stockpile was reduced to below START II stockpile levels, this is not a certainty. We must keep in mind that as welcome as additional multilateral reductions in nuclear weapons would be, the START II agreement has not been ratified.

Thus, until there is a significant change in our nuclear posture we have no choice but to work to ensure that there is an adequate supply of tritium in the future.

If the nuclear posture review requires an increase in the amount of tritium required or we need the tritium sooner than anticipated, the Department should be prepared to submit a reprogramming request, if necessary, to address an acceleration of the requirement.

Mr. NUNN. Senator JOHNSTON, Senator EXON, Senator THURMOND, and I, remain concerned about the tritium supply and the Department of Energy's ability to meet its national security obligations. However, with the personal assurances and the commitment of both Secretary of Energy O'Leary and Under Secretary Curtis, that they will carry out the necessary planning and other activities to ensure an adequate supply of tritium, I have reluctantly agreed to remove the provision, which would transfer responsibility for tritium production to the Defense Nuclear Agency, from the authorization bill is appropriate at this time. We will work closely with the Department of Energy on this issue and hold them to the time commitments for completion of the environmental impact statements and other preconditions to selection of a technology and a site for tritium production during the course of the coming year.

To assist the Department in its work on tritium as well as the overall issue of nuclear weapons, we also believe that it would be appropriate for the Under Secretary of Energy to be a member of the Nuclear Weapons Council. The amendment that we offer would also strike the provision from the authorization bill and place an additional representative from the Department of Energy on the Nuclear Weapons Council.

Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2213) was agreed to.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

DIRECT TRANSFER OF PROPERTY

Mr. DORGAN. Madam President, I believe the chairman of the committee has an amendment I had filed. I believe it had not been cleared; am I correct about that?

Mr. NUNN. We have seen that. I do not have it before me. I say to my colleague, I do not have it with me, but we can get it in a moment.

Mr. DORGAN. If I might just inquire of the chairman, I might say to the chairman that amendment dealt with direct transfer of property of two military installations in North Dakota, one 4 acres and one 12 acres, on which there were a limited number of units; one was 24 apartments and the other was 21 houses.

As I understood it, the committee had decided that, under direct transfer of facilities, they were going to develop an expedited procedure or some different kind of process this year versus last year.

I did not like that because of the time restraint, and it is very important these be transferred. The fact is, the most important was abandoned in 1981 and declared surplus then. It is a 12-acre tract with 24 apartments that a city desperately needs in order to attract some economic development. They have a plant coming in from Canada, and they need places to house their people and time is of the essence.

But I am told a procedure is established that it is not something that can be done for a direct transfer.

I was surprised, then, about a half hour ago, to listen to the proceedings on the floor and find that, by unanimous consent, or at least an amendment was passed that provides for the direct transfer of a ship that has been decommissioned to a nonprofit organization.

I do not come here to name the ship or name the amendment or complain about that. It is between the sponsors and the committee, and it is fine with me.

It just seems to me, as I was listening to that, that there are two different standards in the committee.

I ask the chairman whether we might be comforted in the future that we might have a single standard on transfers of Government property. If we say there must be safeguards in the direct transfer, and there are different processes on direct transfer of the kind of property we discussed, I would ask if we could not have some comfort that the same would be true with other kinds of Government property in which direct transfer requests are made here in the Congress.

Mr. NUNN. In response, I would say, Madam President, that the ship transfer that the Senator has alluded to is subject to the terms and conditions that the Secretary of Navy determines. The Secretary generally determines whether the recipient is financially responsible and whether the recipient can maintain the vessel in conditions befitting the history of the ship and crew. That is title 10, section 7306.

I understand the Senator's frustration, but the distinction here is that a ship that has basically finished its service has no other use, and land is in a different category. Land has some other use.

This is a very sort of novel use in that this particular ship is going to be used for a stationary, as I understand it, helicopter landing near New York City.

So I believe the city has made arrangements with the Secretary of the Navy for the expenses to be paid by the city, and so forth.

So I do not think it can be compared accurately with the land transfer.

Now, I am not the best spokesman on this particular procedure, because Senator GLENN, as the Senator knows, is chairman of the subcommittee dealing with this. He and his subcommittee have set down certain procedures, and I believe those procedures are what they have followed here.

I am told that from the date of passage of this bill, it will take about 125 days under that expedited procedure for your transfer to be completed under the normal procedure.

I know that is not as expedited as the Senator would like. I can try to get Senator GLENN back here, or have him convey his understanding of this. But at this stage, he would oppose the amendment that has been submitted.

Mr. DORGAN. I am well aware of that. I am not making a legislative

proposal to the Senator at this point. I would simply observe that property is property. It occurs to me that we have two different procedures. And frustration does not begin to describe my emotion when I see the transfer of 4 acres of land in the middle of North Dakota that has been abandoned for years held up because we have some special procedure. And then to see the transfer of a ship, for which, incidentally, there are other uses—scrap metal, which produces revenue which goes to reduce the deficit. I am not suggesting that ought to be the mission of the ship. But I am just saying property is property. It occurs to me the committee has two different standards on how it transfers. One it transfers directly on the floor of the Senate; the other, because a different procedure was adopted, it is dealt with differently.

I urge the chairman to evaluate that and perhaps have a system the next time one comes to the floor in which we transfer property under similar circumstances, or with similar guidelines.

Mr. NUNN. We will take a look at that, I say to my friend from North Dakota. I understand his frustration here. I want to discuss it with Senator GLENN.

I think the thing that should be kept in mind, however, is that once this procedure for the Senator's particular parcel of land is undertaken—unless there is some Federal agency or State agency that wants the land—then the land will be made available to the local governmental body free of charge. So there is no distinction on that in terms of the way we are handling it.

In the case of the ship, there were no other Federal agencies that would basically have any interest in that ship. I do not think we have ever had the same transfer provisions for ships as we have for land. As a matter of fact, the Navy had just agreed with several foreign governments to turn over some ships they considered excess, including Australia and two or three other governments—Morocco, Brazil—and they had already had all their plans made and had crews here and so forth to receive those ships. And our committee has blocked that, much to the frustration of those countries, because we felt the Navy had not done the kind of assessment they needed to do in terms of what they were giving up.

We felt that those ships still had considerable useful life and the mission they had, had not been really completed. So we have temporarily—we may work that out—blocked all of those ship transfers. So we do not take ship transfers lightly. But in this particular case of the ship going to New York, the Navy convinced us that there was no further use of this ship and there was no Federal use of this ship.

But the Senator's point is taken and I will certainly discuss it with Senator GLENN. I think everyone is interested, particularly where military bases have closed—everyone has a very keen interest in seeing the process be expedited. Because the economic activity has already suffered. If the land is not transferred in a prompt, expeditious fashion, you really have problems with economic development.

So I understand the point of the Senator. We will consider it and we will be glad to work with him. I will discuss it with Senator GLENN when I am able to meet with him.

Mr. DORGAN. Mr. President, I appreciate that. I might say exactly the same conditions apply to these small parcels of land of 12 acres and 4 acres. Nobody else is going to want them so one could make the same case as was made with this ship, but unfortunately it could not be because we have two different procedures. This is transferred directly this evening without a problem and the other is held up. There certainly ought to be, in my judgment, a de minimus rule of some type.

I fully agree and concur with the approach of Senator GLENN and with the chairman's approach if somebody wants to transfer an air base someplace, or giant buildings. We are talking about 4 acres and time is of the essence. They have a critical time period on these two very small installations. Incidentally, one was abandoned in 1981 in a community of 450 people.

I fully understand the circumstances. I am not quarreling with the transfer of this ship. This was probably done with good judgment between whomever was involved in the agreement. I am just saying what happened here makes no sense to me and it is one thing to have foreign governments frustrated that they could not get our ships. It is another thing to frustrate me because somebody else transfers property that, it might well be, should be transferred but we cannot transfer 4 acres that needs to be transferred timely when nobody else in the world wants those 4 acres of land and somebody does.

I hate to take the Senator's time. He is a good chairman. There are plenty of ways to stymie the will of the Senate and play games. I do not intend to do that ever. But I do intend to tell you about a procedure that I think is unfair.

I yield the floor.

Mr. NUNN. I will be certain to communicate that to the Senator from Ohio.

Mr. President, we have a number of amendments that I believe have been agreed to on both sides. I know my colleague from Texas is representing the minority here. I believe the first amendment is an amendment by Senator ROTH. It will be presented by my colleague from Texas.

AMENDMENT NO. 2214

(Purpose: To express the sense of the Congress regarding the ability of the North Atlantic Treaty Organization to operate beyond its geographic boundaries)

Mrs. HUTCHISON. Mr. President, I offer on behalf of Senator ROTH, an amendment that expresses the sense of the Congress in support of out-of-area operations by NATO. I understand this amendment has been cleared by both sides.

Mr. President, I send the 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 Texas [Mrs. HUTCHISON], for Mr. ROTH, proposes an amendment numbered 2214.

Mrs. HUTCHISON. 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 an appropriate place in the bill add the following new section

SEC. .

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

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the U.N. Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic treaty Organization reserve the right to act collectively in defense of their vital interests.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2214) was agreed to.

AMENDMENT NO. 2215

(Purpose: To strike out section 334, relating to retirement credit for Federal employees for former service in a nonappropriated fund instrumentality of the United States, and substitute a requirement for a study to determine the level of interest among employees in obtaining such retirement credit)

Mrs. HUTCHISON. Mr. President, I offer on behalf of Senator COATS and Senator SHELBY an amendment that requires the Department of Defense to study the impact of authorizing portability of retirement credit for certain former nonappropriated fund employees.

I understand this amendment has been cleared by both sides. I ask for its immediate consideration

Mr. NUNN. This amendment has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] for Mr. COATS, for himself, and Mr. SHELBY, proposes an amendment numbered 2215.

Mrs. HUTCHISON. 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 75, beginning with line 9, strike out all through page 79, line 13, and insert in lieu thereof the following:

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed services as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement Disability System or the Federal Employees' Retirement System.

(2) An analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph 2.

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph 2, and

(5) The cost to the federal government of any recommendations described in paragraph 4.

PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2215) was agreed to.

AMENDMENT NO. 2216

(Purpose: To require a review of, and report on, Department of Defense programs relating to regional security and host nation development in the Western Hemisphere)

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 legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. GRAHAM, proposes an amendment numbered 2216.

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 200, between lines 8 and 9, insert the following:

SEC. 1017. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible

for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

Mr. NUNN. This amendment requires the Secretary of Defense, after a comprehensive review and consultation with the JCS Chairman and the regional combatant commanders, to submit a report not later than May 1, 1985 to the Armed Services Committee on the Department's plan and programs to support U.S. strategic objectives for the Western Hemisphere.

I urge adoption of the amendment.

Mrs. HUTCHISON. No objection.

Mr. GRAHAM. Mr. President, this is an amendment to the legislation currently under consideration, the Defense Authorization Act for fiscal year 1995. I am very interested in the issues of national development and regional security in the western hemisphere, and the role which the militaries of our hemispheric neighbors can play in the achievement of development and security. I believe that our Nation has the ability and a strong national interest in pursuing a strategy to foster growth and stability in this hemisphere. Our Nation can and should take a leadership role in facilitating the building up of the capabilities of the militaries in this hemisphere to assist their nations in meeting the needs of their people, and collectively, in the creation of a multinational mechanism for regional stability and security.

Mr. President, currently, our military is beginning to explore ways in which it can assist these nation's governments and peoples. We should understand that military organizations can often contribute in very tangible and valuable ways to the domestic needs of nations. Let me cite a couple of examples to illustrate my point. On Monday, June 6th of this year, an earthquake that registered 6.4 on the Richter scale shook parts of the South American continent. By Friday, June 10, rescue workers in Colombia had identified more than 500 dead, as aid workers dug through the rubble, debris, and mud to recover lost bodies. According to Colombian President Cesar Gaviria, 12 helicopters were used to carry out rescue operations in the nation's mountainous regions. These helicopters belonged to the police and the army, and were normally used for operations involving counterdrug operations. According to President Gaviria, the police and the army were the only institutions capable of efficiently delivering aid to where it was needed.

This is consistent with our own experience. In the aftermath of Hurricane Andrew, our nation had to call on our own military to assist in providing relief for the thousands left homeless or without utilities or other basic necessities.

I cite these examples to highlight the productive, non-traditional roles that militaries, our own and foreign, historically have and do play in assisting citizens when they are faced with nonmilitary crises.

Mr. President, our military personnel have skills which are useful for responding to domestic needs both during periods of crisis, and in times of peace, as in providing the services associated with the Army Corps of Engineers and the Coast Guard. Developing this capability in Western Hemispheric militaries should be a priority in our military to military contacts, including training and military equipment and supplies.

I do not suggest that the armed services should abandon its traditional military role. However, I do believe that by fostering programs which assist foreign nations to help themselves domestically, we can enhance the prospects for democracy, peace and stability in those nations.

And by doing so, we can lessen the possibility of a regional military crisis in the Western Hemisphere, especially a crisis driven by an assault on a democratically elected government. The very existence of a regional capability to defend democracy renders it less likely that these nations will be placed in jeopardy.

Mr. President, I believe that our Nation has the opportunity to exercise a leadership role in creating such a regional security arrangement. We should use all tools that we have at our disposal—political, economic, diplomatic, and military—to assist in this worthwhile cause of enhancing regional peace, human rights, democracy, and stability. I see an opportunity for us to take advantage of our current military to military contacts with other nations in Latin America to help in this regard. I also believe that our military's involvement and visibility in host Latin American nations can also be a use vehicle for sharing our tradition, of the military being under civilian management, with our Latin American allies.

Mr. President, it is for these reasons that I am proposing the amendment offered today.

I have worked closely with the distinguished chairman of the Senate Armed Services Committee and he has been very supportive of my initiative. Additionally, this amendment has the endorsement of the Office of the Secretary of Defense and the Joint Staff who have had the opportunity to review it. In fact, the Joint Staff indicate its desire to progress in this direction, and that there are already some programs established that are leading that way. However, I believe that if we are to accomplish these things in a comprehensive and meaningful way, it is necessary for us to thoroughly assess where we are and where we want to go.

My amendment calls for such an assessment, as well as a report to the House and Senate Armed Services Committees, by the Secretary of Defense in consultation with the Joint Chiefs of Staff.

Mr. President, I urge my colleagues to support this important and much needed legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2216) was agreed to.

AMENDMENT NO. 2217

(Purpose: To express the sense of the Congress regarding the violations of genocide in Rwanda, and the need to expedite assistance in protecting populations at risk in Rwanda)

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 legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. WELLSTONE, for himself, Mr. SIMON, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. FEINGOLD, Mr. JEFFORDS, Mr. LEAHY, Mr. KENNEDY, Mr. DURENBERGER, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 2217.

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. . GENOCIDE IN RWANDA.

(a) FINDINGS.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) POLICY.—The Congress—

(1) calls upon the President to acknowledge that Acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaths of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secrtary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United States in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of * * *.

Mr. NUNN. Mr. President, this amendment expresses several findings about the situation in Rwanda and calls on the President to take certain actions.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

GENOCIDE IN RWANDA

Mr. SIMON. Mr. President, I rise today to submit an amendment expressing the sense of the Congress regarding the violations of genocide in Rwanda, and the need to expedite assistance in protecting populations at risk in Rwanda.

I introduce this amendment today because of the mounting humanitarian crisis in Rwanda and its impact on neighboring countries. Over 500,000 refugees have fled Rwanda soil for safe haven and security in Tanzania, Uganda, Burundi, and even Zaire. Reports have estimated that 2 million Rwandans are internally displaced from the massacres.

I call upon the President to acknowledge that genocide has been committed in Rwanda. And strongly urge the President to work with U.N. Secretary General Boutros Ghali, and OAU Secretary General Salim Salim, to expedite the commitments of resources to respond to this massive tragedy.

There have been increasing reports of environmental contamination due to rotting corpses, and the spread of diseases which have been the cause of alarming concern by the international community. Of the letters that I receive on the Africa region, correspondence on Rwanda has eclipsed that of South Africa and Somalia combined.

The scale of the massacres (between 200,000–500,000) are such that the African continent has never witnessed in such a short period of time. Those killed have included: government opponents, human rights workers, and members of the Tutsi ethnic group. There is additional concern for the long-term political future of this country, if indeed the entire Rwandan opposition has been destroyed, political reconciliation in this bleeding country will be extremely difficult.

Finally, the international community, must not ignore its duty to assist those that are crying out for help in Rwanda. We must do what we can to assist those in need.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2217) was agreed to.

AMENDMENT NO. 2218

(Purpose: To ensure effective Congressional oversight of overseas military base support carried out by NATO host countries for the United States a payments-in-kind for release of United States overseas military facilities to such countries)

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 legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LAUTENBERG, for himself, Mr. SASSER, Mr. PRESSLER, and Mr. DASCHLE, proposes an amendment numbered 2218.

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 200, between lines 8 and 9, insert the following:

SEC. 1017. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified as ones of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House

of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

Mr. NUNN. Mr. President, this amendment modifies existing reporting requirements on U.S. negotiations for payments-in-kind for overseas military facilities to include a discussion of adjustments to the 5-year defense plan in order to reflect costs the Department may no longer be necessary for the U.S. to incur as a result of the payments-in-kind.

I urge the adoption of the amendment.

Mr. SASSER. Mr. President, I rise today to cosponsor an amendment offered by my good friend from New Jersey, Senator LAUTENBERG, dealing with the establishment of a Congressional oversight process for "Payment-in-Kind" military construction projects that are accepted in lieu of cash for residual value payments for overseas bases disposed of by the Department of Defense.

The Department of Defense has notified the Congress that they have concluded negotiations and have agreed to accept over $200 million worth of overseas military construction projects paid for by the host country in lieu of cash payments of residual value claims. While I firmly believe that it should be a policy of this government that residual value claims should be paid for in cash, I am also a realist and understand that cash payments will not always be forthcoming.

In the case of Germany, the U.S. has released over 60 percent of the military sites planned for closure, with a current estimated residual value of $2.7 billion. To date, the U.S. has only received $50 million in cash for these properties with little hope of any substantial cash payments in the near future. As a matter of fact, the German government budgeted only $25 million for payments of residual value claims in 1994. It is my opinion that while they recognize their legal obligations in reference to residual value, there is very little desire on the part of the German Federal Government to provide cash payments to the United States to meet their obligations. The German budget situation is as bad if not worst than ours. There is an ever growing resentment among West Germans in reference to the amount of money it is costing to reunite with the former East Germany. Taxes are and will continue to rise in Germany and the economic slowdown continues into its second full year. The German Federal Government is also conducting a "fire sale" of federal property in both East and West Germany, their own version of base closure. Understanding these facts, it is very unlikely that the German Federal Government will budget for any more than a token amount for residual value cash payments over the next few years.

In this environment, the German Government is trying to satisfy some of their residual value payments by paying for "payment-in-kind" military construction projects for United States forces in Germany. This is more palatable to the German Government because there is no direct cash payment to the United States and the payment-in-kind projects are done by German companies to United States standards.

I believe we should support these payment in kind projects only as a last resort when our demand for cash payments have not and most likely will not be met. As this amendment states, cash payments for residual value claims should be our policy.

To date, Mr. President, the Department of Defense has had a free hand to negotiate and to agree to payment in kind military construction projects, military construction projects on U.S. bases which have had no congressional review. Senator LAUTENBERG's amendment proposes a notification procedure by which, I believe, our congressional oversight responsibilities are protected while at the same time allowing the Department to move forward to optimize our return on our past investments in overseas military construction. I commend my colleague for his leadership on this issue and his very even handed approach to this issue.

Mr. President, this amendment directs the Department to notify Congress at least 30 days prior to concluding an agreement with a foreign government for acceptance of military construction facility improvements as a payment in kind. As the chairman of the Military Construction Subcommittee of Appropriations, I would expect that this notification should be in the form of a 30 day notification reprogramming action, a procedure which is very familiar to both the Department and the Congress.

Mr. President, I compliment Senator LAUTENBERG for his diligence on this issue that is so important to get our deficit down and to provide relief to the nation's taxpayers. He has raised the issue of burden sharing and residual value payments time and time again in the Defense Appropriations Committee. I know he met with United States Ambassador to Germany, Richard Holbrooke, to personally urge the administration to do more to secure residual value payments from the allies. He successfully fought to preserve the position of Ambassador for Burden Sharing.

Senator LAUTENBERG recognizes that it's important to keep the Western Alliance strong and in tact, but that our allies must assume more of the burden for the collective defense. He understands that if our economy is to grow and be strong, we need to invest our past resources here at home as our allies have been doing in past years.

His commitment to ensuring that residual value payments will be used to offset stated budget priorities and help bring spending and the deficit down is admirable. He is absolutely correct. He has been a leader in the Senate in efforts to encourage the allies to pay a greater share of the defense burden. His contribution to the debate and process has been enlightening and constructive.

Mr. President, I am informed by staff that this amendment has been agreed to by the Comptroller of the Department of Defense and is acceptable to the committee and I urge its adoption.

Mr. LAUTENBERG. Mr. President, in past years I have offered amendments to address the issue of burden sharing—the effort to get our allies to pay a greater share of the cost of stationing

U.S. troops in Europe to defend our common interests. Earlier this year, I persuaded the Congress to maintain a Special Ambassador for Burdensharing. I have tried to persuade the Congress that our European allies ought to pay for 75 percent of what it costs to station our troops in Europe to save the American taxpayer $9.6 billion over 5 years. I will continue that fight.

Today, however, I want to focus on an area of burden sharing that could save the American taxpayers between $1 and $2.7 billion in the upcoming years. I want to focus on an aspect of burden sharing that sounds technical, but is very tangible. It's called residual value payments. That isn't a household world, but it will save U.S. households money. Because these residual value payments should result in the American people getting the cash that our allies—mostly the German Government—owe us.

Residual value payments refer to the money the United States is supposed to get from the German Government and other European allies in exchange for the infrastructure we leave behind in Europe as we withdraw our troops and turn our bases over to their governments. It refers to the billions of dollars they owe the American taxpayer in return for the capital we invested in military bases in Europe.

Let me start, Mr. President, by setting the scene. Throughout the cold war, we stationed half a million American troops in Europe. In order to make sure that their military and human requirements were met, we spent billions of dollars on physical necessities: sewers, roads, housing, school buildings, and so on.

It was a necessary investment, one that the American people supported, and paid for. But now, as we withdraw our troops, we are leaving those facilities behind. The sewers and roads and houses we built for American troops will be there for German or French or Spanish or British citizens to use.

We are not talking about nickels and dimes here, Mr. President. The United States invested $6.5 billion on infrastructure in NATO countries. But as tensions ease, our deployment has been reduced. We plan to cut U.S. troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996. As a consequence, we plan to close or reduce our presence at 867 military sites overseas. Most of those sites are in Europe, where America has already closed 434 military sites.

Ever since this draw down started, we have been trying to get our allies to pay for the physical structures we are leaving behind.

We have not been very successful in that effort.

Despite an investment of $6.5 billion, we have recouped only $33.3 million in cash, and most of that was recovered in 1989.

Although we have already turned over 60 percent of the military sites scheduled for closure in Germany to that Government, and although the value of those sites is estimated to be approximately $2.7 billion, the German Government has only budgeted $25 million this year to compensate the United States for its investment.

Equally distressing is the fact that there is an increasing tendency for our allies to try to discharge their debt by offering us "in-kind contributions" rather than cash. In this context, an "in-kind" contribution means that our allies build something—at their expense—that otherwise the Pentagon would have built—at our expense—as part of our overall security planning. In-kind contributions, while appreciated, do not meet our needs as well as cash. We can use cash payments to cut defense spending, reduce the deficit, or to lower taxes.

It is a little more complicated to do that with in-kind contributions.

What we need to do is turn these in-kind contributions into cash. I'm confident we can do that if we ensure they will be used, instead of tax dollars, for projects the Department of Defense has identified through the budget process as priorities.

In-kind contributions will help reduce the deficit if they result in reductions in the defense budget. They will help reduce the budget if we can get the allies to build a project for "free" that we would otherwise ask the taxpayers to build.

But under the current system, we don't know if the projects we accept through in-kind contributions are our highest budget priorities. We don't know that they are being used to offset costs that the taxpayers would otherwise be asked to incur by the Pentagon. They may benefit the host nation as much or more than they benefit us. Rather than being used to reduce the amount of money the U.S. Government needs to spend, in-kind projects are built in addition to those the American people have been asked to fund through the budget process.

That, Mr. President, is the problem. The amendment I am offering would turn these in-kind contributions into tangible savings.

Mr. President, my amendment has three goals. First, it emphasizes that we are interested in a more significant cash contribution from the allies. In other words, we want them to pay what they owe the American taxpayer and to do it in cash.

Second, if part of the burden sharing responsibility is to be met by in-kind contributions, my amendment would require that these offers of assistance be used in relation to projects specifically identified as priorities in the defense budget. This would relieve pressure on the Pentagon budget and the American taxpayer.

Third, it would guard against potential wasteful spending by requiring that only projects approved by Congress can receive in-kind contributions.

Let's look at the first goal: getting more cash.

Mr. President, I am aware that residual value negotiations are difficult. But I also believe the Department of Defense has been too willing to abandon negotiations for cash in favor of in-kind contributions. I am particularly concerned that the Administration will too easily accept in-kind contributions from Germany, where the DOD now says our investment on facilities to be turned over is $2.7 billion.

Germany clearly prefers in-kind contributions. Why wouldn't they? In-kind contributions create a public works program in Germany, creating jobs for their citizens.

The United States, though, should prefer cash payments. It is important to get our deficit down and provide relief to the Nation's taxpayers. Cash payments would help bring spending down, reduce the deficit, strengthen the economy, and help create jobs at home.

It is important to keep the Western Alliance strong and in tact, but our allies must assume more of the burden for the collective defense. While our economy has lagged, and unemployment claims have taken their toll on the American people, our allies have been given a free ride by our negotiators at the expense of the American people. While we continue to pour money into the defense of their nations, they pour money into their economies. We need to invest our resources here at home as our allies have been doing in past years.

Our negotiators need to change that. Unfortunately, U.S. negotiators have not been tough enough. They continually tell us that German economic problems and political considerations require them to settle for in-kind contributions.

That is not consistent with American interests or existing American policy. The Pentagon and our negotiators need to be tougher. My amendment states that, as a matter of policy, the administration should enter negotiations with each host nation with a presumption that residual value payments will be made in cash and deposited into the Department of Defense Overseas Military Facility Investment Recovery Account. My amendment also makes it clear that the administration should only enter into negotiations for in-kind payments as a last resort and only after negotiations for cash payments have failed.

The second goal of the amendment is to reduce American spending by applying in-kind contributions toward our stated budget requirements. If we have to accept in-kind payments, then I want to make sure that, rather than

meeting the desires of the host nation, they are used to pay for projects our military has identified as our own priorities through the budget process. That way, we cut spending and the deficit.

Here is the point. Our allies have already agreed to pay—in-kind—for the cost of nearly $200 million worth of projects overseas. In my view, that means the American taxpayer should spend $200 million less as a result. But I don't think they are. Instead, they're being asked to spend exactly what would have been proposed had the administration not negotiated with the allies in the first place. That should change.

Under the current system, the Pentagon is not required to return directly to the U.S. taxpayers what it gets from other countries. It is not required to use the allies' in-kind contributions to bring requested spending levels down and reduce the deficit. The net result is more spending overall and less control of spending by the Congress. What the allies agree to build in Europe through in-kind contributions ought to be a substitute for other expenditures the Pentagon will make.

Mr. President, let me illustrate the problem. Look at overseas military construction spending. The administration has submitted a budget which asks the Congress to authorize and appropriate $22 million for military construction projects for next year. Although residual value negotiations should generate hundreds of millions of dollars worth of in-kind contributions, the Pentagon is not asking the Germans to build the projects already identified as important through the budget process. If it did, the Pentagon could save the taxpayers $22 million.

It's the same thing with the NATO infrastructure budget request. The Pentagon is asking the American taxpayers to spend almost $230 million in NATO countries next year. At the same time, it is seeking hundreds of millions of dollars worth of in-kind contributions from the allies for the debt they owe the American people. Why not let the allies pay for the $230 million worth of NATO infrastructure projects rather than the American people. Let's let the allies pick up the tab, and give the American taxpayer a break.

Mr. President, this issue and amendment go beyond the budget for fiscal year 1995. The administration recently notified the Congress that it will seek $200 million from Germany for each of 5 years for residual value payments. That's $1 billion. If the administration identifies $1 billion worth of projects already included in its future year budget plans, and asks the Germans to pay for those projects—as my amendment would require—we could save the American taxpayer $1 billion. That's $1 billion that could be applied toward deficit reduction.

Again, the point is that our allies are apparently not being asked to off-set hundreds of millions of dollars worth of requirements the administration has asked the Congress to fund in Europe or has identified through the budget process. Instead, the allies are being asked to pay for construction projects the Pentagon says it needs, but have never been identified as priorities in the budget. By requiring the Pentagon to ask the allies to cover the cost of projects that have been identified in the budget, we could save hundreds of millions of dollars—billions down the road.

My amendment would correct this problem by requiring that in-kind contributions be used to offset costs that would otherwise be incurred by the Department of Defense and the American taxpayer.

Under current law, the Pentagon is required to submit "a written notice to the congressional defense committees containing a justification for entering into negotiations for payments-in-kind with the host country * * *" before it seeks in-kind contributions. My amendment would require the Pentagon, at the time it submits this justification, to let us know how the budget will be adjusted to reflect costs that may no longer be incurred by the United States as a result of the residual value payment-in-kind being sought from the allies.

Thirty days before the Pentagon enters into an agreement with a host country to accept a burden sharing contribution in-kind, the amendment would require the Pentagon to notify the Congress and to certify that tax dollars will no longer be necessary as a result of the allies burden sharing in-kind contribution.

The third goal of the amendment is to protect against wasteful spending by requiring congressional approval of these burden sharing contributions made in-kind.

Mr. President, the Congress is required to approve military construction projects by law. It is not the role of the German Government or any foreign government to set our budget priorities. If residual value payments were secured in cash from the allies, the Congress would authorize and appropriate those funds. We could help bring defense spending down and reduce the deficit by applying those dollars to projects included in the administration's budget request. The Congress should play the same role in approving military construction projects secured as in-kind contributions.

There has been abuse in the system even with congressional oversight. Without congressional oversight and with billions of dollars worth of in-kind projects at stake, we do more than invite waste, fraud, and abuse—we virtually require it.

Look at what happened at the Ramstein Air Base in Germany in the late 1980's. In 1989 the Department of Defense Office of the Inspector General found that the Ramstein Air Base had inappropriately used taxpayer money at officers' clubs to buy a $6,800 snooker table, to buy party equipment—like cocktail, champagne, and wine glasses—and to upgrade the officers club.

I would like to keep Ramstein Air Base in a unique example. I fear it will be all too common unless we get control over the use of the purposes for which in-kind contributions can be used.

I am not suggesting that we shouldn't give our military the kind of facilities they deserve. That isn't the point. The point is simply that even with oversight, fraud can happen. Wasteful spending can slip through the cracks. The system can be abused. Imagine what could happen with little or no congressional oversight.

Under my amendment, the Congress will have a greater oversight and approval role. Currently, we have none. Thirty days before the Pentagon accepts a burden-sharing payment through an in-kind contribution, it must submit it to the Congress for review. I expect the notification mandated by this amendment to be submitted in a manner consistent with current notification reprogramming procedures. So does the Pentagon and in the context I ask unanimous consent that a letter from the Comptroller be printed in the RECORD at this point.

Given this system, we will have at least 30 days to scrutinize the project and have the opportunity to disapprove it we do not believe it is meritorious or in the national interest.

Mr. President, we have carried the burden of defending Europe for generations. We have created a safe environment that has allowed European economies to flourish. Maybe there is no way to get our allies to pay as much as they should. But, Mr. President, we must do better.

We must ensure that burden sharing in-kind payments reduce the Federal deficit. We must ensure that burden sharing in-kind payments benefit the United States, because our allies sure do benefit. Instead of paying us for what they are getting, they are in essence paying themselves: they are putting their people to work, they are improving structures they may ultimately inherit. They are making the decisions, and we are still footing the bill.

Mr. President, the Comptroller of the Department of Defense has worked closely with me on this amendment. He has been both constructive and cooperative, and I appreciate his input.

I urge my colleagues to support this amendment. It reiterates U.S. burden-sharing policies which look to our allies to pay their fair share for their defense. That fair share amounts to billions. It requires that our Government

use contributions by the allies to reduce the deficit and bring our spending down. And, it puts us on record against potential wasteful spending of billions owed to the American people.

I ask unanimous consent a letter from Mr. Hamre be printed in the RECORD.

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

COMPTROLLER OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, June 30, 1994.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: We have reviewed the text of your proposed amendment on residual value.

We believe that this amendment will satisfy the congressional concern that the Department is using residual value settlements to satisfy valid military requirements, while at the same time allowing the Department to obtain the maximum settlement possible. We do believe a relatively minor change, which has been provided to your staff, should be incorporated in your amendment.

The Department will comply with the notification requirements using procedures similar to those employed for the reprogramming of funds prior to the conclusion of any agreement.

Sincerely,

JOHN J. HAMRE.

Mr. PRESSLER. Mr. President, I rise in support of the amendment my colleague from New Jersey, Senator LAUTENBERG, has offered regarding burdensharing. This amendment would ensure effective congressional oversight with regard to the transfer of U.S. military bases to our NATO allies.

The United States has invested $6.5 billion in the military infrastructure of NATO countries. By the end of 1996, the Department of Defense will close or reduce U.S. presence at 867 overseas military bases. Most of our bases are located in Europe, where 434 U.S. military installations have been already closed.

When U.S. forces withdraw and U.S. military bases are turned over to the governments of host nations, we leave behind vast infrastructures consisting of buildings, roads, sewers, and other improvements. Through a series of negotiations conducted with our NATO allies, some have agreed to pay the United States for the value of what we leave behind. The key words in these negotiations has been "residual value," referring to the money the United States is supposed to receive in exchange for the infrastructure given to other governments. To date, our allies have been slow in providing residual value payments. We have recouped only $33.3 million in cash. Germany, for example, will assume $2.7 billion worth of infrastructure, but has budgeted only $25 million to pay for these assets.

This amendment urges the President to redouble efforts to recover the value of U.S. investment in the military infrastructure of NATO countries. It also supports a negotiation process that hopefully would result in a greater number of residual payments being made in cash rather than in in-kind payments. Additionally, this amendment says negotiations for payments in kind should be entered into only as a last resort and only after informing Congress. Should in-kind contributions be received as a substitute for cash payments, they should offset costs that otherwise would be incurred by the Department of Defense for overseas support.

The crux of this amendment is that it encourages our NATO allies to repay the United States for completed projects and remaining U.S.-built infrastructure in allied countries. As U.S. troops leave allied nations, it is important that our Government receive compensation for the completed projects. It is a question of fairness. These countries will continue to benefit from the use of these assets long after the U.S. presence is gone.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2218) was agreed to.

AMENDMENT NO. 2219

(Purpose: To provide $15,000,000 for procurement of aircraft survivability equipment for the Army and to reduce the amount provided for C–135 aircraft modifications)

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 legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DODD, for himself, Mr. LIEBERMAN, and Mr. D'AMATO, proposes an amendment numbered 2219.

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 14, line 11, strike out "$1,058,781,000" and insert in lieu thereof "$1,073,781,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,587,995,000".

Mr. NUNN. This amendment authorizes $15 million to procure additional receivers for Army attack helicopters that warn when hostile forces have pointed a laser designator or rangefinder at the helicopter.

I urge adoption of the amendment.

Mr. DODD. Mr. President, on behalf of Senator LIEBERMAN and Senator D'AMATO, I offer an amendment to provide $15 million for procurement of laser warning systems for self-defense of Army helicopters, such as the Apache, the Cobra, and the OH–58.

The Army has been forced to terminate procurement of this important program due to budget constraints, leaving the Army with a shortfall of several hundred devices. These receivers not only warn helicopter pilots when hostile forces have aimed a laser designator or rangefinder on them; they also can be used in training and exercises to score hits and misses by other forces using harmless laser devices in lieu of actual weapons.

As an offset, the amendment would reduce the amount authorized for C–135 modifications. The Air Force recently terminated a KC–135 multipoint refueling system, making available at least $15 million.

I thank the Committee for their interest and cooperation on this matter.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2219) was agreed to.

AMENDMENT NO. 2220

(Purpose: To authorize funding for the small business defense conversion program of the Small Business Administration)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of the Senator from California, Mrs. FEINSTEIN, and the Senator from Arkansas, Mr. BUMPERS, and others. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mrs. FEINSTEIN, for herself, Mr. INOUYE, Mrs. BOXER, Mr. BUMPERS, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. PELL, Mr. WOFFORD, Mr. KERRY, Mr. COHEN, and Mr. WOFFORD, proposes an amendment numbered 2220.

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 47, after line 20, insert the following new section:

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) TECHNICAL CLARIFICATION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) JOB CREATION AND COMMUNITY BENEFIT.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) AUTHORITY TO TRANSFER APPROPRIATIONS.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriation funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

Mr. NUNN. Mr. President, this amendment would establish a loan guarantee program to guarantee loans to small businesses that have been DOD contractors and have suffered a substantial reduction in revenues due to reductions in defense spending. The program will require $25 million appropriation to back up these loans.

I might add that this program was authorized in our original defense conversion legislation and had not been funded. So it is the hope the appropriators will see fit to fund this program this year.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2220) was agreed to.

AMENDMENT NO. 2221

(Purpose: To authorize funding to be made available for high resolution imaging of space objects using excimer lasers)

Mr. NUNN. Mr. President, I send to the desk an amendment on behalf of Senators KENNEDY, BINGAMAN, and DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. KENNEDY, for himself, Mr. BINGAMAN and Mr. DOMENICI, proposes an amendment numbered 2221.

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 28, below line 22, add the following:

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

Mr. KENNEDY. Mr. President, my amendment would authorize $10 million for an Air Force program that is developing high resolution optical techniques, using excimer lasers, for space object imaging applications. The purpose of the technology is to create finely detailed images of satellites from the ground.

This technology has both defense and civilian applications. For defense purposes, the images can be used to determine the characteristics of hostile satellites, or to monitor the condition of our own satellites. On the civilian side, the technology can be used to inventory and monitor space debris and other objects in orbit that increasingly pose threats to our satellites and spacecraft. The next step in future years will be to develop high-power laser transmitters for imaging of more distant objects.

The excimer laser program is conducted by the Phillips Laboratory in New Mexico, which has developed an Advanced Imaging Testbed to demonstrate the technology on objects in low earth orbit. A small portion of the project is also carried out by Textron Defense Systems in Everett, Massachusetts.

I understand that this amendment has been accepted by both sides. I want to thank the Chairman of the Armed Services Committee and the Ranking Member for their cooperation on this amendment. I also want to thank Senator BINGAMAN and Senator DOMENICI for their support for this amendment.

Mr. NUNN. Mr. President, this amendment authorizes $10 million to continue development of a laser that can generate detailed images of satellites and other objects in space.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2221) was agreed to.

AMENDMENT NO. 2222

(Purpose: To require a GAO evaluation of the Uniformed Services University of the Health Sciences)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator FEINGOLD, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. FEINGOLD, for himself, Mr. BUMPERS, Mr. MATHEWS and Mr. GRASSLEY, proposes an amendment numbered 2222.

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 186, add the following between lines 14 and 15:

"(c) Evaluation of the Uniformed Services University of the Health Sciences.

(1) *GAO Report.* By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

i. compares the cost of obtaining physicians from the Uniformed Services University of the Health Sciences with other sources of military physicians;

ii. assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

iii. reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

iv. reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

v. assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report; and,

vi. makes such recommendations as the Comptroller General deems appropriate.

Mr. FEINGOLD. Mr. President, this amendment calls for a comprehensive, independent review by the General Accounting Office on a broad range of issues regarding the Uniformed Services University of the Health Sciences. I am pleased to be joined in offering this amendment by Senators BUMPERS, MATHEWS, and GRASSLEY.

I became involved in this issue when I included a proposal to phaseout the university as part of an 82 point deficit reduction plan I proposed during my campaign for the Senate in 1992. Certainly, that proposal was not the first to include such a provision, nor has it been the last. Proposals to close down the school have been part of the Grace Commission recommendations, the Vice President's National Performance

Review, the Congressional Budget Office's spending and revenue options proposals, the Kerrey-Graham-Brown deficit reduction proposal, and the package of spending cuts put together by a group of Senators led by the Senator from Massachusetts [Mr. KERRY].

In addition, Mr. President, the House of Representatives has voted to close down the school on a number of occasions.

In the Senate, the Senator from Kentucky [Mr. FORD] tried to terminate the program 17 years ago. And this session I introduced legislation, S. 1562, to phase out the program, and I had considered pursuing termination of the program as part of the Defense appropriations bill later this year.

The Armed Services Committee, however, included language in the Defense authorization bill which requires, in effect, that the Uniformed Services University of the Health Sciences be kept open indefinitely.

Mr. President, I do not consider that language to be good public policy. To provide a kind of immortality to any program, effectively shielding it from legitimate scrutiny on a reasonably regular basis, is inappropriate.

At the same time, this program has been controversial from its inception, and I recognize that it is unfair to the school, to try to do its job, particularly in trying to recruit and retain quality faculty, under the atmosphere of uncertainty that has been generated by the continual efforts to shut the program down. Constantly being on the chopping block is not beneficial to anyone and I recognize that this was much of the motivation behind the Armed Services Committee language.

Many of us feel, however, there is a need for a comprehensive, independent review by the General Accounting Office of the institution on a broad range of issues. There has been no GAO review of the school since 1976—18 years ago—and in their own 1990 review of USUHS, the Department of Defense Inspector General specifically noted that though a number of cost related studies had been done, no studies had reviewed non-cost related issues, such as quality. The IG report said:

> * * * Future studies should consider these and other external variables to ensure a more comprehensive and conclusive finding that will enable the DOD and Congress to correctly assess the future mission and role of the USUHS in meeting the military health care requirements.

Mr. President, in this spirit, I am offering an amendment to have GAO carry out a thorough review of all issues surrounding USUHS. I will await the results of that study, and am willing to abide by GAO's evaluation.

I very much appreciate the cooperation of the proponents of the program, both on and off the Armed Services Committee, in working to perfect this amendment so that we can obtain the kind of independent, comprehensive evaluation that will help guide our decisions regarding this program. I recognize fully the importance on all sides of having this study done in a fair and careful manner.

Mr. SARBANES. Mr. President, I rise to express my strong support for the Uniformed Services University of the Health Sciences [USUHS]. I am pleased that my colleague from Wisconsin, Senator FEINGOLD has agreed to drop his proposal to strike the strong language that the Armed Services Committee included in the bill before us.

Both the Defense Appropriations Subcommittee and the Armed Services Subcommittee on Force Requirement and Personnel held hearings on this matter. Through the courtesy of my colleagues, Senator INOUYE and Senator SHELBY, I testified at both hearings which I believe established a very strong record in favor of the school.

I don't know if my friend from Wisconsin has had an opportunity to review the testimony from those hearings but I would certainly encourage him to do so.

Chairman INOUYE heard from the President and dean of the university as well as several graduates of USUHS. Chairman SHELBY took testimony from the Surgeon Generals from each of the three Services, several widely recognized medical educators, and Everett Alvarez, the distinguished former POW who now chairs the university's board of regents.

Mr. President, in my view, there is absolutely no justification for closing the only medical school in the United States that trains doctors to practice military medicine.

I want to commend the committee and my friend from Georgia, Senator NUNN, for including strong language in the bill before us that states that the Uniformed Services University of the Health Sciences may not be closed.

In Section 922, the bill states: The Uniformed Services University of the Health Sciences may not be closed.

And goes on to say: It is the sense of the Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

This language parallels the findings of the two Senate hearings that USUHS should not be closed. As I have stated before, the closure idea is a proposals in search of a rationale.

Mr. President, this university is named the F. Edward Herbert School of Medicine in honor of our former colleague whose vision led to its establishment in 1972. Since that time, almost 2,000 regular medical officers have graduated from the university. In addition to the time these officers spend in internships and residencies, they serve an obligation of 7 years in their respective service.

The university has done an extraordinary job in instilling a sense of commitment and duty in its graduates. More than 95 percent of those graduates are still serving today in the Air Force, the Army, the Navy, or the Public Health Service.

Also notable is the fact that, of those who have completed their required commitment and could leave for private practice, 89 percent continue to serve our Nation. This contrasts sharply with retention rates under 50 percent for the Health Professions Scholarship Program, the alternative source of military doctors.

These remarkable statistics reflect one of the goals of USUHS. These students are committed to a medical career in the military rather than merely repaying a required obligation. They take pride in serving our Nation.

During a recent visit to USUHS, I had the opportunity to talk with a number of current students. Mr. President I cannot describe the high level of enthusiasm that these young men and women have for serving their Nation. As soon as you sit down with them, you sense that these are top-notch students who will be a tremendous asset to our Armed Forces and the Public Health Service.

Approximately 50 percent of applicants have some type of prior military experience. After 4 years at the university, a remarkable 43 percent of graduates have chosen primary care in lieu of assignments considered more desirable by most medical school graduates.

The number of students pursuing specialized degrees such as master's degrees in public health and tropical medicine is further evidence that these students are interested in long-term service to our Nation.

Mr. President, these officers are trained to serve both in time of war and disaster.

In addition to military medicine, the curriculum at USUHS includes a heavy emphasis on disaster medicine, tropical medicine, preventive medicine, and on survival in extreme environments. Graduates of this university are serving with distinction around the globe and played an important role in our Desert Shield deployment.

It is imperative that our Armed Services have men and women trained in these specialty areas. In their fourth year, all students complete training in advanced trauma life support, advanced cardiac life support, and a major field exercise. These additional requirements are one reason why the USUHS curriculum is about 25 weeks longer than that of the typical medical school.

It is this important training that prepares USUHS graduates to be the

leaders of the military health corps and the Public Health Service.

While the majority of physicians needed by the services can be recruited through the Armed Forces Health Professions Scholarship Program, USUHS provides, at a reasonable cost, a cadre of physician-leaders who are highly educated in military medical issues.

Only about 10 percent of the medical officer corps are USUHS graduates but it is these doctors who are best prepared to provide leadership among the medical ranks.

I understand that the Federal Government spends $98,396 on a scholarship program student for each year of obligated service. In comparison, USUHS students receive an equal or better level of education for $66,212 per year of obligated service.

Estimates released last November 15 by the Congressional Budget Office suggest that the potential savings from closing the university are greatly overstated. Instead of the $350 million listed in the National Performance Review proposal, CBO estimates that 5-year savings would total about $100 million.

Even if other medical schools could and would assume the task of providing the specialized education now available through USUHS, there are serious questions about whether or not any savings would be achieved in the long run.

Complementing the university's emphasis on training doctors is an extensive program to provide specialized medical support training to law enforcement officers, firefighters, and rescue personnel. These programs have been successfully run with Federal, State, and local governments across the country.

USUHS medical expertise has proved important at several recent crises including the riots in Los Angeles and the tragedy at Waco, TX. The University's Counter Narcotics Tactical Operations Medical Support Program has provided medical support training to over 1,000 personnel and is widely regarded as a national standard for tactical emergency services.

As I testified before the Senate Armed Services Committee and the Senate Appropriations Committee, I am concerned that elimination of the University would be a step backwards in the quality of care offered to our Armed Services.

I want to read for my colleagues a list of other Nations that currently have Government-run medical schools.

Algeria, Belgium, Bulgaria, France, Germany, Greece, India, Indonesia, Iran, Italy, Japan, Korea, Mexico, Pakistan, the People's Republic of China, Poland, Russia, South Africa, Taiwan, and Turkey. They have recognized the need for specialized training in military medicine and we must continue to do the same in the United States.

USUHS enjoys strong support in the medical and military communities. An impressive array of organizations have publicly advocated its continued operation including: American Academy of Family Practice; American Association of Academic Health Centers; American College of Physicians; American College of Surgeons; The American Legion; American Medical Association; American Veterinary Medical Association; Association of American Medical Colleges; Association of the United States Army; National Association for Uniformed Services; Organizations of Academic Family Medicine; Reserve Officers Association; The Military Coalition; and The Retired Officers Association.

Mr. President, I invite all of my colleagues to go out to USUHS, tour the facility, and meet with faculty and students. I am confident that they would be impressed with the quality of the students and the outstanding work which is being done there.

There is a continuing role for USUHS even in our changing defense landscape. The hearing record demonstrates the need to retain the university.

I want to close by again commending Chairman NUNN and the members of the Armed Services Committee for their strong support for USUHS. The bill reported by the committee wisely rejects the proposals to close this national resource and restores funding cuts that were proposed by the administration. I thank all members of the committee and the Senate for supporting this fine institution.

Mr. INOUYE. Mr. President, I look forward to an unbiased and objective report undertaken by GAO on the Uniformed Services University of the Health Sciences [USUHS]. This report should highlight features such as cost, quality of the program, and retention rates of graduates—all of which are appropriate areas for inquiry and important aspects of any medical training program. Additionally, it is hoped that when this study is performed, GAO will take into consideration the following statistics regarding retention rates comparing our military academies to USUHS graduates:

[In percent]

Grad. year	Naval Academy	AF Academy	U.S. Mil. Academy	USUHS
1980	50.9	47.4	38.6	89.7
1981	50.5	54.5	42.9	92.4
1982	52.4	57.5	39.0	98.1
1983	58.3	59.2	36.5	94.9

These statistics are striking. USUHS, the only medical school which trains physicians and nurses in the particular aspects of military medicine, has produced high quality military physicians whose special qualifications play an important part in fulfilling our promise to those we send into battle. In fact, it remains almost unbelievable that these physicians chose to remain in the military and to stand in harm's way when they could easily lead a more comfortable life outside of the military. USUHS graduates are truly extraordinary people—a rare breed that we are so fortunate to have in the defense of our Nation. Any physician will tell you that there is a profound difference between a regular physician and a military physician. A military physician must be in prime physical condition, must not only know medicine but must know military routine and the special aspects of military medicine as well, and must be able to withstand unusual circumstances. I invite those doing the study and my colleagues to review the compelling testimony at a recent hearing before the Subcommittee on Defense Appropriations of several USUHS graduates including one who was held captive as a prisoner of war in Desert Storm—this is the best example of the purpose of USUHS and its unique contributions.

We have said to our fighting forces that we will care for them on the battlefield; we have said to the soldier when you are at war, we will care for your loved ones; we have said to the sailor and the airman, your spouse and children will receive the best of medical care while you are away. Consequently, as we reduce the size of the military and its supporting infrastructure in proportion to the threats we now face, we must not forget the human side of the equation.

Today as we find ourselves once again in the throes of a military drawdown, we are faced with similar problems and situations that were prevalent in the 1970's. At that time, there were many in the Congress and throughout this land who were quite concerned with the condition of our military. That is when words such as "hollow army" were first heard. During that period, over one-third of our naval vessels were considered not ready for combat, not because the vessels were old and decrepit, some were brand new. They could not be sent into combat because the personnel necessary to man those ships were not combat ready. In recruiting, we were having a terrible time. A study was conducted and it was shown that we were in a very dangerous position, very simply because we did not have adequate medical support. We were not able to recruit and retain physicians. The problem was not that simple. The report showed that we could not go into any war because we did not have the appropriate medical personnel. How could we send men and women into combat without medical forces? As a result, in 1972 the Congress passed overwhelmingly the Uniformed Services Health Professional Revitalization Act which established two programs for military

medical education: one is the scholarship program and the other is the Uniformed Services University of the Health Sciences [USUHS].

Since its inception in 1976, the Uniformed Services University of the Health Sciences has served to provide our Nation with military physicians and scientists who can readily adapt to adverse conditions as evidenced in our recent experience with Desert Storm. USUHS provides our Nation with a cadre of career oriented medical officers trained and educated to both practice military medicine and serve as uniformed medical leaders. I reemphasize the term "military physician", not just "physician in the military". There is a definite qualitative difference. USUHS is the only resource in the country that teaches the unique discipline of military medicine. Students receive a strong concentration in public health, preventive medicine, and leadership skills as well as combat casualty care, disaster medicine, and tropical medicine which prepares them for a unique role—rapid overseas deployment. This type of unique preparation could mean the difference between life and death for any serviceman.

The decision to close this fine military medical school for economic reasons could result in being very costly to us all. The tunnel vision approach being applied to the closure of USUHS is based solely on per capita cost. Attention has not been paid to the "value added" of USUHS graduates and their services. In fact, from a total of 1,836 USUHS graduates, 97 percent remain on active duty and provide valuable staffing in our military clinics and hospitals.

Graduates of USUHS are not only trained in the specifics of military medicine, but are men and women who usually make the military their career, men and women who serve longer than non-USUHS educated physicians. Studies indicate that 41 percent of USUHS graduates will remain in the military until retirement. This is an extraordinary statistic compared to the 6 percent of scholarship program graduates who choose to do the same.

Whatever the reasoning which has led to this attempt to once again resurrect this issue to challenge the existence of our Nation's only Federal medical school, we must stand behind Congress' initial sound decision to create a medical school dedicated to medical readiness and service to our Nation. I ask for your strong support to protect the Uniformed Services University of the Health Sciences from those who do not fully recognize the worth of our military medical school.

Mr. NUNN. Mr. President, this amendment would require the General Accounting Office to report not later than June 1, 1995, regarding the Uniformed Services University of the Health Sciences. The report will address the cost of obtaining physicians, the quality of medical education at the university, the special needs of military medicine, and the university's response to a previous DOD IG report.

I urge the adoption of the amendment.

Mrs. HUTCHISON. There is no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2222) was agreed to.

AMENDMENT NO. 2223

(Purpose: To limit joint development of an advanced threat radar jammer with a foreign government, other than a major ally of the United States, or with an entity controlled by a foreign government, other than such an ally)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator FEINSTEIN and Senator BINGAMAN and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mrs. FEINSTEIN, for herself, Mr. BINGAMAN, Mr. ROTH and Mr. SASSER, proposes an amendment numbered 2223.

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 59, between lines 9 and 10, insert the following:

SEC. 250. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senators BINGAMAN, ROTH, and SASSER, to offer an amendment that would require the Secretary of Defense to report to Congress on a very important issue that involves not only congressional oversight of a defense program, but also proliferation concerns and stability in the Middle East—a Department of Defense proposal to codevelop the Advanced Threat Radar Jammer [ATRJ] with the United Arab Emirates [UAE].

I understand that the U.S. Army and Defense Security Assistance Agency [DSAA] are prepared to offer the UAE a proposal to codevelop the ATRJ—the Army's next generation radar receiver and jamming system. Under this proposal, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on recently acquired AH-64 Apache helicopters.

I and many of my colleagues are concerned about this proposal for several reasons. First, this agreement would establish an arrangement wherein a foreign nation would fund a U.S. defense program in an apparent circumvention of the normal authorization and appropriations process, and beyond the effective oversight of Congress. The Congress has repeatedly

voiced its objections to executive branch efforts to solicit funds in support of U.S. foreign policy or defense initiatives that were not first made subject to the scrutiny of the legislative branch.

Second, I believe this agreement would undermine the President's own efforts to constrain weapons proliferation. It provides the UAE with a quantum improvement in its war fighting capability which could provoke other hostile nations to seek advanced systems to counter the new perceived UAE threat.

Third, this arrangement would violate a departmental policy, recently reaffirmed by the Deputy Secretary of Defense on March 15, 1994, which states that "the Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of defense systems prior to the successful completion of OT&E [operational test and evaluation], and the specific approval of the Under Secretary of Defense. This policy remains in effect today."

Finally, I am deeply concerned that if this new weapons system were introduced into a volatile region and ever fell into the hands of a U.S. adversary, its state-of-the-art jamming capability could pose a serious threat to U.S. forces. When fully operational, this system will be capable of friend or foe identification, pulsed radar jamming, extreme radio frequency sensitivity, and processing capability, as well as multiband situational awareness.

I see little justification for proceeding with an arrangement that is fraught with so many questionable funding practices and policy implications. While I and many of my colleagues believe that the United States shares an interest in the security of the UAE, the ATRJ would provide a level of jamming capability significantly greater than that processed by many of our close NATO and major non-NATO allies. The possible threats to the UAE are no greater than those faced by other nations in the region, none of which have been asked to participate in the ATRJ program.

I have already contacted the Defense Department on this issue, expressing my concern over the codevelopment of the ATRJ with the UAE. Unfortunately, I found the response to my concerns to be inadequate.

Therefore, I have offered this amendment that directs the Department of Defense not to proceed with the codevelopment of the ATRJ with any foreign entity until the Department has fully consulted with Congress, and evaluated both legal and policy implications. The amendment exempts our NATO and major non-NATO allies.

I urge my colleagues to support this commonsense amendment and I urge its adoption. I ask unanimous consent that my previous correspondences with DOD be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 13, 1994.

Lt. Gen. THOMAS RHAME,
Director, Defense Security Assistance Agency, Washington, DC.

DEAR GENERAL RHAME: I am concerned that the Department of Defense is considering a co-development program with the United Arab Emirates (UAE) for the Army's Advanced Threat Radar Jammer (ATRJ). This action follows the sale of AH-64 Apache helicopters to the UAE.

Apparently, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on the recently acquired Apache helicopters. Specifically, I am concerned that the proposed program could have serious implications for U.S. national security by providing the UAE with an ultra-sophisticated capability to detect enemy radar and equip UAE helicopters with an advanced, high-powered radar jamming system.

This precedent may represent a major departure from U.S. Middle East policy and our commitment to Israel's qualitative edge in its national defense. To my knowledge, ATRJ technology has not been offered to other U.S. allies and would likely surpass similar technologies currently employed by other countries. By allowing the UAE to assist with research and development costs, the Defense Department may be granting a foreign country access to the most advanced version of a weapon system used by U.S. forces. In addition, the ATRJ co-development program may cause a new round of high technology proliferation in a very volatile region of the world.

I urge you to fully investigate the ATRJ co-development program, and carefully consider the implications to U.S. national security and U.S. Middle East policy. Thank you for your attention to this matter and I look forward to your reply.

Sincerely yours,

DIANNE FEINSTEIN,
U.S. Senator.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 10, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: This responds to your April 13, 1994, letter concerning the electronic warfare (EW) suite for the United Arab Emirates' (UAE) AH-64 Apache helicopter program.

The UAE has for some time been considering several U.S. and foreign EW systems for its AH-64 Apache helicopters. The Department of Defense and the UAE are exploring a two-phased approach under which the UAE would purchase a standard U.S. Army EW suite for its short-term needs, with a possible cooperative development program providing hardware for its long-term requirements. These discussions are still at an early stage, and no final decisions have been reached.

It is premature to speculate about the configuration and capabilities of any hardware that may result from a cooperative program several years hence, though it assuredly would not exceed the capabilities of equipment in use with our own forces. Should the United States and the UAE agree on such a program, you can be assured that all sensitive technologies would be protected and precautions taken against unauthorized disclosures.

The central objectives of our security assistance programs throughout the region are to enhance the self-defense capabilities of our friends and allies and to build the interoperability that will enable us to fight together should it ever become necessary. If successfully implemented, this program will fulfill both these objectives by providing UAE aircraft with a defensive system that will be interoperable with U.S. systems and supportable through the U.S. logistics system.

I can assure you that our commitment to Israel's security remains unshakable. We would not even be considering such a program with the UAE if we believed that it would affect Israel's qualitative edge, which we are committed to maintaining. Please contact me if I can provide any additional information.

Sincerely,

THOMAS G. RHAME,
Lieutenant General, USA, Director.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator FEINSTEIN and several other Senators in offering this amendment, which would put a halt to the Army's efforts to win funding from a foreign government which is not a NATO or major non-NATO ally to undertake an advanced threat radar jammer program until a series of questions are answered by the Secretary of Defense.

We are deeply disturbed by Army attempts to seek funding in this manner for the development of an advanced threat radar jammer [ATRJ] for combat helicopters outside the normal budget processes. We understand that the Army intends to share this sensitive, state-of-the-art technology with nations that are neither members of NATO nor major non-NATO allies and may be pursuing this effort outside the congressional authorization and appropriate processes.

We are aware that the Army is looking to a foreign government to provide research and development funding for the ATRJ. In exchange, the Army would permit the purchase of the system for installation in that country's recently acquired AH-64 Apache helicopters. When fully operational, the ATRJ system is intended to be capable of identification of friend or foe, pulsed radar jamming, extreme RF sensitivity and processing capability as well as multiband situational awareness.

The Senators offering this amendment are disturbed by this arrangement for several reasons:

First, this proposed agreement appears to establish an arrangement wherein a foreign nation, which is neither a NATO ally nor a major non-NATO ally, is funding a United States defense program in an apparent circumvention of the normal authorization and appropriations process and beyond the effective oversight of Congress.

Second, this proposed agreement appears to undermine the administration's efforts to constrain proliferation

of sensitive technologies. Currently, Apache helicopters available for sale to foreign countries come equipped with a standard Foreign Military Sales [FMS] variant APR-39 threat warning receiver. The proposed ATRJ would represent a significant improvement in critical electronic warfare capabilities in a sensitive region. If this new system were to fall into the hands of a United States adversary, most notably Iraq or Iran, its state-of-the-art jamming capability could pose a serious threat to U.S. forces in the region.

Third, this proposed agreement appears to violate a departmental policy reaffirmed by Deputy Secretary Deutch on March 15, 1994, which states "the Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of defense systems prior to the successful completion of operational test and evaluation and the specific approval of the Under Secretary of Defense (Acquisition and Technology)."

Therefore, we are offering this amendment, the effect of which would be that all efforts to solicit funds from a government, which is neither a NATO ally nor a major non-NATO ally, to develop the ATRJ would be halted while the Secretary of Defense, in consultation with the Secretary of the Army, conducts a comprehensive review of the program. While this review is conducted we would expect that the Army would terminate all formal and informal discussions with any country interested in obtaining ATRJ technology.

Mr. President, the Army's actions clearly warrant the pause which our amendment would impose. There are far more questions at the moment than answers, and I suspect that this program may never get off the ground once it is subjected to close scrutiny. At a minimum, the Pentagon will have to address the concerns we have raised and tell us how they intend to deal with those concerns. I urge my colleagues to support the amendment.

Mr. NUNN. Mr. President, this amendment would limit the joint development of advanced threat radar jammer system with a foreign government, other than a major ally of the United States, until the Secretary of Defense conducts a comprehensive review program and submits a report to Congress on this review.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2223) was agreed to.

AMENDMENT NO. 2224

(Purpose: To provide for studies of the health consequences of military service and employment in the Southwest Asia theater of operations during the Persian Gulf War)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator ROCKEFELLER and Senator RIEGLE and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROCKEFELLER, for himself, Mr. RIEGLE, Mr. DODD, Mr. JEFFORDS, Mr. DASCHLE, Mr. KOHL, Mr. BRADLEY, Mr. KERRY, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. CAMPBELL, and Mr. MATHEWS, proposes an amendment numbered 2224.

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 249, between lines 7 and 8, insert the following:

SEC. 1068. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) EPIDEMIOLOGICAL STUDY.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) NATURE OF STUDY.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) INDIVIDUALS COVERED BY STUDY.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) STUDY DESIGN.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluate any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) REPORTS.—

(A) INTERIM REPORTS.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) FINAL REPORT.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) STUDIES OF HEALTH CONSEQUENCES OF ADMINISTRATION OF PYRIDOSTIGMINE BROMIDE.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) STUDIES.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) RETROSPECTIVE STUDY.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organo-phosphates, or carbamates.

(4) ANIMAL MODEL STUDY.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) REPORTS.—

(A) ANIMAL STUDY REPORT.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) INTERIM REPORTS ON RETROSPECTIVE STUDY.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) FINAL REPORT ON RETROSPECTIVE STUDY.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) SELECTION OF STUDY ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) SUBMITTAL OF PROPOSALS.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) INDEPENDENT REVIEW.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) REVIEWING INDIVIDUALS.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) SELECTION.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) PERFORMANCE OF STUDIES.—

(1) PILOT STUDIES.—

(A) IMPLEMENTATION.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) RESPONSE TO RESULTS.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) FINAL APPROVAL.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) STUDIES.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1169. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) AWARD PROCESS.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) REPORTS.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the

House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) FUNDING.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1070. COMPATIBILITY OF HEALTH REGISTRIES.

(c) COMPATIBILITY OF HEALTH REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

Mr. RIEGLE. Mr. President, as you know, shortly after the 1991 Persian Gulf conflict, a small number of Gulf war veterans came forward complaining that they were suffering from an array of unusual symptoms. This array of symptoms has come to be known as Gulf War Syndrome. Standardized medical examinations were conducted on the individuals who originally came forward. Since no readily identifiable illnesses were discovered, their claims were discounted.

Then in 1992, the number of individuals coming forward with similar complaints began to grow to such an extent that Congress and a number of other governmental agencies began to become more concerned.

As a result the VA Persian Gulf Health Registry was created. Still, many of the veterans who came to the VA hospitals were often referred for psychiatric treatment since the physicians could not otherwise diagnose their illnesses. Others were diagnosed and treated symptomatically—often unsuccessfully—by physicians who failed to recognize the full scope of the illnesses.

Hundreds of veterans and members of the Armed Forces, from both the officer and enlisted corps, who served in the Gulf, have reported to us that chemical agents were detected with the onset of the air war, after Scud attacks, after explosions, in Iraqi and Kuwaiti minefields and in bunkers.

In July of 1993, the Czech Government announced that Czechoslovak chemical detection units assigned to the Gulf detected chemical agents there.

In December 1993, the French Government confirmed that they too detected chemical agents during the Persian Gulf conflict. there have been thousands of reports that camels, sheep, goats, birds, and insects in Iraq, Kuwait, and Saudi Arabia began suddenly dying shortly after the initiation of the air war suggesting that whatever exposures may have caused a cross-species contamination of mammals, birds, and insects, might have also been harmful to humans.

I have also learned that there is good reason to be concerned about the longterm health consequences of the administration of the cholinesterase inhibitors in the Nerve Agent Pretreatment Program—as a result of both their direct effects and the reported studies of the possible potentiating or synergistic effects of these drugs when combined with exposures to organophosphate nerve gases and pesticides.

In addition, I believe we must continue to examine the hazards associated with other environmental and occupational exposures such as depleted uranium, chemical agent resistant coating or CARC, pesticides, smoke from the oil fires, and others.

The Syndrome, contrary to previous reports has not only affected U.S. veterans. I have also been contacted by members of the Canadian, British, and Australian military all complaining of similar symptoms. Eighteen members of the 169-person Czech chemical decontamination unit are also reportedly complaining of similar symptoms.

Since September 1993, the number of veterans who have signed up for the VA Persian Gulf Registry examination has increased from 5,400 to over 24,000. I have received calls and letters from thousands of these veterans from throughout the United States complaining of ineffective treatment.

I have also been contacted by hundreds of active duty members of the U.S. Armed Forces who are sick. Many are reluctant to seek medical care for their illnesses fearing that they will be discharged. Others are fearful of coming forward because many of those who previously came forward were referred for psychiatric examinations. As the U.S. armed services is now an all volunteer force, this is an issue of some concern since their careers and, ironically, maintaining their health care coverage, depends on their remaining on active duty. Many members of their families are also ill.

The VA Persian Gulf Registry does not include any of the sick spouses and children. Over 75 percent of the spouses and 25 percent of the children conceived before the war by the sick vets who have contacted me are experiencing many of these symptoms. Sixty-five percent of their children conceived after the war are also experiencing health problems. Most commonly noted among the health problems of these infants are respiratory infections, ear infections, and rashes. In some cases, severe birth defects have been noted.

Nor does it include the sick Department of Defense civilians and contractors who served in the gulf, or the DOD civilians in the United States who became sick after decontaminating or cleaning equipment that was returned from the theater of operations.

These patterns of illnesses and exposures, along with reported observations of tens of thousands of dead sheep, goats, camels, birds, and insects suggests that immediate and extensive peer-reviewed open research is required.

This is a serious public health issue. I have been contacted by thousands of veterans from throughout the United States, and regrettably, I have received reports of many young men and women who have—after initially experiencing these symptoms—died from cancers or unexplained heart failures.

This amendment to the Senate Department of Defense authorization bill I am cosponsoring today with Senator ROCKEFELLER will authorize $20 million in funding to conduct an epidemiological survey on veterans, armed services personnel, and Department of Defense civilians who served in the Persian Gulf war, as well as their spouses and children; conduct research into the long-term medical hazards of the administration of pyridostigmine bromide in the chemical nerve agent pretreatment program during the Persian Gulf war; establish a research program to fund independent peer-reviewed research into the illnesses, treatment of the illnesses being experienced, and into determining if and how the illnesses are transmitted; and mandate the compatibility of Department of Defense and Department of Veterans Affairs registries.

We are letting the men and women who served this country, and who we celebrated with parades, down. This amendment asks for funding for scientific research at levels well below what we spend on other illnesses. We spent tens of billions of dollars to finance the conduct of the war. We must come to understand that the expense of war also includes our obligations to care for our soldiers and our veterans.

Ultimately, we will only learn the true scope and consequences of this issue when appropriate epidemiological testing and basic scientific research is conducted to determine the nature of the illnesses that these veterans, civilians, and their families are suffering. I ask today that no more or no less be done for the men and women who served this country in the Persian Gulf

war, that we have done when other unidentified illnesses have surfaced. The conduct of this research totalling $20,000,000 could also ultimately result in a savings of billions of government and private-sector dollars in misdirected health care, disability and compensation benefits, and other social costs over several generations.

Mr. NUNN. Mr. President, this amendment would provide $20 million in funding for the conduct of important research into the causes and treatment of the Persian Gulf war illness. This amendment was worked out between Senator RIEGLE and the Veterans Committee and Senator ROCKEFELLER this afternoon.

I urge the adoption of the amendment.

Mrs. HUTCHISON. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2224) was agreed to.

AMENDMENT NO. 2225

(Purpose: To authorize a land conveyance of certain real property at the Defense Fuel Supply Point, Casco Bay, Maine)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator MITCHELL and Senator COHEN and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. MITCHELL, for himself, and Mr. COHEN, proposes an amendment numbered 2225.

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 306, between lines 7 and 8, insert the following:

(F) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

On page 311, between lines 22 and 23, insert the following:

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

Mr. MITCHELL. Mr. President, I am very pleased that the committee has shown its support for local economic development, and particularly for economic development in the town of Harpswell, ME, by inserting language to the Department of Defense Authorization Act for fiscal year 1995 which will require the Administrator of the General Services Administration [GSA] to screen certain parcels of land, prior to conveyance, to ensure that there are no preferential interests in the land. This provision may allow the town of Harpswell, and other communities, to acquire valuable property from the Department of Defense.

The town of Harpswell has shown great interest in a parcel known as the Defense Fuel Supply Point, Casco Bay, containing nearly 120 acres of storefront property and a pier, since the Department of the Navy closed this site 2 years ago. As a result of the closure Harpswell formed the Navy Fuel Depot Committee and charged it with exploring acquisition and possible future uses for the site. Recently, after a vote was taken at a town meeting, the town of Harpswell asked for my assistance in acquiring the property.

This provision will allow the site at Harpswell to go through the expedited screening process from the GSA. If no preferential interest is found during the screening process the Secretary of Defense may convey the parcel to the Administrator of GSA for transfer to the town of Harpswell, at no cost. The entire screening process will be completed not later than 125 days after enactment of the Department of Defense Authorization Act for fiscal year 1995.

While Harpswell may receive rights to this property, it will not be responsible for cleaning any environmental contamination caused by the Defense Fuel Supply Point, Casco Bay. The town will not take possession of this land until it meets with Federal and State environmental regulations.

By expediting the screening process this provision will allow the town of Harpswell to move forward in planning for its future. Some of the ideas I have heard for use of this land include a new town dock, a public recreation area, a marine research facility, a business park, and others. Within 125 days of enactment of this law the town of Harpswell will know if it can include the property at the Defense Fuel Supply Point, Casco Bay, in a comprehensive plan for its future.

Again, I thank the chairman for the support he has shown for the future of the town of Harpswell, ME.

Mr. NUNN. Mr. President, this amendment authorizes the Secretary of Navy to convey for no consideration, 118 acres of real property and improvements located in the former Defense Fuel Supply Point in Casco Bay, ME, to the city of Harpswell subject to the General Services Administration expedited screening process.

I say to my friend from North Dakota, if he is still listening tonight, that this is the same procedure applied to the majority leader that was applied in the case of the North Dakota property.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2225) was agreed to.

AMENDMENT NO. 2226

(Purpose: To provide for a study of the improvement of highway safety at the highway on the Hawthorne Army Ammunition Plant, Nevada)

Mr. NUNN. Mr. President, on behalf of Senator REID and Senator BRYAN, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. REID, for himself, and Mr. BRYAN, proposes an amendment numbered 2226.

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 254, between lines 14 and 15, insert the following:

SEC. 2106. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

Mr. REID. Mr. President, I am offering an amendment to the Defense authorization bill to eliminate a potential safety hazard at the Hawthorne Army Ammunition Plant in Nevada.

Explosive laden trains and trucks currently must cross Route 95 using an at-grade crossing. This creates the potential for a significant accident. Fortunately, there have not been any serious accidents, but as traffic increases on Route 95 the chances of a major accident continually increase.

This highway is the major road between Las Vegas and Reno. As the popularity of these two vacation destinations increases, there will be a corresponding increase in traffic on U.S. Highway 95. A large portion of this increased traffic will be tourists who are

not familiar with this road and, therefore, are not likely to expect the crossing or be aware of it like the regular users of the highway.

The existing crossing also causes increased costs and reduced efficiency at the ammunition plant. This crossing connects the two major portions of the installation. Security guard stations must be maintained on both sides of the highway. In addition, trucks and trains carrying explosives must observe extra safety precautions when crossing the highway.

My amendment directs the Secretary of the Army to evaluate a project that will eliminate the safety hazard and improve the operating efficiency at Hawthorne Army Ammunition Plant. A new highway bridge will allow explosive laden trucks and trains to cross under U.S. Highway 95. This will eliminate the chance of a collision involving highway traffic and will allow the plant to eliminate the security check points at the current crossing.

Mr. NUNN. Mr. President, this amendment directs the Secretary of the Army to conduct a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant in Nevada.

I urge adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2226) was agreed to.

AMENDMENT NO. 2227

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator LEVIN and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LEVIN, proposes an amendment numbered 2227.

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 63, after line 25, insert the following:

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until at least the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—

(1) After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

Mr. NUNN. Mr. President, this amendment would require the Secretary of Defense to review the findings of the Commission on Roles and Missions and to complete a study of the appropriate level for primary aircraft authorized in the Air National Guard general purpose fighter units.

I urge the adoption of the amendment.

Mrs. HUTCHISON. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2227) was agreed to.

AMENDMENT NO. 2228

(Purpose: To state the sense of the Senate on the activities of the Secretary of Defense in assisting communities in responding to the closure of a military installation under a base closure law)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator PRYOR, from Arkansas, and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PRYOR, for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. METZENBAUM, Mr. PELL, Mrs. BOXER and Mr. RIEGLE, proposes an amendment numbered 2228.

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 289, between lines 12 and 13, insert the following:

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

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

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

Mr. PRYOR. Mr. President, this amendment expresses the sense of the Senate that the Department of Defense should support the redevelopment efforts of military base closure communities as much as possible.

Last year I offered an amendment to the Defense Authorization bill which made it possible for the Department of Defense to cooperate much more closely with base closure communities and to support their redevelopment efforts. Changing attitudes at the Pentagon is a lot harder than changing the law, however, and that is why I am offering this amendment to once again send the message loud and clear that the Congress expects the DOD and the services to help base closure communities.

Just last week I helped organize a large meeting at which representatives of base closure communities gave the DOD feedback on the regulations they have proposed, to implement last year's amendment. Communities are upset that these regulations do not seem to reflect Congressional intent that community reuse plans should receive priority consideration when the DOD disposes of base properties. Communities are worried that the services will ignore their carefully designed reuse plans for the bases and go for a quick sale that will not be in the best interest of the community or bring in as much revenue for the DOD as the community reuse plan would. Communities are also upset about the potential for the DOD to continue removing valuable fixtures and equipment from bases on very slim pretense, when these items can greatly enhance the redevelopment potential of the base.

More than any single provision of law or regulation, or any item of property, it is the attitude displayed by DOD personnel that is most crucial to a successful base closure. Service members and DOD employees who truly consider community revitalization part of their mission can make the closure process a springboard for the community's redevelopment.

With this amendment, the Senate can send the message loud and clear that community redevelopment is a central part of the closure mission. We want community support and cooperation reflected in the regulations which are now out for public comment, and we want it reflected in a can-do spirit on the part of each DOD employee and service member involved in the closure process.

Finally, with this amendment we will be encouraging the DOD to develop a system of incentive or rewards to encourage the very type of cooperative behavior I have referred to above. It is perfectly understandable why some base closure personnel aren't more supportive of community redevelopment—they have no incentive to act that way. They won't live in the communities after the bases are closed. Their jobs won't disappear if the base isn't redeveloped. They won't get promoted or make any more money if the redevelopment is successful.

The Department of Defense should tie the fortunes of base closure personnel more closely to the communities they serve by rewarding them for helping the communities. These rewards could take the form of monetary prizes or positive consideration at promotion time. Most importantly, I believe community input should be the primary determinant of who gets these awards, because the communities are the customers we want to be served well in this case.

I had considered requiring the DOD to create such an incentive system, but if this system is to be successful, I believe it must have genuine internal support at the Pentagon and be designed by DOD personnel. I believe this incentive system would be a valuable management tool for the Pentagon which will help make the base closure process go more smoothly. I hope the Department sees it this way and embraces the idea.

Another round of base closures is currently slated for announcement in March of 1995. The 1995 round will be bigger than the three previous rounds put together. It is imperative that we get the base closure and redevelopment process running smoothly before the 1995 round of closures, and this amendment will put the Senate clearly on record of supporting a process that is more supportive of communities.

I ask my colleagues' support for the amendment.

Mr. NUNN. Mr. President, this amendment expresses the sense of the Senate that the Department of Defense should support the redevelopment efforts of the military base closure communities as much as possible.

I urge the adoption of the amendment.

Mrs. HUTCHISON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2228) was agreed to.

AMENDMENT NO. 2229

(Purpose: To ensure that the fiscal year 1996 future-years defense program is timely submitted to Congress and is consistent with the fiscal year 1996 budget submitted to Congress by the President)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. GRASSLEY, proposes an amendment numbered 2229.

Mrs. HUTCHISON. 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 190, after line 20, insert the following:

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

Mr. GRASSLEY. My amendment addresses the plans/reality mismatch between the 5-year defense plan FYDP and the President's budget.

I know this is a matter of concern to Senator NUNN and I was provided valuable assistance from his committee staff in drafting this amendment. I thank him for his able counsel.

This is also an issue in which I have worked closely with Senator SASSER. Senator SASSER has been a leader on this matter, holding hearings in the past, and I hope this year also.

Let me say that colleagues on my side of the aisle, particularly Senator LOTT and Senator THURMOND, have also been leaders in focusing attention on this important issue.

As many of my colleagues know, there is a discrepancy of at least $20 billion between the fiscal year 1995 FYDP and the President's 5-year budget. The Pentagon tries to wish away this problem through a negative budget number called "future adjustments."

This budget gimmick damages our ability to make informed cost-efficient procurement decisions. In addition, the funding discrepancy between what the Pentagon and the President plan to spend prevents Congress from receiving a realistic picture of our planned force structure. Senator NUNN was right when he commented last year that the plans/reality mismatch brings, quote "chaos" to the Pentagon.

I am especially worried that DOD continues to believe that this $20 billion gap is only due to inflation. This is in direct contradiction to the analysis of the Congressional Budget Office in a letter to me of June 23, 1994 which states, and I quote:

CBO concluded that the future adjustments to budget authority indicate funding problems beyond the question of inflation estimates.

Let me say though, that this budget gimmick is not unique to this administration. Unfortunately, this magic asterisk of "future adjustments" has been around for many, many years.

These budget games are illegal. They violate the intent of section 221 of title 10 which requires DOD to submit FYDP numbers that are consistent with the President's budget.

Unfortunately, like many laws Congress passes, this one has been completely ignored. But this law is too important to allow it to be disregarded by the Pentagon. Therefore, my amendment requires a minor penalty if the DOD does not comply with the law.

This amendment will restrict the obligation of fiscal year 1995 advance procurement funds until the Inspector General of the Department of Defense certifies that the Secretary is in compliance within section 221.

This amendment provides a mechanism for bringing DOD into compliance with the law governing the preparation and submission of the FYDP.

I encourage my colleagues to support this amendment which is a small step toward honesty in the budget process and also establishes a minor penalty if DOD refuses to comply with this commonsense law.

Mrs. HUTCHISON. Mr. President, this amendment requires the Secretary of Defense to certify that the future years defense plan complies with the statute and is submitted within 90 days of the budget submission.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2229) was agreed to.

AMENDMENT NO. 2230

Mr. NUNN. Mr. President, on behalf of the Senator from Arkansas, Senator BUMPERS, 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. BUMPERS, proposes an amendment numbered 2230.

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:

At an appropriate place in the bill, insert the following new section:

SEC. . Limitation on obligation of funds for Mark-6 guidance sets for Trident II missiles.

(a) LIMITATION.—Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark-6 guidance sets for Trident II missile.

(b) CERTIFICATION.—Before the Secretary of Defense may obligate funds for Mark-6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

WARNER AMENDMENT ON COLA ADJUSTMENT.

Mr. COATS. Mr. President, Senator WARNER's amendment has a worthwhile goal. I too seek equity in the effective dates of annual cost-of-living adjustments for both Federal civilian and military retirees for fiscal year 1995 only.

I cannot, however support the methodology which the distinguished Senator from Virginia has chosen to provide that equity. Using discretionary funds to pay for an increase in an entitlement is not a sound fiscal practice. Once we have taken this step, once the precedent is established, the temptation to do it again and again will be overwhelming.

Entitlement growth is arguably the greatest budgetary problem we face. If we can get entitlements under control and figure out a politically acceptable method to keep their growth under control, we will be well on the way to getting the national budget and the deficit under control.

Last year, the Congress, in the joint resolution on the budget, decided to reduce the cost-of-living adjustments for both Federal civilian and military retirees. The task of deciding how to do that was referred to the committees of jurisdiction—the Governmental Affairs Committee for civilians and the Armed Services Committee for the military. Each committee arrived at a solution which entailed delaying the COLA's sufficiently to realize the required savings. Unfortunately, the two committees did not do the same thing and an inequity was born.

I can remember discussing the impending inequity during the Armed Services Committee markup of legislation to be included in the 1993 Omnibus Budget Reconciliation Act. The committee recognized that this was a problem, but as it is this year, the solution was outside the jurisdiction of any single committee. My colleagues may recall the debate on the Reconciliation Act last year. I certainly remember the long debates and the late night vote with the Vice President casting the deciding vote. Somewhere in that debate, we overlooked the COLA inequity and the different effective dates were enacted into law.

Mr. President, I have talked with active military personnel, retired military personnel, and representatives of the associations which represent both groups. They all agree this inequity is bad and needs to be rectified. The recurring message I got from these meetings was that they understood the necessity of reducing the deficit and were willing to sacrifice. What they asked is that they not sacrifice while others did not or that the sacrifice be shared equally.

Today we will debate Senator NUNN's alternative which equalizes the COLA's using a different methodology. The Nunn COLA alternative does everything the military personnel and their associations asked of me and it deals with the entire 4 year period of inequity. It will equalize the sacrifice but it will not use any discretionary funds from the already constrained defense budget. I hope other Senators will listen to the debate on both proposals and support the one which protects entitlement growth, does not take already scarce resources from the readiness accounts, and equalizes the COLA dates completely.

I urge my colleagues to support the Nunn proposal.

Mr. COATS. Mr. President, I would like to commend the chairman and the ranking member of the Armed Services Committee for their efforts in guiding this bill through some tough decisions. Some very serious concerns with regard to the health, welfare, and readiness of our Armed Forces, however, still remain—and I feel they must be addressed.

When presented with last year's budget, this body emphasized that every effort must be made to match our forces to the changing requirements of the post-cold-war world—The fall of communism and the demise of the Soviet Union dictated reduced levels of defense spending. Thus, last year's bill reflected yet another year of declining defense budgets. It provided Congress with multiple signs of declining readiness as well.

While none would argue that a refocusing of priorities is in order, such refocusing should be based on capabilities and requirements, not an arbitrary budget figure.

Last year, the term "too-far, too fast" was used by many to describe the rapid decline of our military capability. As evidenced by the committee's evaluation of the administration's plan for our continued drawdown, the Bottom-Up Review, the phrase still fits.

Our military is no longer on the razor's edge of readiness. Based on extensive testimony from military leaders at all levels, and real world facts and figures, readiness has now slipped beyond the point where the United States is capable of responding to two nearly simultaneous regional conflicts, and perhaps is not even capable of mounting one operation on the scale of Desert Shield and Desert Storm.

According to the Department of Defense, 100 heavy bombers are needed to fulfill the warfighting requirements during one major regional conflict.

From fiscal year 1995 to fiscal year 1999, the number of heavy bombers will drop below 110. That's well below the number needed to fight and win two regional conflicts at roughly the same time.

As to strategic lift, General Hoar, Commander-in-Chief, Central Command has stated that requirements during the Somalia relief effort stressed the Air Force's strategic lift capability to the point where it could not even simutaneously support a small multinational exercise on the same continent—never mind an operation of the magnitude that would be required to sustain a mission in North Korea.

Yet current events—like the continuing crisis with North Korea, possible future actions in Bosnia and Haiti, and numerous hot spots around the globe—tell us that the world, while changed, is not any less dangerous, but perhaps more.

Whether or not we retain the ability to respond to conflicts that pose a threat to our vital national interest will depend not only on the effect these declining budgets have on our military, but on how and where our men and women are deployed.

Which brings me to the two chief areas of concern I want to discuss: military personnel and military commitments.

Mr. President, we've been told that the goal of the Bottom-Up Review is to ensure that the United States retains the ability to fight two regional wars at roughly at same time.

But, Mr. President, war is not an abstract term. Wars require people. And the key factor in our Nation's ability to fight wars is the quality, training, and morale of our military men and women. The most advanced weapons and technology in the world will not win wars without qualified and motivated people.

While the Department of Defense maintains that we will not repeat the mistakes that were made during the 1970's, when the last major defense drawdown produced an understaffed, poorly equipped, and demoralized hollow force, that is exactly the road down which we are marching today.

Mr. President, this year, against a three percent inflation rate, the Administration proposed a 1.6 percent increase in pay. That 1.4 percent difference represents a direct decrease in pay for our military men and women. Moreover, it comes at a time when, by all best estimates, the military has fallen 20 percent behind their civilian counterparts in salaries.

Mr. President, between 70 to 80 percent of all enlisted men and women earn less than $30,000 a year—including food and housing allowances. Forty-five percent of the Army and 46 percent of the Marine Corps earn less than $20,000 per year.

Each month, an estimated 17,000 members of our Armed Forces receive food stamps—and the number is rising. According to the Department of Defense, the total value of food stamps redeemed at military commissaries in 1992 increased from $24.5 million to $27.4 million. Over 50 percent of military spouses have full-time jobs just to help pay the bills.

But food and salaries are not the only problems our military families face. The severe shortage of family housing is another key area that must be addressed, and one that will require a long-term commitment.

Mr. President, nothing is more compelling to a soldier, sailor, airman, or marine than to ensure that his family is well cared for and securely housed during extended periods away from home.

As Army Chief of Staff General Sullivan described it, military personnel "are willing to place their lives on the line, work long hours under demanding conditions, accept a lower pay scale than comparable civilian jobs, and ask their families to make sacrifices."

But in return, he said, they expect the Nation to take care of their families.

Yet, more and more, we hear stories about junior enlisted men sleeping in automobiles to be with their families because no family housing is available. Routine plumbing, exterior painting and other noncritical maintenance is being abandoned, and family units are being closed, rather than upgraded or repaired. At Fort Huachuca, Arizona, where common area upkeep has been reduced by half, the result is increased habitats for snakes and vermin.

Senator MCCAIN described this situation as "our military poor." I'd put it more bluntly: Are we the new slum landlords of our military men and women?

Mr. President, something must be done to correct this deplorable situation. And in that regard, I intend to later introduce an amendment that addresses the housing problem.

Not surprisingly, there are also signs that the quality of our troops is declining—a situation that threatens readiness even further.

Today, only 94 percent of new enlistees are high school graduates, compared with 97 percent in the past. What's more, the Pentagon's 1993 youth survey—a survey which annually measures the inclination of about 10,000 16- to 25-year-olds to enlist—found that the number of young people who were considering joining the military had declined 2 percent since 1992, and 7 percent since 1989–90.

Even more alarming is the fact that after a decade of striving, and succeeding, in reducing from 57 percent to zero the number of category IV recruits—those in the lowest educational category—the military is once again accepting category IV recruits. In 1993, the number was already up to two percent.

Mr. President, despite downsizing, it is essential that the military continue to be able to attract high-caliber recruits. Yet since 1989, we have cut the overall service recruiting budgets by 60 percent; and advertising budgets by 40 percent.

Yet, important as these concerns are, people are just part of the equation when it comes to readiness. What the military does with those people is the other part.

When it comes to an effective fighting force, military commitments are where the rubber meets the road. That's where it all comes together.

In 1990, the U.S. Navy was working toward a 600-ship fleet. Today, although it is operating with the same level of commitments worldwide, it has only 346 ships. Said one navy veteran, "They are doing 18 hours a day. What more can they ask of these guys, when there are 360 places to be in, and only 346 ships?"

Two years ago, 22,000 marines were deployed overseas for 6 months or more in fast-response and forward-placed units. Today, 24,000 men and women are deployed—even though the corps has been reduced by 22,000 during that same period of time.

"The end of the cold war notwithstanding," said Marine Commandant Gen. Carl Mundy, "the operating tempo for marines has not diminished—it's even picked up a couple of percentage points."

General Mundy also stressed that the practice of deploying as many as 30 percent of marines away from home will ultimately wear out both marines and gear, drive down retention rates, and end up with units that are not combat-ready.

Like the marines, the Air Force has also increased its operating tempo, but mostly as a result of humanitarian and peacekeeping tasking. About 80,000 U.S. troops were used to support U.N. peacekeeping missions last year. Yet, these nontraditional defense assignments have adversely affected the military's ability to train constructively for its primary mission: warfighting.

Each year, according to Air Force Secretary Sheila Widnall, all aircrews spend more than 170 days deployed. Some even spend up to 170 days deployed—despite the goal, determined by our experience with previous "hollow force" shortcomings, of 60- to 120-day deployments.

Lengthy periods of time spent away from home have a direct impact on the military's ability to effectively retrain and prepare for the next operational assignment.

Like the Air Force, Marine Corps units are also not receiving required training in warfighting skills because they are being chopped up for peacekeeping and humanitarian assignments.

According to testimony we received in committee, the only way Navy ships were able to meet their operational and training commitments was to use the people and spare parts collected for the rapid decommissioning of other ships and units.

Mr. President, in the past, the committee has asked that more emphasis be placed on sustaining readiness. Yet to date, we have done little more than apply bandaids to a festering wound.

In his January 25 State of the Union Address President Clinton said, "The budget I send to Congress draws the line against further defense cuts." Yet, the administration's long range plans call for an additional 11-percent drop in defense outlays between 1995 and 1999.

Mr. President, the contrast with past years is striking. This year, the Navy will buy 6 ships; in 1990, they bought 20. This year, the military will buy 127 planes; in 1990, they bought 511. By this fall, only one contractor will be able to produce fixed wing combat aircraft. No new tanks will be bought in 1995.

Yet our commitments have not declined. We are simply asking more and more of fewer and fewer people.

Mr. President, all the issues I have discussed, and the examples I have used, do not represent some futuristic glimpse of tomorrow's military. They represent the current status of our forces. Today. And now is the time to address these issues.

To quote former Secretary of Defense Melvin Laird, "Current readiness cannot be sacrificed to future capability. Given the current state of international affairs, the future may be now."

Mr. Tony Cordesman was a little more graphic. He predicted that the only way Congress and the Pentagon will understand and pay attention to the readiness issue is "when readiness is measured in body bags."

Mr. President, I hope we do not wait to see that come to pass.

I thank the chair, and yield the floor.

Mr. NUNN. Mr. President, during this afternoon's discussion on the Mark-6 guidance unit for the Trident II missile, Senator Thurmond and I suggested to Senator BUMPERS, the following compromise:

The Navy would be allowed to purchase 14 of the requested 30 Mark-6 guidance sets, and the other 16 guidance sets would be fenced; the Secretary of Defense would be permitted to remove the fence if, after a careful review of the GAO report and the Navy's response, he determines that failing to acquire the fenced guidance sets would lead to an unacceptable degradation of the Trident missile system reliability.

The amendment has been cleared on both sides. I urge its adoption.

Mrs. HUTCHISON. No objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2230) was agreed to.

AMENDMENT NO. 2231

(Purpose: To establish criteria for Senate consideration of authorization of military construction projects not included in the annual budget request)

Mrs. HUTCHISON. Mr. President, I send to the desk an amendment on behalf of Senators MCCAIN, GLENN, and THURMOND.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. MCCAIN for himself, Mr. GLENN, and Mr. THURMOND, proposes an amendment numbered 2231.

Mrs. HUTCHISON. 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 new section:

SEC. . SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of the Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

Mrs. HUTCHISON. This amendment is a sense of the Senate to establish criteria for military construction projects to be added to the bill.

ON MILITARY CONSTRUCTION ADD-ONS

Mr. MCCAIN. Mr. President, I rise to offer an amendment which will ensure that, in the future, military construction dollars are spent wisely for the highest priority projects with the greatest utility to national security. The amendment establishes criteria for reviewing Senators' requests for funding for military construction projects not included in the President's budget request.

The amendment expresses the sense of the Senate that military construction projects not included in the President's defense budget request should consider approving projects only if four criteria are met. These criteria are: The project is consistent with past actions of the Base Realignment and Closure process; the project is included in the 5-year military construction plan of the military department concerned; the project is necessary for reasons of the national security of the United States; and a contract for construction of the project can be awarded in that fiscal year.

In addition, the amendment requires the Senate to consult with the Secretary of Defense and to obtain his views concerning the relative merits of military construction projects which were not included in the Department of Defense budget request. The Secretary will be asked to comment on the four criteria outlined above, and will also be asked to provide an offsetting reduction from another military construction project, or from any other program in the defense budget.

When these steps have been accomplished, the Senate will then be able to make an informed decision whether to authorize and appropriate funds for any of these unrequested projects.

The amendment addresses the process of evaluating Members' requests for additional military construction funding. I stress that I am not condemning every project added by Congress as unnecessary or wasteful. Many of the unrequested projects recommended in this bill may very well be meritorious and militarily necessary. But I believe that it is essential that the Senate formalize the specific criteria to be used in reviewing each request.

I feel very strongly that reductions should be taken in other military construction projects to offset the costs of these new projects. This year, the Senate Armed Services Committee asked the Department of Defense to identify offsetting reductions for the unrequested projects included in the bill. DOD failed to do so in any but a very few cases. But what incentive does the Department have to offer up cuts in other programs when they know full well that Congress will add the projects anyway? This amendment expresses the Senate's view that DOD should be asked to identify specific offsets for military construction add-ons. I trust DOD will do so in the future.

Mr. President, last week, the Senate Governmental Affairs Committee held a hearing on the Department of Defense process of budgeting for military construction projects. At that hearing, I asked the Department of Defense Inspector General to comment on the process of congressional add-ons to the military construction budget request. Mr. VanDer Schaaf commented that every military construction project in the Department is suspect and that military construction projects should

be minimized until the Base Realignment and closure process is completed. I fully agree with the inspector general's comments, and I urge my colleagues to heed his caution.

In addition, as a result of that hearing, I intend to ask, with the concurrence of Senator GLENN, that the General Accounting Office conduct an audit of all military construction projects underway and planned in the Department of Defense 5-year plan to ensure that these projects are being executed in a timely and fiscally responsible fashion. I also will ask the GAO to review the Department's process of reviewing congressional add-ons to the military construction budget with respect to the criteria established in this amendment. Unfortunately, I believe it is necessary to acquire an independent assessment of DOD's ability to screen out unnecessary projects and to prioritize all projects within the amount of money allocated for military construction each year.

Mr. President, the criteria in this amendment are essentially the same as those I proposed to my collleagues in April of this year. I realize that this procedure represents a significant change in the Congress' review of the military construction budget. However, I firmly believe that Congress must exercise restraint in adding unrequested military construction projects to ensure that limited defense dollars are spent for high priority military requirements necessary to our ability to fight and win any future conflict.

As I have stated to this body many times, I am seriously concerned about the deleterious impact of the rapidly declining defense budget on the readiness of our military forces, as well as on the daily lives of the men and women who serve in our Armed Forces and their families. The practice in Congress of adding unrequested programs and projects to the defense budget only serves to exacerbate the difficulty of stretching scarce defense dollars to fund military requirements. We must exercise restraint in our fiscal practices and instill discipline in our review of Members' requests for approval of unrequested military construction projects.

For the past 10 years, the defense budget has declined every year. Defense budget authority has declined since 1985 by almost 41 percent. At the same time, however, military construction budget authority has been reduced only 29 percent. This mismatch of infrastructure funding with the topline decline in the defense budget accounts for the pork factor of unnecessary military construction projects. Congress' proclivity for adding politically advantageous spending to an already stretched defense budget has contributed greatly to this funding gap. It is time to move forward with the base closure process and to permit DOD to maintain its overall budget priorities.

I doubt that many of my colleagues are fully aware of the magnitude of the congressional add-ons in the military construction budget in recent years. Let me provide some enlightening information.

In the past 5 years, from fiscal year 1990 through 1994, Congress added over $4.4 billion in unrequested military construction projects to the Defense budget. This equates to $880 million every year in special interest projects designated for Members' districts or States. And every dollar added for these pork barrel projects had to come from some other program—weapons procurement, military research and development, combat training, or other high-priority military requirements.

This year, the fiscal year 1995 budget resolution cut $500 million in outlays from the overall discretionary spending account, all of which was taken from the defense bills in the Appropriations Committees' allocations. Then, to compound the problem, the Appropriations Committees cut the allocation for the Defense Subcommittee and increased the allocation to the Military Construction Subcommittee by $490 million. This transfer was made solely to accommodate congressional add-ons.

True to form, the House of Representatives has already passed both the fiscal year 1995 Defense authorization bill and the fiscal year 1995 military construction appropriations bill, which include $695 million in Member add-ons. The fiscal year 1995 Defense authorization bill before the Senate today includes approximately $545 million in add-ons requested by Senators. The pork barrel is again being filled to the brim.

Mr. President, the $½ billion in the bill before the Senate does little, in my view, to enhance our national security. It goes a long way, however, to improving the political stature of the projects' proponents in their home states.

Let me say that I applaud and appreciate the efforts of Senator GLENN in shifting funds from nonreadiness-related programs to fund depot maintenance and real property maintenance in all of the Services. In this bill, $778 million is added to the O&M budget for programs related to military readiness.

However, serious shortfalls remain. The Air Force has reported that the depot maintenance backlog is currently at $868 million, and the Army's depot maintenance account is only funded at 62 percent of requirements. The Marine Corps is suffering severe cutbacks in combat training and in sustainability because funds and time are being redirected to support peacekeeping operations. Navy afloat inventories have been reduced 40 percent since 1989 as a result of a desire to save money on spare parts by centralizing storage ashore; but this means that a ship at sea requiring repairs will now have to sit idly while the necessary parts are transported to their location. The Army's aviator training budget is funded at only 76 percent of requirements, a level insufficient to make any progress in redressing the shortfall in skilled Army aviators identified in Operation Desert Storm. Cuts in base operations funding have reduced the standard of living of our troops, which translates quickly into lowered morale and reduced readiness.

All of these examples point to the need to increase operation and maintenance funding. The $545 million in Member add-ons for unrequested military construction projects would go a long way toward offsetting the cuts in these vital readiness accounts.

I firmly believe that military readiness must take precedence over military construction pork. I had initially intended to propose an amendment to strike out all of the unrequested military construction projects contained in this bill, and to transfer the $545 million to the operation and maintenance accounts to ensure our future military readiness. However, I am a realist. I fully recognize that the Senate is not currently inclined to put the brakes on its pork barrel spending race. Therefore, I chose instead to work with the chairman of the Readiness Subcommittee, Senator GLENN, and the distinguished chairman and ranking minority member of the Senate Armed Services Committee to reach an agreement on a set of criteria which would be used in the future to evaluate unrequested military construction projects. This amendment reflects our consensus on the appropriate set of criteria.

Mr. President, this amendment requires a comprehensive review, by both the Department of Defense and the Senate, of any military construction project not included in the budget request for which funding is requested by an individual Senator. These reviews will ensure that only the most meritorious and militarily necessary projects are funded.

It is time to stop the congressional building spree. I urge my colleagues to vote for the amendment.

Mr. THURMOND. Mr. President, I rise in support of Senator MCCAIN's sense of the Senate amendment establishing criteria for evaluating military construction projects requested as additions to Services' military construction programs. I want to congratulate the Senator from Arizona for his earnest efforts in this endeavor and in his continuing fight to provide for the readiness of our forces.

The amendment before us would formalize the process that the Subcommittee on Military Readiness and Defense Infrastructure has used for this bill to evaluate Members' military construction project requests. By including the criteria in this bill, we are

advising Members and the American people that each of the projects added to the military construction program must meet a valid military requirement. It opens the process and takes away some of the negative innuendoes that are associated with the military construction projects added by the Congress.

Mr. President, I want to emphasize that in my judgment, this amendment does not take away any congressional prerogatives. It merely provides us with a mechanism to better evaluate the projects that are requested to be included in the military construction authorization. The Congress will still have the final say on whether or not a project is added to the defense bill.

To highlight the importance of congressional adds to the Services military construction programs, let me briefly make two points about the projects that we are adding to the defense bill this year.

First, the Department of Defense reduced the Services' military construction request by almost $1 billion to meet final budget targets. There was very little consideration of the Services priorities.

Testimony by all the Services indicated that DOD's MILCON request defers high priority projects and is approximately $2 billion below the 1994 budget. For example, the Air Force stated that it deferred $80 to $90 million in new mission and force realignment projects as a result of the DOD cuts.

Second, these projects are important to readiness. Family housing and maintenance facilities are as important to the readiness of our military as weapons and training.

If a military family is living in below-standard housing while the soldier is deployed elsewhere, it will have an adverse impact on readiness. There is no doubt that if our soldiers have to maintain sophisticated equipment in substandard facilities, it will not be maintained as well as it could have been in the proper facilities.

Mr. President, the projects added by the Armed Services Committee all meet the criteria in Senator MCCAIN's amendment. They add to the readiness of our Armed Forces and maximize the precious fiscal resources available to defense.

Again, I congratulate Senator MCCAIN for his good government provision and I urge my colleagues to support the amendment.

Mr. GLENN. Mr. President, I join Senator MCCAIN in sponsoring an amendment which would express the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization of appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if:

First, the project is consistent with past actions of the base realignment and closure process;

Second, the project is included in the 5-year military construction plan of the military department concerned;

Third, the project is necessary for reasons of the national security of the United States; and

Fourth, a contract for construction of the project can be awarded in that fiscal year.

In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects or activities, including military construction projects, in the budget request, and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

Mr. President, every military construction project added by the committee to the fiscal year 1995 budget request already meets the criteria contained in this sense-of-the-Senate resolution.

The criteria I just outlined were developed by the Subcommittee on Military Readiness and Defense Infrastructure this year to guide their review of military construction programs.

The committee bill includes additions to the military construction budget of $573 million, including $545 million in member requests, offset by $273 million in reductions, for a net increase to the budget of $300 million.

This year, in the final stages of preparing the fiscal year 1995 budget, OSD reduced the military construction accounts by approximately $1 billion to meet the final budget targets. As a result, the fiscal year 1995 military construction request is $1.1 billion below last year's level, a reduction of almost 15 percent in real terms. OSD officials have consistently said that the only reason for this large reduction in military construction in fiscal year 1995 was the need "to absorb a department-wide inflation increase" in fiscal year 1995.

All of the services complained in our hearings this year that the sharp cut in military construction funding in the fiscal year 1995 budget request would make it increasingly difficult to meet their facility modernization goals.

The Committee identified savings of approximately $1.5 billion in the fiscal year 1995 budget in the O&M area of the budget, principally because the drawdown of civilian personnel is occurring faster than anticipated in the current fiscal year.

If DOD had known about the civilian personnel savings when they put their budget together, they would not have made the last-minute, deep cuts in their budget request for military construction programs.

The committee received a letter this week from Deputy Secretary Deutch, that I would like to make part of the RECORD, in which he makes this very point:

> As I understand from your mark up, you determined that certain funds in our initial request for civilian personnel would not be needed and the committee directed that they be spent on military construction projects. Frankly, had we been able to forecast these reductions in civilian personnel last November when we were preparing the fiscal year 1995 budget submission, we could have avoided the deep reductions in military construction that we ultimately had to propose.

Secretary Deutch then offered his overall assessment actions of the committee's actions in the military construction portion of this bill. He said:

> We welcome the disciplined approach the Committee took to reviewing additional military construction projects in fiscal year 1995. My staff has confirmed that all of the additional projects are executable in fiscal year 1995 and are consistent with past Base Realignment and Closure actions. I especially appreciate your limiting the additional projects to those which are included in our five year plan.

The civilian personnel savings identified by the committee were applied to other areas of the budget that the committee thought were underfunded.

Almost $800 million for high priority readiness programs such as depot maintenance; real property maintenance; support to operating tempo; and recruiting.

Another $400 million went to pay the costs of increasing the military pay raise from 1.6 percent to 2.6 percent.

$300 million of these savings went to increase the military construction request for high priority military construction projects in the areas of readiness; soldier welfare; new missions; and environmental compliance. I ask unanimous consent to include a representative list of military construction projects we added, Mr. President.

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

READINESS

1. Advanced tactical airlift center, St Joseph, MO.
2. Vehicle maintenance shop, Fort Campbell, KY.
3. Live fire maneuver range, Fort Knox, KY.
4. Squadron operations facility, Bangor, ME.
5. Communications/electronics training facility, Camp Riley, OR.

SOLDIER WELFARE:

1. Student pilot dorm, Luke AFB, AZ.
2. DOD dependent school (section 6), Naval Surface Warfare Center, Dahlgren, VA.
3. Family housing (replace 126 units), Fort Riley, KS.
4. Child care center, Kirtland AFB, NM.
5. Family housing renovation, Fort Richardson, AK.
6. Child development center, Andrews AFB, MD
7. Dormitory, Nellis AFB, NV.

NEW MISSION

1. T-1 Jayhawk maintenance support facility, Columbus AFB, MS.

2. Parking apron renovation, Mountain Home AFB, ID.

3. Army strategic deployment center, Charleston, SC.

4. Munitions maintenance and storage facility, Great Falls, MT.

ENVIRONMENTAL COMPLIANCE:

1. Fuel storage complex, Richmond, VA.

2. Water distribution system, Kirtland AFB, NM.

3. Water supply system, Camp Smith, NY.

4. Water treatment plant, Wright-Patterson AFB, OH.

Mr. GLENN. In concluding, I urge my colleagues to support this sense of the Senate and help maintain discipline in this process.

I yield the floor.

Mrs. HUTCHISON. I understand this amendment has been cleared by both sides, and I urge its adoption.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2231) was agreed to.

AMENDMENT NO. 2232

(Purpose: To authorize the use of certain funds for the construction of military projects and family housing)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators BOXER, BOREN, BUMPERS, CAMPBELL, DECONCINI, D'AMATO, DASCHLE, FAIRCLOTH, FEINSTEIN, FORD, HARKIN, HATFIELD, JOHNSTON, KEMPTHORNE, NICKLES, PRESSLER, SASSER, SPECTER, STEVENS, WELLSTONE, and WALLOP, and I ask for its immediate consideration. This is on behalf of Senator THURMOND and myself.

The PRESIDING OFFICER. Clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. THURMOND, Mrs. BOXER, Mr. BOREN, Mr. BUMPERS, Mr. CAMPBELL, Mr. DECONCINI, Mr. D'AMATO, Mr. DASCHLE, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HATFIELD, Mr. JOHNSTON, Mr. KEMPTHORNE, Mr. NICKLES, Mr. PRESSLER, Mr. SASSER, Mr. SPECTER, Mr. STEVENS, Mr. WELLSTONE, and Mr. WALLOP, proposes an amendment numbered 2232.

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 249, line 21, strike out "$393,550,000" and insert in lieu thereof "$396,750,000".

On page 249, in the table below line 24, strike out "$5,300,000" in the "Amount" column with respect to the item relating to Fort Knox, Kentucky, and insert in lieu thereof "$8,500,000".

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof "$1,671,286,000".

On page 252, line 18, strike out "$393,550,000" and insert in lieu there of "$396,750,000".

On page 254, line 22, strike out "$224,180,000" and insert lieu thereof "$239,265,000".

On page 254, in the table below, line 25, above the line relating to California insert.

Arizona	Yuma Marine Corps Air Station	$15,085,000

On page 258, line 2, strike out "$1,492,264,000" and insert in lieu thereof "$1,507,349,000".

On page 258, line 5, strike out "$224,180,000" and insert in lieu thereof "$239,265,000".

On page 262, line 1, strike out "$398,904,000" and insert in lieu thereof $412,004,000".

On page 262, in the table below line 4, insert:

(a) after the item relating to Eielson Air Force Base, insert.

	Elmendorf Air Force Base	$5,000,000

(b) after the item relating to Peterson Air Force Base, insert

	United States Air Force Academy	$3,600,000

(c) after the item relating to Pope Air Force Base, insert

North Dakota	Ellsworth Air Force Base	$4,500,000

On page 264, line 1, strike out "$163,348,000" and insert in lieu thereof "#$172,310,000".

On page 264, in the table below line 3, after the item relating to Edwards Air Force Base, insert

	Los Angeles Air Force Base	50 units	$8,962,000

On page 266, line 1, strike out "$1,572,801,000" and insert in lieu thereof "$1,594,863,000".

On page 266, line 5, strike out "$398,904,000" and insert in lieu thereof "$412,004,000".

On page 266, line 24, strike out "$234,393,000" and insert in lieu thereof "$243,355,000".

On page 268, line 18, strike out "$397,700,000" and insert in lieu thereof "$413,700,000".

On page 268 in the table below line 20, after the item relating to Eglin Auxiliary Field No. 9, Florida insert

	Fort Bragg, North Carolina	$16,000,000

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,246,058,000".

On page 270, line 24, strike out "$136,700,000" and insert in lieu thereof "$152,700,000".

On page 276, line 15, strike out "$146,447,000" and insert in lieu thereof "$180,312,000".

On page 276, line 16, strike out "$16,470,000" and insert in lieu thereof "$37,870,000".

On page 276, line 18, strike out "$6,955,000" and insert in lieu thereof "$17,355,000".

On page 276, line 21, strike out "$224,053,000" and insert in lieu thereof "$240,003,000".

On page 276, line 23, strike out "$28,190,000" and insert in lieu thereof "$43,840,000".

On page 277, line 10, strike out "$286,693,000" and insert in lieu thereof "$287,958,000".

Mr. NUNN. This amendment will authorize for appropriation funds for military construction and military family housing projects. All of the projects included in this amendment have been thoroughly reviewed and meet the criteria the committee established in reviewing and evaluating military construction projects added to the budget request for fiscal year 1995.

HERMISTON ARMORY

Mr. HATFIELD. Mr. President, I rise today to offer an amendment which would provide funding for the Hermiston Armory.

The Hermiston Armory has been in the planning process for over a decade. Company B, 3d Battalion, 116th Cavalry (Armor) is being reorganized. The unit reorganization, as part of a round out brigade with the 4th Infantry division, is the primary reason for adding this facility. The unit is currently in leased space. It is not cost effective nor adequate for the Oregon Guard's training needs. It also should be noted that this facility will serve a growing and vibrant community as a primary community center.

This facility borders the Umatilla Army Depot. This depot is closing. This armory will be used to enhance the readiness for the community. There are tremendous programs going on in the community that require many meetings with members of the local community. This armory will serve many functions.

I thank the chairman, the ranking member, as well as the chairman and ranking member of the Military Readiness and Defense Infrastructure Subcommittee. This is a difficult task that requires much insight and patience. I look forward to working with this Committee when we take up the defense appropriation.

The motion to lay on the table was agreed to.

Mr. JOHNSTON: Mr. President, this amendment authorizes $2.8 million for the rehabilitation of the Ruston National Guard Armory in Ruston, Louisiana. This is a critical project to sustain the readiness of the 527th Engineer Battalion, a unit that was mobilized and deployed to the Persian Gulf during Desert Storm. The unit is not affected by force reductions under Quick Silver. The project calls for renovation/construction of approximately 57,000 square feet for administrative, supply, storage, vault, training and maintenance requirements of an engineer battalion headquarters and an engineer construction company.

Mr. President, I can assure my colleagues that this project is sufficiently designed and can and will be executed during fiscal year 1995. I yield the floor.

Mr. HARKIN. Mr. President, this amendment provides $6.2 million for two necessary military construction projects at the Des Moines Air National Guard; $2.3 million of that sum is for an engineering and supply facility.

The current facilities are undersized and environmentally deficient. In addition, the existing building lies within the FAA building restriction line. Its continued presence will interfere with the airport's certification as a category II instrument landing site. Funding for an ILS II was provided in the fiscal

year 1994 Transportation appropriations bill.

The remaining $3.9 million is for a Des Moines Air Guard munitions maintenance and storage complex. It is part of the conversion from A–7 to F–16 aircraft. The existing facility provides only 60 percent of the space needed for sufficient training and proper munitions storage. It cannot be expanded.

I appreciate the attention shown to these important needs of the Air Guard in Des Moines by Senators NUNN, THURMOND, and SASSER. I urge the adoption of the amendment.

JOINT MOBILITY RAMP AND UTILITY PROJECTS AT ELMENDORF AFB

Mr. STEVENS. Mr. President, this amendment would provide funding for phase II of the Joint Mobility Center at Fort Richardson and Elmendorf Air Force Base. It also will provide funding for utility upgrades at Elmendorf Air Force Base.

Last year, the Congress provided funds to establish a joint Army/Air Force Deployment Center, to serve Fort Richardson and Elmendorf Air Force Base. That project is now proceeding. Further site surveys indicate that additional ramp reconstruction will be required to fully support utilization by C–5 and C–17 aircraft.

This amendment provides $4 million to complete all necessary ramp maintenance and repair concurrent with construction of this new facility. Currently, the new joint mobility complex will be adjacent to three existing hardstands capable of handling C–141 aircraft only. All shipments via C–5 aircraft must be trucked or bussed to a ramp located one mile away if you use the available taxiways. If the taxiways are not available it is a distance of 2 miles by road.

The use of transport vehicles on taxiways will disrupt aircraft operations and create serious foreign object damage hazards. Use of the roadway creates greater security and safety problems than already exists. This ramp will help eliminate these problems.

Regarding the second part of this amendment, the Army-Air Force Exchange System [AAFES] and the Defense Commissary Agency [DECA] are working to better utilize facilities at installations around the world. AAFES and DECA are planning to construct a new combined facility to serve Elmendorf AFB and Fort Richardson in Alaska. An upgrade of utilities is necessary prior to work on this new facility.

The present location of the Base Exchange and Commissary provides no room for expansion. Parking conditions are overcrowded. This is due to the close proximity of the base gymnasium. Also the present facility size is inadequate to handle the amount of merchandise delivered and sold at Elmendorf AFB.

This amendment provides $1 million to prepare the base for new facilities that will provide a better standard of living for our service members and retirees from the surrounding area.

I thank the chairman, the ranking member, as well as the chairman and ranking member of the Military Readiness and Defense Infrastructure Subcommittee. This is a difficult task that requires much knowledge and wisdom. I look forward to working with this committee when we take up the defense appropriation.

Mr. President, in case there is any confusion this amendment authorizes an additional $5.0 million for the Military Construction, Air Force account. This consists of $4 million for a ramp at the Joint Mobility Center and $1 million for utility projects. Both of these projects are located at Elmendorf AFB.

MILITARY CONSTRUCTION AMENDMENT

Mr. WALLOP. Mr. President, this amendment would add $6,233,000 in military construction funds for the Army National Guard. These funds are to provide a major utilities upgrade at Camp Guernsey, WY. This facility is an important training site for the entire region. Active and Reserve forces from many States use this vital training facility year round.

Despite the large volume of activity at Camp Guernsey, the basic infrastructure there is woefully substandard. The basic utilities are so degraded that significant fire and other dangers are now a fact of everyday life. Without this project, this dangerous situation will only worsen.

Mr. President, this is a worthy project that deserves the Senate's approval. I urge my colleagues to support it.

Mr. DECONCINI. Mr. President, this amendment will meet an urgent, unmet need for bachelor enlisted quarters at the Yuma Marine Corps Air Station. These critically needed facilities will provide adequate billeting for up to 450 enlisted personnel.

Currently, transient, rotational, and deployed personnel at Yuma MCAS are billeted in antiquated wooden facilities constructed in 1954. The lack of suitable facilities requires doubling up of personnel in rooms during the Marine Aviation Weapons and Tactics Squadron One semiannual weapons and tactics instructor course which teaches pilots to become instructors in aerial combat tactics. My amendment would authorize $15.085 million to fully fund this project—which meets the four criteria agreed to by members of the Senate Armed Services Committee for proceeding with military construction projects.

I offer this amendment after carefully considering the military construction requirements submitted to the services by the military bases remaining in my State. There are a great many projects needed at these facilities which have been and continue to be delayed. I would like to see them all funded, but that is not realistic. Tough choices have to be made. The defense budget is tight and cuts in spending are inevitable.

These are difficult times for the military. We are uncertain which bases will remain open. Military families are being asked to make deeper sacrifices, greater time is spent training away from families, even retiree COLA's are being delayed—this at a time when our Armed Forces are being called upon to perform more missions, and more varied missions, than ever before. That is why this amendment is so important.

Yuma is a high quality Marine Corps facility which demands tough sacrifices from the men and women stationed there. It is also one of the hottest spots in the Nation, so quality quarters are a necessity. My amendment would meet this urgent need, even at the cost of further delaying other projects elsewhere in Arizona. Some people might call this "pork," but to the men and women who will be served by these quarters, they will call it "home."

I urge that the amendment be adopted and I thank the chairman and the ranking member for their consideration of this amendment.

MILITARY CONSTRUCTION AMENDMENT, IDAHO AIR NATIONAL GUARD

Mr. KEMPTHORNE. Mr. President, my amendment would authorize $4 million for a military construction project for the Idaho Air National Guard at Gowen Field. Now many of my colleagues have heard me talk about the Idaho Air National Guard before. These guardsmen have performed two 6-month deployments to Southwest Asia to enforce the no fly zone over southern Iraq. I make this point because some people seem to think that helping the National Guard is wasting the taxpayers' money. Well, I'm here to tell you that members of the Idaho Guard have been on the frontlines defending freedom and I want to do what I can to insure that these men and women have the training, the equipment, and the facilities they need to do their job.

In this regard, the Air Guard at Gowen Field has a 40-year-old hanger with electrical, heating, life safety code, and fire code deficiencies. Ad hoc alterations and systematic deficiencies have greatly reduced the useful space in the hangar. A renovated and updated hangar is needed to facilitate the proper maintenance of the aircraft stationed at Gowen Field. The project is a mission/readiness oriented project that is in the budget for 1997. I ask my colleagues to move this project forward to 1995 so that we can address the safety problems at the hangar as soon as possible.

I understand the budgetary pressures facing the defense budget but I believe we must make investments to maintain the facilities we plan to rely upon

in the future to defend our Nation's interests.

Mr. SASSER. Mr. President, the additional funds provided by this amendment will provide for two important construction projects for the Tennessee Air National Guard.

The amendment will provide $2,300,000 for a much needed vehicle maintenance complex at the Nashville Metropolitan Airport. This will provide the 118th Airlift Wing with a properly configured building in which to repair and maintain organizational vehicles such as sweepers, snowplows, refueler vehicles, and trucks. Also, this amendment will provide $3,500,000 for a flight simulation facility at the Memphis International Airport. This regional training facility is needed to house a C–141 flight simulator that is being relocated from an active duty Air Force base, and will accommodate training of Air National Guard C–141 pilots and copilots.

NIAGARA INTERNATIONAL AIRPORT FUEL SYSTEMS MAINTENANCE HANGAR

Mr. D'AMATO. Mr. President, the proposed fuel systems maintenance hangar is an essential element of the Air Force Reserve modernization plan for Niagara International Airport [IAP].

The current fuel systems maintenance hangar is a 40-year-old wood truss building. Dry rot has led to rapid deterioration of the structure, calling for constant, and increasingly expensive upkeep. Demolition and replacement of the current hangar was originally scheduled for fiscal year 1995, but was slipped to fiscal year 1996 due to funding constraints.

I should note that the 914th Tactical Airlift Group based at Niagara IAP was one of the few Air Force Reserve C–130 units deployed to the Persian Gulf during Desert Shield/Desert Storm. The unit served proudly without accident or loss of life, delivering vital supplies throughout the theatre.

I look forward to working with my armed services colleagues to make this hangar replacement a reality.

Mr. DASCHLE. Mr. President, this amendment would authorize the construction of phase II of a consolidated three-phase administration support complex known as Rushmore Center at Ellsworth Air Force Base in South Dakota.

I would like to begin by commending Chairman NUNN and the members of the Senate Armed Services Committee for their diligent work on the fiscal year 1995 DOD authorization bill and for the past support they have given the Rushmore Center. When the Senate Armed Services Committee considered the fiscal year 1994 DOD authorization bill last year, it authorized $6.2 million to construct phase I of Rushmore Center. I truly appreciated that support and was pleased the final version of the fiscal year 1994 military construction appropriations bill also included funding for the project.

As I mentioned, Rushmore Center is a consolidated administration support complex. Officials at Ellsworth Air Force Base have proposed this important project as a logical step-by-step approach to rehabilitate and replace some of their older facilities through self-help programs, operations and maintenance [O&M] facility projects, and military construction projects. While Ellsworth has experienced growth in the number of its facilities, it has also experienced a decline in O&M funding available to maintain them. Therefore, Ellsworth officials have developed a plan to consolidate, where possible, and to demolish those facilities that are well beyond their expected lifetimes.

Funding for phase II of Rushmore Center is critical to Ellsworth's ability to achieve these objectives. Rushmore Center will allow Ellsworth to consolidate virtually all base support functions, and demolish ten World War II facilities. Moreover, I would like to point out that the construction of the Rushmore Center will allow Ellsworth to build less, but more efficient, square footage than it will tear down. Needless to say, the O&M savings accruing to such projects are substantial.

Although Ellsworth has been successful in articulating the need for the Rushmore Center, it was unable to get the entire project funded in the fiscal year 1994 budget. As a result, Ellsworth officials have proposed to phase in the project over 3 years. Phase I required $6.2 million; phase II will require $4.5 million; and phase III will require approximately $7.4 million.

With phase I behind us, Senator PRESSLER and I are requesting authorization for phase II be included in the fiscal year 1995 DOD authorization bill. I strongly believe that the Rushmore Center is essential to the future of Ellsworth Air Force Base. Moreover, I am confident that its construction will bring many functions that are currently scattered throughout the base in substandard structures into one attractive, customer service-oriented setting. I strongly urge my colleagues to support this important amendment.

MILITARY CONSTRUCTION PROJECT AT TINKER AIR FORCE BASE, OK

Mr. NICKLES. Mr. President, I want to thank the Armed Services Committee for helping put this important project in the Defense authorization bill.

This $10.2 million upgrade for a ramp and a fuel hydrant system for the 507th Fighter Group at Tinker Air Force Base is essential because the 507th is in the process of transitioning from F–16's to KC–135's. Obviously, the size and weight difference in these planes requires that these changes be made. This upgrade will allow the 507th to operate their new planes in a safe and efficient manner.

If the ramp is not upgraded, the unit will not be able to access the assigned parking ramp. Additionally, the use of truck refueling, instead of the hydrant system, will result in a slow response time preventing the unit from supporting its operational and training requirements. This in turn impacts the overall readiness of our military.

The announcement of the transition from F–16's to KC–135's was made too late by the Air Force to be included in the President's request for military construction. Therefore, it was necessary to have this project added to the bill for the reasons stated above.

Once again, I thank the members and staff of the Senate Armed Services Committee for working to include this project in the bill.

SUPPORT FOR LOS ANGELES AIR FORCE BASE MILCON

Mrs. FEINSTEIN. Mr. President, this amendment authorizes approximately $9 million for the construction of 50 units of family housing at Los Angeles Air Force Base [AFB].

After the President's fiscal year 1995 budget request was submitted to Congress, the Air Force identified a need for authorization and appropriation of approximately $9 million in fiscal year 1995 to construct 50 units of family housing at Los Angeles AFB. Secretary Widnall stated that the Air Force requires 150 new units for Los Angeles AFB and plans to phase the construction in two increments—the first phase calls for the construction of 50 units. The Secretary stated that the first phase should be completely designed and ready for contract in fiscal year 1995.

This project will help to alleviate the housing shortage encountered by personnel at Los Angeles AFB and will assure a high quality of life for military personnel and their dependents stationed at the important base.

I strongly support this amendment and I urge its adoption. I now ask unanimous consent that a letter from Secretary Windall to one of my House colleagues in support of this authorization be printed in the RECORD.

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

SECRETARY OF THE AIR FORCE,
Washington, DC, May 6, 1994.

Hon. JANE HARMAN,
House of Representatives,
Washington, DC.

DEAR MS. HARMAN: Thank you for your April 26, 1994, letter on Los Angeles Air Force Base. As a result of the drawdown in the Los Angeles area, we explored all existing excess housing as a possible solution to our long-standing shortage at Los Angeles Air Force Base. We carefully considered using excess military family housing available from the Navy. However, this housing does not meet the needs of the Air Force due to its age, condition, location and cost to renovate. Upgrade of existing housing is not economically feasible under current Congressional language which requires replacement if the cost of renovation of existing housing exceeds 70 percent of new housing costs.

We have also explored other avenues through the Department of Housing and Urban Development and have been unsuccessful in identifying excess units that meet our requirements. The Air Force desires a single housing "community" to support Los Angeles Air Force Base and the Fort MacArthur site is the best location to meet our needs.

As you know, we have signed the lease with the Los Angeles Unified School District for the property offered by the Governor and Mayor. Our requirement remains 150 units and the plan is to phase the construction in two increments, 50 units programmed for $8 million and 100 units programmed for $16 million. The early planning, design and environmental work is underway and I expect the first phase to be completely designed and ready for contract award late in Fiscal Year 1995.

I will keep you informed of our progress on this important military family housing initiative.

Sincerely,

SHEILA E. WIDNALL.

Mrs. BOXER. Mr. President, this amendment authorizes two important military construction projects for the Army National Guard. The first project would upgrade the existing natural gas and electrical distribution systems at the Los Alamitos Armed Forces Reserve Center. This facility supports over 900 full-time and 4,100 part-time citizen-soldiers. The current natural gas and electrical distribution systems were originally installed from 1942 to 1950, and are now in extreme stages of deterioration. Over 80 percent of the gas valves are inoperative, and most of the electrical wires are frayed and substandard. This project will cost $6,847,000.

The second project would authorize the construction of a combat pistol qualification course at Camp Roberts, CA. The California National Guard does not currently have a facility to train and qualify soldiers to the required standard. This vitally needed project will cost $952,000.

AIR FORCE ACADEMY MILITARY CONSTRUCTION PROJECT

Mr. KEMPTHORNE. Mr. President, the proposed amendment would authorize $3.6 million in military construction at the U.S. Air Force Academy. The project would renovate and enlarge a dormitory used by cadets at the Academy.

As most of my colleagues may know, many of the facilities at the Air Force Academy are 35 years old and in desperate need of repair and modernization. The dormitory project now before the Senate falls into this category.

The dormitory does not meet current fire and safety standards and asbestos must be removed as part of the renovation. The dormitory has an inadequate ventilation system in the gang latrines and the rooms which adds to the health and safety risks. The buildings have not received any major upgrades since they were built between 1959 and 1962.

This year I became a member of the Board of Visitors of the U.S. Air Force Academy and I looked into the issue of the deteriorating facilities at the Academy.

The proposed project is in the Air Force's 1996 budget but I think that if we can find the funds, we should try to address the health and safety standards at this facility this year.

I want to thank the managers of the bill for their consideration of my amendment and I hope they can accept it.

TO ENSURE COLA EQUITY

Mr. ROBB. Mr. President, the Senate is a body of laws and rules. We create them and our actions are governed by them.

Unfortunately, those rules sometimes lead to unintended consequences. Such is the case with the cost-of-living increases paid to civilian and military Federal retirees. The Senate heard considerable debate on this issue last night and this morning.

The Omnibus Budget Reconciliation Act of 1993—one of the rules we live by—required that civilian and military retiree COLA's be delayed to achieve deficit reduction targets. But civilian and military pay come from different accounts, overseen by different committees. Because those accounts are very different in size, and because those committees have very different demands on that money, each was required to make an independent decision. And each did the best it could.

But the result of playing by those rules was that the traditional parallel between civilian and military COLA's was broken. The civilian COLA's were delayed a total of 9 months during fiscal years 1994 to 1998; military COLA's were delayed a total of 39 months in the same period.

Senator WARNER's amendment, passed this morning, resolves the effects of this disparity for fiscal year 1995. My amendment builds on that by setting a ground rule for the next round of budgeting, following the expiration of the current OBRA in fiscal year 1998, that both civilian and military COLA's will be effective upon the earlier date of the two.

Mr. President, the issue here is fairness. When two people serve this Nation for equal periods and with equal merit, their retirement should not depend on the cut of clothes they wore. My amendment would set a new rule above all others: That the Senate puts fairness first.

Thank you, Mr. President. I yield the floor.

ELLSWORTH AFB CONSTRUCTION PROJECT

Mr. PRESSLER. Mr. President, today I voice my support of the Daschle-Pressler amendment to the National Defense Authorization Act for fiscal year 1995.

This amendment, submitted by my South Dakota colleague and I, will authorize the second part of a three-phase military construction project to enable Ellsworth Air Force Base in our home State of South Dakota to consolidate administrative support, demolish substandard facilities, and reduce long-term utility and maintenance costs. Currently, Ellsworth Air Force Base needs to replace buildings that were constructed during World War II and the Korean war. These building have deteriorated past their useful lives and pose a health and safety hazard. Also, the problem of widely dispersed buildings adds to the inefficiency and high cost of utilizing and maintaining such facilities.

Mr. President, the concentration of our Nation's heavy bomber force at Ellsworth Air Force Base is substantial. The B-1 bomber is crucial to the ability of the United States to project the air power needed to secure our national defense and project American power into the next century. If the Air Force is to function with maximum effectiveness and within the limited resources now allocated for defense, our personnel support must be efficient also. I am a cosponsor of this amendment because it illustrates Ellsworth's commitment to be cost-efficient and does not undermine the future development and success of the B-1 bomber.

Mr. President, upgrading facilities at Ellsworth will ensure its place in the Air Force's long range strategic planning. I intend to work with my colleague, Senator DASCHLE, in ensuring appropriate investments in Ellsworth. The new construction project will help streamline administrative functions and help provide long-term flexibility for future mission shifts and requirements. Efficient administrative support facilities at Ellsworth help make the base a stronger component of our Nation's defense.

SUPPORT FOR AUTHORIZATION OF FORT IRWIN MILCON

Mrs. FEINSTEIN. Mr. President, this amendment authorizes a National Guard military construction project that was fully appropriated in fiscal year 1994. This amendment would authorize $1,265,000 for the construction of maintenance pad covers at Fort Irwin, CA.

Many California National Guard facilities are substandard, and authorization of military construction projects are critical to providing armories and support facilities with the resources needed to accomplish both Federal and State missions.

Fort Irwin provides vehicle and equipment maintenance support to the majority of National Guard units in southern California. Currently, there is a severe shortage of space which makes it necessary for employees to work outside in extremely harsh conditions. Construction of maintenance pad covers will provide the necessary work space to permit vehicle and equipment maintenance during extreme weather

conditions. The maintenance pad covers will allow work to proceed in an efficient manner in a much safer working environment.

This amendment would merely authorize a project that has already been appropriated, and I urge its adoption.

THE PSYCHOLOGICAL OPERATIONS GROUP AT FT. BRAGG, NC

Mr. FAIRCLOTH. Mr. President, I am requesting that the 4th Psychological Operations Group at Fort Bragg, North Carolina receive $16 million in order to modernize their current World War II era facility.

Currently the 4th POG soldiers work in converted facilities which are grossly inadequate, undersized, and have significant health and safety hazards.

This $16 million would be appropriated to modernize the Company Operations Complex. The World War II temporary buildings, which this project replaces, are in dangerous conditions with exposure to asbestos, lead based paint, and high levels of lead in the water. There have been documented cases where floors, roofs, and ceilings have collapsed and fires have started due to electrical overloads.

As the Army's only active component psychological unit, they played a significant role in the success of Operation Just Cause in Panama, Desert Shield/Storm in the gulf, and Restore Hope in Somalia.

With the increasing role that they are playing in all U.S. missions, they require a larger facility that is more accommodating.

Mrs. HUTCHISON. Mr. President, I believe there are no other Senators who wish to debate this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2232) was agreed to.

AMENDMENT NO. 2233

(Purpose: To make technical amendments)

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 legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2233.

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 14, line 12, strike out "$723,909,000" and insert in lieu thereof "$693,909,000".

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$870,361,000".

On page 18, line 5, insert before "Funds" the following: "(a) LEASE AUTHORIZED.—".

On page 18, after line 24, insert the following:

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

On page 27, line 4, strike out "set forth in title VI of" and insert in lieu thereof "and requirements set forth in".

On page 106, strike out lines 15 through 21, and insert in lieu thereof the following:

of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

On page 106, line 25, strike out "transfer," and all that follows through "training school" on page 107, line 1, and insert in lieu thereof "transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school".

On page 107, line 6, strike out "SEPTEMBER 30," and insert in lieu thereof "DECEMBER 31,".

On page 107, line 8, strike out "September 30," and insert in lieu thereof "December 31,".

On page 123, line 13, strike out "of an Alaska Native" and all that follows through "a person in," on line 15 of such page, and insert in lieu thereof "or recognition of an individual referred to in subsection (c) in".

On page 123, line 16, strike out "person" and insert in lieu thereof "individual".

On page 123, line 22, strike out "(1) Subsection (b)(5) applies to an Alaska Native" and insert in lieu thereof "Subsection (b)(5) applies to a member of the Alaska Army National Guard".

On page 123, line 25, strike out "Alaska." and insert in lieu thereof "Alaska, by paved road.'.".

On page 124, strike out lines 1 through 4.

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof $1,731,286,000".

On page 270, line 21, strike out "$3,230,058,000" and insert * * *.

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TECHNICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103-160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103-160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103-160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103-160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102-190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. NUNN. Mr. President, in the period since bill was reported to the Senate on June 14, we have identified a number of technical and clarifying amendments that are needed to be made to the bill. These changes are embodied in the technical amendment that is now pending. This amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2233) was agreed to.

Mr. NUNN. Mr. President, in reference to all of the amendments we have just passed, I ask that they be reconsidered en bloc.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motions to lay on the table were agreed to.

Mr. NUNN. I thank the Chair.

AMENDMENT NO. 2162

Mr. NUNN. Mr. President, I ask unanimous consent that amendment No. 2162 previously adopted be amended on page 2 by striking out lines 2 through 10 and inserting in lieu thereof "by amending subsection (e) to read as follows:"

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

AMENDMENT NO. 2234

(Purpose: To express the Sense of the Senate that the Bottom-Up Review should in no way be seen as limiting the size of the force military commanders planning a campaign on the Korean Peninsula may request and for other purposes)

Mrs. HUTCHISON. Mr. President, there is one more amendment before we finish that we wanted to offer, the Dole amendment. So, Mr. President, I send the 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 Texas [Mrs. HUTCHISON], for Mr. DOLE, proposes an amendment numbered 2234.

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

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

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold-War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously;"

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corp brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizeable numbers of U.S. forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of U.S. forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 U.S. military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in of the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking Members of the House and Senate Committees on Armed Services and Chairmen and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense of the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

Mrs. HUTCHISON. This amendment on behalf of Senator DOLE expresses the sense of the Senate that reinforcements to South Korea should not be burdened by force levels in the Bottom-Up Review.

Mr. DOLE. Mr. President, on October 7, 1993, the administration acknowledged that a request for tanks and armored personnel carriers from the commander of United States forces in Somalia had been denied. The purpose of this request was to protect American lives—the lives of American soldiers engaged in peacekeeping operations in Somalia. The failure to respond to the on-scene commander's requests, which we later discovered were numerous and repeated, was a key factor in the deaths of 18 U.S. soldiers.

I know that none of us want to see a repeat of this tragedy. When we send our military personnel into harm's way, we owe them every bit of support they request; and our commanders should not be barred from requesting the support they need. They are the experts, and the ultimate responsibility for the safety of their troops lies with them.

The amendment I have just introduced expresses the sense of the Senate that the force structure allocations outlined in the Bottom-Up Review or other planning documents should in no way limit the size or structure of the needs deemed necessary by commanders responsible for planning or engaged in United States operations in Korea.

Let me be clear, no one wants war on the Korean Peninsula. However, we have to be prepared if it comes, and right now our military planners are preparing for that contingency. Over the past several months there have been many newspaper articles and magazine stories speculating on the United States response to aggression by North Korea. One thing is clear, depending on the duration and intensity of a second Korean war, United States military planners preparing for the conflict would certainly ask for forces much larger than those allocated by the Bottom-Up Review for a single regional contingency. The Bottom-Up Review force for 1 major regional contingency consists of 4 or 5 divisions, 4 or 5 Marine brigades, 10 Air Force wings, 100 bombers, and 4 to 5 aircraft carrier battle groups. Now compare this to the force used during Desert Storm. The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades.

Because of the difficult terrain, a ground war on the Korean Peninsula is likely to be much more challenging than Desert Storm. With nearly 90 percent of South Korean and United States troops in Korea positioned within 35 miles of the DMZ, a second Korean war would be very costly for all sides.

Certainly, the scenario of a second Korean war is one we all hope never becomes reality. But it is a possibility, and we must be prepared for it. This amendment will help ensure that our military commanders are provided with all of the support they need. I urge my colleagues to support the amendment.

Mrs. HUTCHISON. I understand this amendment has been cleared by both sides.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2234) was agreed to.

Mrs. HUTCHISON. 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. 2235

(Purpose: To amend titles 5 and 10, United States Code, to ensure equal treatment of civilian and military retirees when cost-of-living adjustments are delayed by law for budgetary or other reasons)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of the Senator from Virginia, Mr. ROBB.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROBB, proposes an amendment numbered 2235.

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 138, between lines 11 and 12, insert the following:

SEC. 634. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

Mr. NUNN. Mr. President, this amendment would ensure that Federal civilian retirees and military retirees are treated equitably when cost of living adjustments are delayed by law for budgetary or other reasons. This amendment would take effect on October 1, 1998.

Mrs. HUTCHISON. We have no objections.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2235) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I urge third reading of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. NUNN. Mr. President, I urge passage of the bill.

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

So the bill (S. 2182), as amended, was passed.

The text of S. 2182 will appear in a future edition of the RECORD.

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

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I send to the desk an amendment to the title.

The title was amended so as to read:

"To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

Mr. NUNN. Mr. President, I ask unanimous consent that S. 2182, as amended, be printed as passed.

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

SENATE BILLS EN BLOC

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration en bloc of the following bills: S. 2206 through S. 2211, Calendar Order Nos. 476 through 481; that all after the enacting clause of each of these bills be stricken and that the appropriate portion of S. 2182 and S. 1587, as amended, be inserted in lieu thereof according to the schedule which I am sending to the desk; that these bills be advanced to third reading and agreed to; that the motion to reconsider en bloc be laid on the table; and, that the above actions occur without any intervening action or debate.

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

So the bills (S. 2206 through S. 2111), as amended, were deemed read a third time, and passed as follows:

FEDERAL ACQUISITION STREAMLINING ACT OF 1994

The text of S. 2206 will appear in a future edition of the RECORD.

FEDERAL ACQUISITION STREAMLINING REFORM ACT OF 1994

The text of S. 2207 will appear in a future edition of the RECORD.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of S. 2208 will appear in a future edition of the RECORD.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of S. 2209 will appear in a future edition of the RECORD.

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 1995

The text of S. 2210 will appear in a future edition of the RECORD.

OMNIBUS NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The text of S. 2211 will appear in a future edition of the RECORD.

THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1995

Mr. NUNN. Mr. President, with respect to H.R. 4301, the House-passed version of the National Defense Authorization Act for fiscal year 1995, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4301; that all after the enacting clause be stricken, and that the text of S. 2182, as amended, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the title of S. 2182 be substituted for the title of H.R. 4301; that the Senate insist on its amendments to the bill and the title, and request a conference with the House and on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees; that the motion to reconsider the above-mentioned votes be laid upon the table; and, that the foregoing occur without any intervening action or debate.

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

The text of S. 2181, as amended, will appear in a future edition of the RECORD.

The PRESIDING OFFICER (Mr. AKAKA) appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON, conferees on the part of the Senate.

SENATE ACTION AFTER THE HOUSE ACTS ON A SENATE-PASSED BILL

Mr. NUNN. Mr. President, I ask unanimous consent that with respect to S. 2182 and S. 2206 through S. 2211, as just passed by the Senate, that, if the Senate receives a message with regard to any one of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill, and agree to or request for a conference with the House on the disagreeing votes of the two Houses, whichever is appropriate; that the Chair be authorized to appoint conferees; and, that the foregoing occur without any intervening action or debate.

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

THANKS TO THE STAFF

Mr. NUNN. Mr. President, before I on behalf of the leader ask certain unanimous-consent requests and wrapup matters, I want to again thank the staff on the majority side and the minority side for superb work. I want to particularly note on the majority side P.T. Henry, Dick Combs, Danny Ginsberg, Creighton Greene, Rick Finn, Madelyn Creedon, Kathy Bognovitz, Arnold Punaro, and John Douglass, Richard DeBobes, Andrew Effron, William Hoehn, Julie Kemp, David Lyles, Kirk McConnell, Michael McCord, and Frank Norton.

They are all here on the Chamber, and I am very grateful to each of them; also to those who are back in the offices working very diligently. We thank them also.

I express my appreciation to Dick Reynard, and Les Brownlee, and the entire staff on the minority side. They are true professionals, and they are a pleasure to work with. We are grateful to all of you. You do a great job. We appreciate it.

Mr. MCCAIN. Mr. President, the Senate has just voted to approve the fiscal year 1995 Defense Authorization bill. I oppose this bill for the following reasons.

I fear that we are cutting defense too fast and too deep. This year is the tenth consecutive year of declining defense budgets. I agree that reductions in defense spending were appropriate following the collapse of the Soviet Union and the Warsaw Pact. But since 1985, defense spending has declined 35 percent, with another 10 percent reduction planned by 1999 under the Clinton budget. The magnitude of the reductions in budget and force structure contained in this bill are a matter of grave concern.

In addition, the Clinton administration has not provided adequate resources to fund the force levels required to support the forces or the strategy which underlie this bill. The Secretary of Defense has testified that a shortfall of $20 billion exists in the 5 year defense plan because of underfunded inflation costs. Many other analysts agree that defense is underfunded by at least $60 billion; some estimate that figure is closer to $100 billion. This bill does nothing to redress these budgetary shortfalls.

Mr. President, lack of adequate funding means that military commanders must make difficult choices between combat training or vehicle maintenance, between operations or modernization, between readiness and quality-of-life for our military men and women. Training foregone cannot be recovered without additional funding. Lowered morale is difficult to restore. Without adequate funding, these deficiencies combine to adversely affect readiness.

The readiness problems of the hollow force of the 1970's were caused primarily by the fact that the nation broke faith with its military. A similar breach of faith is occurring today. Active duty and retiree pay is underfunded. The services are not receiving the training necessary to preserve the combat edge they had when they went into Desert Storm. There is no depth to logistics support now, and there is no indication this situation will improve. The exceptional force of dedicated professionals, which we all worked so hard to rebuild from the hollow force, is again in a downward spiral. I object to permitting the dismantling of our military force.

One of the most objectionable portions of this bill is that which deals with military construction. Included in this bill are nearly $800 million in authorizations for military construction

projects which were not included in the President's budget request. These projects were requested by Members of the Senate. They were not subjected to the scrutiny of the Senate Armed Services Committee during its review of such projects, and they were not therefore assessed in relation to other military construction projects or other defense spending areas. These projects were added merely because a Senator requested funding for them. This is a glaring example of Congressional pork barrel spending.

Mr. President, there are many programs and policies contained in this bill which I support. In particular, I applaud the efforts of the Chairman of the Readiness Subcommittee, Senator GLENN, to tighten up the Committee's review of military construction add-ons, and his efforts to direct budgetary savings to high-priority readiness accounts like real property maintenance and depot level maintenance. I also thank the Committee members for including expedited procedures to ensure that conveyances of Federal land are reviewed under GSA's standards. The vast majority of the programs authorized in this bill are meritorious programs which will serve to enhance our national security.

Yet I cannot support a bill which essentially endorses the continued decline in defense spending. I cannot vote in favor of a bill which allows the military readiness of our Armed Forces to be sacrificed for pork barrel spending.

Therefore, I register my vote in opposition to the fiscal year 1995 Defense authorization bill. I will continue to work to ensure that scarce defense dollars are spent wisely and for the programs which most effectively meet our national security needs.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

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

THE AMERICAN PROMENADE IN ISRAEL

Mrs. FEINSTEIN. Mr. President, I rise today to make some brief remarks on a United States-Israeli cooperative project.

The American Promenade in Israel is a privately-funded project to construct a lasting monument to the unique friendship between the United States and Israel. It has found the support of top Israeli officials, including Prime Minister Yitzhak Rabin, former Prime Ministers Yitzhak Shamir and Shimon Peres, and Likud Chairman Benjamin Netanyahu, as well as members of both parties in both houses of the U.S. Congress and numerous governors.

The American Promenade has been designed by California architect David Collins to be a national park located at the gateway to Jerusalem overlooking the Tel Aviv-Jerusalem highway. A botanical garden in the park will contain Biblical and State trees, flowers, and wildflowers. There will also be 50 marble, 20-foot high monuments bearing the flags and official seals of the 50 States. There will be a stainless steel time capsule with a glass-lined interior to house buried historical materials. The capsule will be opened in the year 2048 during Israel's 100th anniversary celebrations.

An outstanding personality from each State will be honored by the Joint Commission on the American Promenade in Israel as a founding father, and his or her name will be permanently inscribed on the monument along with the names of the current Governor and the U.S. Senators. The founding father for the State of California will be Mr. David Shapell.

As a project that has bipartisan support both in Israel and the United States, the American Promenade reaffirms the special relationship between our country and the only Western democracy in the Middle East.

THE GROWING THREAT TO PRESS FREEDOM AROUND THE WORLD

Mr. PELL. Mr. President, I am concerned that, despite the perception that we live in a global village in the age of information, exchange of information, which ought to be free and open, instead is becoming increasingly restricted.

I have recently been made aware of some alarming statistics that reflect this trend. According to the Committee to Protect Journalists [CPJ], last year around the world, a record 124 journalists were imprisoned, 56 journalists were killed in the line of duty, and there were more than 700 violations of press freedoms. As astonishing as these numbers are, they are believed to be an underestimate.

Some countries responsible for assaults on the press are, predictably, authoritarian regimes such as China which has the largest number of imprisoned journalists. Other violator countries, such as Turkey, are multiparty, constitutional governments.

What the 27 violator countries have in common, as described by CPJ, is that their governments "openly assert their right to control the content of reporting on politics, economics, national security, cultural and religious tensions, and myriad other topics," and that "the press in almost all of these countries is more cautious about challenging authority as a direct result of these prosecutions."

Attacks on journalists demand our attention because they are increasing in number, lead to intimidation and self-censorship, and, inevitably, challenge the open exchange of and access to information.

In many countries, threats to press freedom, and to reporters, result from the collapse of civic authority and from the growing power of religious extremism and competing national and ethnic groups.

Some journalists are killed in the crossfire of opposing forces in armed conflicts, and we have come to recognize this as an unavoidable risk of the war correspondent. However, the deliberate targeting of journalists because their news reporting is judged by one group to serve the interests of an opposing ethnic group or extremist faction is an increasingly common and dangerous phenomena.

According to CPJ, "Bosnia is proving to be even more hazardous for war correspondents than Vietnam. Europe and the republics of the former Soviet Union had 21 fatalities, the year's largest number."

In much of the world, a free press is the exception, not the rule. A controlled press, operated directly by the government or indirectly by self-censoring journalists, is the norm. Information in these countries is a means to control, rather than to inform.

In Rwanda, the twisting of information via the Hutu government-controlled radio "Mille Collines" has been used to incite genocide against the Tutsi minority and continues to broadcast a message of "ethnic cleansing" while the death count climbs to half a million.

In Turkey, newly enacted laws give the government sweeping authorities to restrict the media. After a series of aggressive court actions, the alleged torture and beatings of news staff, the disappearance of a reporter while on assignment and the murder of three others, the government and police have finally forced the closure of a major newspaper representing a pro-Kurdish viewpoint.

In Bangladesh, criminal charges were filed against a prominent independent secular journalist, Taslima Nasreen, and her editors for allegedly publishing materials to which some religious leaders took offense. Ms. Nasreen has gone into hiding, and the Bangladeshi police are conducting a nationwide hunt to arrest her.

In Somalia, rebel gunmen killed four journalists covering the U.N. intervention—A.P. photographer Hansi Krauss, Reuters photographers Hos Mania and Dan Eldon, and Reuters sound technician Anthony Macharia. Their murders virtually brought a halt to any television or on-the-spot coverage of the conflict.

In an egregious act of censorship, the Government of Indonesia on June 21 revoked the publishing license of three of that country's most respected news

publications, allegedly for sowing discord and threatening national stability. In response, hundreds of people joined in peaceful demonstration in front of government offices, many were beaten by Indonesian security forces, and more than 50 people were arrested.

In our own country, where a free press is taken for granted, three Haitian journalists have been murdered since 1991. Serge Simon, a Haitian journalist who fled to the United States after being beaten for a report on military corruption in Haiti, said:

> The murders did what they were meant to do—intimidate pro-Aristide supporters in the United States. We expected something different in the United States.

While we cannot compel other nations to adopt the guarantee provided in our Constitution's first amendment, or to live up to their obligations under article 19 of the Universal Declaration of Human Rights, we must forthrightly and repeatedly send the same message to heads of state, rebel strongmen, and religious zealots alike—that the censoring of news and the threatening of lives of journalists are not legitimate forms of state authority.

Persecution of journalists and violations of press freedom cannot be tolerated by the international community. The cause of journalists in prison must be joined to that of political prisoners in general, and their release should be pressed for with equal vigor.

The muscle of international condemnation must be brought to bear against those responsible for these policies. Those who kill journalists must be brought to justice, whether in Indonesia, Turkey, Rwanda, or elsewhere, as well as here in the United States.

A news article in the June 28 Washington Post headlined: "Reporter Who Fled Zaire Starts a New Life in U.S.," tells us of the persecution of one brave journalist forced from his homeland for chronicling the repressive acts of his government. The United States has provided asylum for this man and his family who had fled from Zaire to save their lives.

This country can do more than address the aftermath of injustice. As it works to promote democratic values around the world and to develop closer political and economic ties with our allies, the Clinton administration should support the free and open exchange of information, and forcefully condemn information censorship and assaults on the press.

Governments should be urged to take sustained action to protect free speech. Senator DENNIS DECONCINI, Chairman of the Commission on Security and Cooperation in Europe, in a speech in the Senate, June 23, proposed such steps to the Government of Turkey. Among Senator DECONCINI's eight proposals were: abolish restrictions on free expressions, and lift constraints on dissemination of Kurdish language television and radio broadcasts, point, music, and other mediums.

Symbolic gestures by the administration, such as an invitation to the White House, or a simple one-line statement of regret from the State Department, as was the case for Indonesia, are simply not sufficient to register our concern and are likely to be ignored by violator countries.

Offenses against the press should be considered serious human rights violations, to be dealt with by high-level pressure and other appropriate remedies. We can begin at the World Bank's Consultative Group meeting of bilateral donors in July by calling for an end to International Financial Institution [IFI] funding for Indonesia unless action is taken to rescind the banning orders issued by Indonesia's Information Ministry.

Mr. President, before there can be a global village, we have to secure freedom of the press and information and protection for journalists at the level of the local village. The technological advances that make possible the new information age will remain a dream and disappointment for millions of people unless information freedom is made secure at the local and country level.

TRIBUTE TO COL. ANTHONY LENTINI

Mr. JOHNSTON. Mr. President, in speaking at college commencements this year, I have been urging graduates to consider a career in public service. Many young people no longer think of a government career as desirable, perhaps because in recent years government employees, both civilian and military, have been given very little praise and a lot of criticism. So I am pleased to have this opportunity to praise the accomplishments of a native Louisianian whose exemplary career in public service extends back nearly 50 years, to World War II, and who has just retired as Director of the VA Regional Office in New Orleans, Col. Anthony J. Lentini.

Tony Lentini is a native of Kenner, LA, and a graduate of Loyola University where, coincidentally, one of those commencement addresses took place. He is a combat veteran of World War II and Korea, and served during the Vietnam era in the office of the Secretary of the Army as a legislative liaison officer with the U.S. Congress. Members of Congress and their staffs who worked with him then and later, after he joined the staff of the Administrator of Veterans Affairs, found him unfailingly accessible, knowledgeable, and helpful. During the 20 years he has been Director of the New Orleans regional office, he has been of immense help to my office and to the entire Louisiana delegation and we will all miss him sorely.

In addition to serving his country, Tony has served his State and his city, as president of the New Orleans Federal Business Association as a longtime member of the board of trustees of United Way for the Greater New Orleans Area and as president of the Committee on Alcoholism and Drug Abuse for the Greater New Orleans Area. I am pleased to say that his efforts have not gone unnoticed. He received the 12th annual Rabbi Emil W. Leipziger Award as an outstanding United Way Volunteer, as well as numerous awards for Outstanding Service to Veterans from, among others, the Disabled American Veterans, the VFW, AMVETS, and the American Legion. The Republic of Italy has conferred on him the title of "Cavaliere" for his good work in promoting cultural awareness in the American-Italian community.

For half a century, Tony Lentini has been fighting for Americans, first on the battlefield, and later, for the rights and benefits of all those who served in the military. As St. Paul says, he has fought a good fight and now he has finished the course. On behalf of all Louisianians, I want to wish Tony and his family every success and happiness in the years ahead, and thank him for everything he has done for his country and his fellow soldiers.

SPEECH OF FEDERAL BUREAU OF INVESTIGATION DIRECTOR FREEH

Mr. DOMENICI. Mr. President, in my role as ranking Republican on the Appropriations Subcommittee on Commerce-Justice-State, it has been my pleasure to get to know the Director of the FBI, Louis Freeh. He is a forceful, determined Director who brings years of experience as an agent and a prosecutor to the position of Director.

Director Freeh is currently on a trip to Germany, the Slovak Republic, Hungary, Poland, Lithuania, Ukraine, and Russia to establish cooperative relationships with the law enforcement officials of those countries. He realizes that, in a post-cold-war, interdependent world, it is vital that we work together to control organized crime and international terrorism.

Organized crime recognizes no borders. In addition, in the wake of the crumbling of traditional state structures in Eastern Europe and the former Soviet Union, organized crime is quickly attempting to fill the vacuum. In some regions it has become the de facto government.

This is not only a problem for the countries of Europe and Asia; it is a growing problem for the United States and for our citizens and companies operating abroad. Indeed, these crime organizations are beginning to operate in the United States as well.

On Tuesday Director Freeh gave a speech in Berlin that outlines the crime problems being faced by Eastern Europe and the former Soviet Union.

He outlines three areas of concern. First, the possibility of the diversion of nuclear materials to criminal or terrorist organizations, or to outlaw nations; second, the growth of organized crime throughout Eastern Europe and the former Soviet Union; and third, the resurgence of hate crimes.

However, Director Freeh is not merely attempting to share American know-how with these countries; he realizes we have much to learn to solve our own crime problems. Most importantly, he is offering them a partnership with the law enforcement organizations of the United States in a cooperative effort to attack crime and terrorism. He proposes turning many of the people and resources that were committed to the cold war to the important goal of defeating our common enemies in the crime world.

I believe the Director is making a vitally important effort. I commend him for his vision, and I ask unanimous consent that his speech be reprinted in the RECORD so that we can all benefit from his insights.

Mr. President, I yield the floor.

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

SPEECH OF LOUIS J. FREEH, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, AT THE ROTES RATHAUS (BERLIN CITY HALL), BERLIN, GERMANY, JUNE 28, 1994

I want to express the gratitude of the United States Government for the opportunity to meet with German officials to discuss grave crime problems of such great concern to both of our countries.

We deeply appreciate the work of parliamentary State Secretary Lintner in making the arrangements for the round table discussions that have just been concluded.

We are equally grateful to Mayor Diepgen and the Berlin Senate for their assistance, especially for approving the Rotes Rathaus as the site of our discussions

The talks here today launch a series of discussions with law enforcement officials of 11 European nations.

Our delegation hopes to build substantially on the foundations of joint efforts already begun with some countries and to create new cooperative programs against crime with nations with which we now have relatively few law enforcement ties.

Moreover, President Clinton, Attorney General Reno, Secretary of State Christopher and Secretary of Defense Perry fully support this trip and I will report back to the President who, as you know, will make an historic trip to this city on July 12.

The makeup of the United States delegation shows how seriously my country views these new efforts to build cooperation against a wide range of existing and potential crimes.

One member is Ronald K. Noble, the Assistant Secretary of the Treasury for Law Enforcement, who supervises such important agencies as the United States Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Secret Service. We are fortunate that he will continue to have those important law enforcement responsibilities as Under Secretary of the Treasury for Enforcement, to which he is being promoted.

Another member of our delegation is Ambassador Robert S. Gelbard, Assistant Secretary of Sate for International Narcotics Matters, he leads the efforts of the Department of State in dealing with diplomatic processes to develop international cooperation in attacking drugs and other serious crime problems.

A third important member of our group is Thomas A. Constantine, the Administrator of the Drug Enforcement Administration, which is the lead agency in the United States in the fight against drug trafficking.

And I am Director of the Federal Bureau of Investigation, which has responsibilities for investigating organized crime, violent crime, and a wide range of other offenses.

Our visit here today would not have been possible without the encouragement and support of an American official with whom German officials have close working relationships—Ambassador Richard Holbrooke.

His contributions in the fight against our common cause problems will become even more notable because he is in the process of being nominated by President Clinton to be the Assistant Secretary of State for European Affairs.

It is fitting for us to begin our series of talks with European nations by coming here to Germany.

Last year, President Hans Zachert kindly invited me to Germany shortly after I became Director of the FBI. We had very productive discussions, and I also met then with Interior Minister Kanther and Parliamentary State Secretary Lintner.

Discussions and briefings I received from the BKA gave me valuable insights into German law enforcement's experience with organized crime groups from both Italy and Eastern Europe.

I want to stress at the beginning that I have not embarked upon this journey to criticize European nations because they have crime problems or to pretend the United States has none.

To the contrary, the United States faces enormous crime problems. Organized crime has been a national plague since the 1920's. Consumption of illicit drugs occurs on a scale that is an international scandal. The number of violent crimes is the shame of the civilized world.

We have come here for the best of reasons. We want to learn from the countries of Europe.

We want to share with Europe the bitter lessons we have learned in the United States.

We want to offer all possible assistance in working with the countries of Europe in developing new joint programs against crime problems that harm all of us now and may cause untold suffering in the future.

Our concerns focus on three major problems:

First, the possibility that nuclear weapons or nuclear materials may be stolen in parts of the former Soviet Union and wind up in the hands of terrorists or rouge nations;

Second, the growth and spread of organized crime in Russia and other parts of Eastern Europe—organized crime that can inflict vast suffering and even erode the stability of governments;

Third, a resurgence of hate crimes that are a threat to decent people everywhere.

The police in the United States, Europe, and other parts of the world are facing new and difficult challenges—and the problems may well grow even worse in the years ahead.

Traditionally, each nation has policed its own problems, with relatively few cooperative programs of any magnitude crossing borders.

What we might term trans-national policing really did not exist until some 10 years ago.

It began far behind the success of international crime. Law enforcement in much of the world is still behind.

Among other things, we must clearly recognize the dangers that international crimes poses to all nations and take steps to repel it and eventually defeat it.

The struggle will not be easy.

Thirty years ago, it was considered a significant event when a few kilograms of heroin were smuggled into a country.

Today, crime syndicates can rapidly set up whole new drug distribution structures in different parts of the world before the criminal justice system even detects them.

The police forces of the civilized nations, those nations seeking to live under the rule of law, must develop a new sense of purpose.

There must be new levels of cooperation among nations, and law enforcement must become more international in scale if we are to cope with unprecedented crime at unprecedented levels.

Change. That is the key word on which police departments of every nation must focus.

Policing is vastly different today than it was in the 1970's. It will be far different, too, in the soon-to-arrive 21st century.

Police in the United States have had close relations for some time with England, Italy, Germany, and Canada.

But there must be an expansion of international policy cooperation—not just a few nations, but the world community of law-abiding nations joined together against the common enemy of crime.

Nations may have differences in ideology or politics or economics. But as we are seeing clearly now, criminals do not recognize borders except to manipulate them. Criminals do not look at any system of laws or ideology except to exploit them.

In the United States, when we talk about police officers, we usually use the word "cop." What we need world-wide are cop-to-cop relationships that transcend borders and narrow interests, cop-to-cop relationships that focus on protecting the law-abiding people of all nations. Equally important are the relationships of prosecutors and other criminal justice professionals. It must be a team effort.

The priority must be on detection, investigation, and apprehension—in short, on solid investigative work based on nation-to-nation cooperation.

Priorities for such cooperation include efforts against drug trafficking, organized crime, murder, extortion, a range of other violent crimes, and theft of agents of mass destruction—whether they be stolen nuclear weapons or stolen chemical or biological weapons or their highly dangerous components.

No matter what differences nations may have in ideology or politics, there is a fundamental need to build these cop-to-cop programs. Criminals will do anything to achieve their own ends and care nothing about the politics of the people they destroy.

Professional law enforcement officials of every law-abiding nation urgently need the legal framework and tools to transform the concept of international law enforcement from a catch-word into a reality.

No one needs to give up their national autonomy. I am speaking here of cooperation.

To give one example, what if a police officer or prosecutor in nation A discovers a plot by a gang in his country to kidnap or murder a child who is a resident of nation B? The official in nation A is going to call a counterpart in nation B and save the life of the intended murder victim.

This has nothing to do with ideology or politics.

It has everything to do with what every truly professional police officer and criminal justice official in any country recognizes as his basic responsibility: The rule of law and the protection of the innocent and law-abiding.

Let me explain what I mean by a professional police or criminal justice official. He, or she, is free of corruption. Is fair. Is more dedicated to gather evidence and arresting felons and protecting people than anything else.

These officials dedicate themselves to fight crime. No matter what other differences may exist, policemen and criminal justice officials of all nations have a common enemy—and the common enemy is crime.

Law enforcement professionals have recognized this for a long time.

It's time for everyone else to do the same.

Criminal organizations are growing and spreading. Crime groups are branching out and going into partnership with other crime groups on an unprecedented scale. Crime groups develop working relationships, deals, cartels, joint ventures, mergers—anything that will help them make money, kill their opponents, neutralize the police, and in effect begin to destroy governments.

Organized crime groups are working to supplant governments—and any government that ignores that fact does so at its own peril.

Organized crime cares nothing about the improvement of life for the people. Organized crime groups do not care if their efforts lower the standard of living, enslave vast numbers to drugs, reduce the amount of food available to whole populations, stifle education, or threaten human health through large-scale poisoning of the environment.

To combat all of these threats, law enforcement professionals in all countries must develop new levels of cooperation.

I view the law enforcement professional as someone who is effective, honest, aboveboard, open, and dedicated to the well-being of the public.

At the opposite end of the scale is the secret-policeman—who cares nothing for the rule of law, the sanctity of human life, or the true rights of the people.

Law enforcement professionals cannot function properly unless they are respected by the people they are sworn to protect.

History teaches us that no police force has ever been successful for very long unless it has the support of the people. In a totalitarian nation, the secret police may think they are succeeding because the people fear them, and in the short run such secret police may be successful in some things.

But in the long run, secret police defeat themselves because they receive no respect, no real support, and they find themselves largely unable to obtain the truth or reliable witnesses or compelling evidence. In fact, in a very short time secret police, like dictatorships, so warp reality that they would not recognize the truth if it fell on them.

An inscription in the courtyard of the FBI in Washington, D.C., captures something of the needed philosophy. It says: "The Most Effective Weapon Against Crime is Cooperation . . . The Efforts of All Law Enforcement Agencies With The Support and Understanding of the American People."

In the past, the FBI did not always live up to that important message. But we are determined now to cooperate with other law enforcement agencies and other nations, and to work always for the enhanced safety and betterment of people.

Nations that value freedom are faced with exceptionally difficult crime problems. Some observers have even suggested that the forces of decency will not win. But I believe the opposite—that the rule of law will prevail. History shows that freedom is now the prevailing tide.

Fifty years ago, Western Europe was in ruins following World War II but its people were determined. With their own hard work, and a helping hand from others, the nations of Western Europe were able to rebuild. And as an integral part of that rebuilding, they retained democratic systems.

In showing what free people could accomplish under the most difficult circumstances, an example was set for all to see. It was a subtle but crucial factor in the eventual fall of communism in Eastern Europe.

Where communism once existed, we see now the emergence of democratic nations and the far-reaching impulse for freedom. However, democracy cannot exist without hard work. Democracy must be nurtured and protected.

In that complex process of democracy, law enforcement must play a crucial role.

I firmly believe that what is needed today is a new approach, a new dimension in cooperation by nations against the worst kinds of lawlessness. I think of it as an international alliance against crime.

It would be an unprecedented program: The nations of Europe and the United States would do everything within their power to assist each other, 24 hours a day, against the very worst crimes.

Where large-scale crime problems now exist, we would all summon the needed expertise information, and cooperation to jointly fight to solve them. Where new crime problems are erupting, we would all join together quickly to defeat them before they assume massive proportions.

One important focus of these efforts for a new international alliance against crime must be on the nations that have emerged from the breakup of the old Soviet Union and on the newly-freed nations once in the category of iron curtain countries.

This new international alliance also must develop greater law enforcement ties with all of the countries of Western Europe—nations that also face growing crime problems, especially drug use.

In the United States, critics said decades ago that we were doing law enforcement on the cheap. The ghastly toll of violent crime and drug use that followed show clearly the folly of doing far too little much too late.

We are making strong efforts to repel crime but the problems are grave. For example, in 1992, the last year for which figures are available, there were nearly two million violent crimes reported to police in the United States.

That dread total includes 23,700 murders, 109,000 forcible rapes, 672,000 robberies, and 1.1 million aggravated assaults.

Now you may see more clearly why I emphasize that I am not criticizing the countries of Europe for having crime problems. The United States has crime problems that sometimes seem beyond belief.

In the final analysis, each nation must develop its own remedies and help fashion its own salvation. But there is much that all of the liberty-loving nations can do to help each other.

The United States must help set an example by tough enforcement: for example, the nation's high level of drug consumption helps to fuel the increases in organized crime power in much of the world. That simply will not do. We must sharply and permanently reduce trafficking and drug use.

As a step that can be taken now, the United States must use its expertise to help other nations to improve their crime-fighting and crime-reduction capabilities.

This is the way a new international alliance against crime could deliver the most immediate benefits. We will provide the best of our technical assistance to other nations. They will provide their best technical assistance to us.

In doing so, we can all aid immeasurbly in the priority task of building new democratic institutions that will prevail even in the worst storms.

Despite the magnitude of its own crime problems, the United States has developed police techniques that could be of great value to many nations.

Here are a few examples:

New investigative techniques to fight violent crime.

New techniques to solve complex money-laundering and financial crimes.

Development of intelligence systems needed to fight organized crime successfully.

Systems to prevent and discover police or government corruption.

New forensic techniques.

The great crime-solving ability of DNA tests.

And the knowledge of how to set up large-scale, automated finger-print systems.

The United States also can make even more significant contributions in the future in our on-going programs to train at our Federal law enforcement academies the policemen and other criminal justice personnel from a number of European countries.

In doing those things, we can help in the fight against a common enemy—organized crime that is growing in parts of Eastern Europe and spreading into Western Europe and the United States.

Why do we place a priority on cooperation against crime?

The perils are great. We don't want organized crime from Russia and Eurasia gaining a powerful position in the United States. Neither do we want to see such organized crime ruining nations in Europe. We have had a tragic experience with organized crime in our country—watching it become an almost indelible part of our society. We don't need more such problems—and neither do the countries of Europe.

The Eastern European nations must also help themselves. They must have a resolve to fight crime that cannot be thwarted. They also must make adequate resources available to their own police departments.

We need to do as much as possible to make certain there is adequate training, equipment, laws, and democratic systems in those nations where police departments have been rising out of the ruins of former governments whose rule was based on terror.

There are clear differences between the two systems. The old systems were based on repression, on an absence of human rights. The new systems are based on freedom and respect for the rights of all and the protection of the public.

The old secret-police systems were like something out of a Kafka novel, and we hope they are gone forever. Wishing will not make it so. But hard work on the part of all of those who love liberty will make it possible for democracy and the rule of law to flourish.

Even with the cold war over, we know that a need continues to maintain our national security.

At the same time, it may be possible for all of the former cold war adversaries to divert to priority law enforcement and crime reduction projects a fraction of their cold war budgets.

For example, I know that in the United States we have another national need as great as national security—and that is the urgent and growing priority to more effectively protect our domestic security and our people from the ravages of crime.

A fraction of the funds from their cold war budgets also would be money well spent by other governments in protecting their people against crime and in making certain that new democratic institutions thrive.

It also might be possible for nations to devote to anti-crime programs some of the personnel and some of the technology that formerly were used in the cold war.

There are the best of reasons for all of us joining together in these efforts.

The common enemy of crime has grown to terrible dimensions. Unchecked, it might some day even rival the atrocities of old ideologies now abandoned.

If we need an example of how bad crime might get, we have only to summon the example of a nuclear weapon falling into the hands of terrorists or a terrorist nation.

If that should happen, virtually any nation on Earth could be the target of that nuclear weapon, or of the next one that might be stolen. Even a terrorist nation might come to realize that it could in turn be the target of another group of terrorists.

We must ask ourselves who these nuclear terrorists might be. They might be a terrorist country. Or they might be revolutionaries. Or they might be people driven by racial or religious or political hatreds.

We must ask ourselves what the potential targets of these terrorists might be. There would be many potential targets. Every government has its enemies. Where might the first terrorist nuclear weapon be detonated? We only need look at the map of the world. The dreaded nuclear blast might occur anywhere—in your city or mine.

The key factor in defeating crime and terrorism is cooperation by all of the world's nations.

We know that decency and democracy and the rule of law eventually can prevail, even after the greatest of tragedies. And for an example we have to look no further than the great city where we meet today.

Berlin and Germany rose from the ashes of Nazi rule in World War II. East Germany and East Berlin survived the long twilight of communism. Now, for the first time in its history, Germany is united, free and democratic. What a great honor to be welcomed in this historic city which will soon be your capital again.

Vast resources were used in Berlin during the cold war. Thousands of police guarded the wall—on both sides. It was policeman against policeman. Let me raise one possibility for the types of actions we all might pursue.

All of the countries of Europe could use some of those cold war resources against crime. They could join together to fight all of the catastrophic crime problems—drugs, violence, corruption, terrorism. And the United States and other nations will join you in the effort.

If we do not form our international alliance against crime to meet these problems head-on, international criminal groups will succeed. Once entrenched, they are difficult to defeat.

As we begin this historic law enforcement trip to bring our friendship and assistance to eleven countries, we look forward to providing practical cop-to-cop assistance and support to our new partners. The only requirement for this commitment is that we all remain dedicated to the democratic rule of law and renounce the practice of secret and repressive policing.

I am not suggesting that the nations of Europe are the only ones with crime problems, past or present, or that some European nations are alone in denial of human rights.

In the nuclear area, for example, there have been stories for years that nuclear materials have been stolen in the United States. And the United States simply has to do a better job in making sure no thefts occur in the future.

In another area of serious concern, Europe has had its share of "ISMS" that have led to terrible injustices. Today, the neo-nazis or skinheads or other groups cause serious concern.

But the problem is not Germany's alone.

In the United States, there also have been grave injustices. For example, some police in our South failed for decades to protect blacks and others. The Ku Klux Klan and other groups committed grave crimes and intimidated law-abiding citizens, often without being bothered by police.

All of that changed, of course, when Congress began to pass civil rights laws and the FBI finally began tough enforcement programs against those who terrorized blacks, Jews, catholics, and others in the South.

Even now, hate crimes are a serious problem in the United States. The FBI has started a program to gather statistics on hate crimes. The latest figures, just being released, show that more than 7,600 hate crime incidents were reported to police in the United States in 1993.

The thing that all of us must do is to learn all of the lessons of the past and then apply them in developing the best possible law enforcement systems.

Police must be dedicated to the protection of the people. They must be honest. They must be free of any kind of corruption or taint. They must believe in the rule of law, and they must be willing to stand in the bright light of public scrutiny.

People who are newly free are like people who have a long history of freedom: they do not want to give up liberty and democracy. They do not want to go back to the bad old days.

But free people are demanding. They want to be safe to enjoy the blessings of democracy. They are not willing to exchange political slavery for the slavery of drugs or of a dictatorship of fear imposed by organized criminals.

Where there is no rule of law, there is only chaos. Out of chaos can come only dictatorship. Out of dictatorship can come only terror, fear, suffering, death.

The choices are very clear. We can let the forces of darkness win by default. Or we can create police and law enforcement systems that protect the people, defeat the criminal gangs, and ensure the benefits of freedom.

We have no time to waste. The enemy has already broken through the gate. The life-and-death problems are upon us.

TRIBUTE TO MARY ALLEN JOLLEY

Mr. HEFLIN. Mr. President, Mary Allen Jolley, director of economic and community affairs for the University of Alabama, is retiring after more than 30 years of devoted service to her State and the Nation. She has a lengthy list of outstanding accomplishments, especially in the field of education, the cause to which she has devoted much of her life.

I know that some here recall Mary's days on Capitol Hill, where she worked for Representative Carl Elliott as administrative assistant as well as chief clerk of the Subcommittee on Special Education and the Committee on Education and Labor. From 1961 to 1963, she was the assistant staff director for President Kennedy's panel of consultants on vocational education, which formulated the basis for the Vocational Education Amendments of 1963. As associate executive director for governmental relations, she linked the American Vocational Association to the Federal agencies and the Congress and coordinated national education groups with interests in vocational education. In Washington, she also served as director of public affairs for the American Home Economics Association from 1973 to 1976, acting as liaison between the association and its legislative interests. Her record speaks volumes as a testament to Mary's competence, expertise, and vast knowledge of the workings of Government.

Until 1985, Mary held the position of vice president for development at the Trident Technical College in Charleston, SC. Some of her special projects at this 2-year community institution included planning and funding programs assisting women in entering nontraditional careers and a center for adult retraining. Mary's work for community development in South Carolina earned her several honors, including a Tribute to Women Award from the YWCA of Greater Charleston and a United Way of America award for service to the Greater Charleston community. The Governor of South Carolina officially thanked her for her work in that State by granting her the Order of the Palmetto in 1985.

At the University of Alabama, where Mary earned her degree years earlier, she functioned as liaison between the university and State and local opportunities for growth and development. While working in Tuscaloosa, she also served as a consultant to volunteer boards in the area and as a member of the President's Advisory Council for Minority Affairs. Relentless in her quest for community development, Mary took her work to Montgomery as acting director of the Governor's Office of Alabama Children and Families, where she created the innovative concept of listening sessions for community discussion and education.

No award or honor can begin to adequately capture the essence of Mary Jolley's lifelong service to the State of Alabama and the Nation. She is an extraordinary woman who has excelled in several different fields. I join her many friends and colleagues in saying a very

loud thanks for a job well done. I extend my very best to her for a happy and healthy retirement.

TO CREATE A COMMISSION ON THE ROLES AND CAPABILITIES OF THE U.S. INTELLIGENCE COMMUNITY

Mr. DECONCINI. Mr. President, I join with Senators WARNER and GRAHAM to introduce a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community.

I give Senator WARNER, the distinguished vice chairman of the Select Committee on Intelligence, and Senator GRAHAM, who has made an extremely valuable contribution as a member of the Committee, the lion's share of the credit for this initiative. They have for some time now believed such an effort is needed.

I have come to agree with them. Indeed, it had been my hope that the executive branch itself might have initiated such a review, but this has not happened, and, on reflection, I believe this bill represents a better way to go. A review conducted entirely within the executive branch would simply lack the requisite credibility.

Mr. President, there have been significant changes in the intelligence community since the end of the cold war. There have been personnel reductions and reallocations of resources carried out by individual agencies.

But what we are thus far lacking and what is, in my opinion, sorely needed, is an overall revalidation of the roles and capabilities of the intelligence community in the post-cold war world. We need to have an objective, hard-headed look at the fundamentals: at what we expect intelligence agencies to do, at what levels they should be resourced, at what capabilities they must retain for the future. Everything should be on the table.

I do not think this can be achieved by the executive branch looking at itself, nor do I think the congressional oversight committees have the capability to do what is needed.

What we are proposing today is a bipartisan commission with 11 members. Seven would come from the private sector and be appointed by the President. Four would come from the Congress: two from the Senate and two from the House. The President would designate a chairman from among the private members. The Commission would be empowered to hire its own staff and not have to rely on staff from the intelligence agencies.

The end result of its work would be a report to the President and the Congress. To the extent possible, the report would be unclassified and made available to the public. There would necessarily be a classified supplement which would could not be made public but which would be provided the President and the intelligence committees.

We think the Commission should be given sufficient time to do its job. These are difficult issues and should not be assessed in a rush. The bill provides that the final report of the Commission be submitted by December 31, 1996, in time for the new administration—Democrat or Republican—to act upon its recommendations. Given the time which will be required for the appointment and security processing of the members of the Commission, we think this will allow a year and half up to 2 years for the Commission to do its substantive work. We believe it will take this amount of time.

Mr. President, in my tenure on the Intelligence Committee and in particular during these last 2 years when I have served as chairman, it has become increasingly clear to me that the political consensus that we once had for this function has eroded and continues to erode. We need a new consensus. We need a new rationale—a revalidation of the approach we have been taking by a group of objective, hard-headed people, with no ax to grind and no stake in the outcome. This is what we contemplate in this Commission.

I am convinced it will serve the interests of both the executive and legislative branches, and urge my colleagues to support it.

TRIBUTE TO TERESA RICH

Mr. PRESSLER. Mr. President, I would like to take a few moments to honor one of my constituents for her outstanding efforts in the field of elementary education. Teresa Rich, a combination first- and second-grade teacher at Wilson Elementary School in Rapid City, SD, has been named Outstanding Teacher for 1994 by the US West Foundation.

This honor is a reflection of Teresa's dedication and devotion to the education profession. For over 16 years she has shaped the lives and minds of students in the Rapid City School District. Her creative and innovative teaching methods have had a positive impact on hundreds of tomorrow's leaders.

South Dakota's students consistently rank high when compared with other States on national tests like the SAT, ACT, and others. South Dakota teachers do a first-rate job of educating our young people, usually with limited budgetary resources. I always have believed that education represents one of the wisest possible investments we can make for our future well-being. Teachers like Teresa Rich are a key ingredient in any successful education system.

Teresa's spirit of helping others has been acknowledged by this prestigious award. It is not only an honor for her, but for Wilson Elementary School and the entire Rapid City School District. I congratulate her and request the attached article dated June 6, 1994, from the Rapid City Journal be inserted in the RECORD.

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

[From the Rapid City Journal, June 6, 1994]

WILSON TEACHER NAMED OUTSTANDING

Teresa Rich, a combination first- and second-grade teacher at Wilson Elementary School, was named South Dakota Outstanding Teacher for 1994 by the US West Foundation.

"Mrs. Rich strives to maintain the highest standards, looks after the smallest detail, and goes the extra mile to provide her students with the challenging and rewarding educational environment," wrote state Sen. Michael Deidrich, R-Rapid City, who nominated Rich for the award.

Rich believes in bringing learning to life through hands-on activities, such as building a 10-foot-by-15-foot house in the classroom while studying weights and measures.

Building the house was part of a whole unit based on the story of the Gingerbread Man, and is an example of how she develops teaching units, incorporating math, science and social studies elements around a central theme, according to a news release from US West.

The students bake gingerbread cookies and, after they "ran away," the class tracked them on a map. Following the adventures of the gingerbread cookies, the students learned about their community, their state and different countries.

Rich has been a teacher with the Rapid City School District for 16 years, the last four at Wilson Elementary. She will receive a $15,000 cash award to fund a thematic teaching proposal.

Rich says the award is an honor for herself, Wilson Elementary School and the entire Rapid City School District.

The award was part of the US West Foundation's "Reaching Beyond Classroom Walls" program, designed to recognize and reward teachers who stretch students' imaginations by going beyond in-class instruction.

MICHAEL MILKEN'S FIGHT AGAINST PROSTATE CANCER

Mr. HATFIELD. Mr. President, as we continue to debate the issues relating to health care reform, I would like to take a moment to insert in the RECORD an article from the June 5 issue of the New York Times Magazine regarding Michael Milken's current fight against prostate cancer. While I do not know Mr. Milken, I was struck, after reading this article, by his choice of turning his personal misfortune into a public service crusade.

Mr. Milken was once a Wall Street wizard who ultimately pled guilty to a variety of securities-law violations. He was diagnosed with prostate cancer on the very day he was released from prision, after serving 22 months. Within 2 months, of his diagnosis, he founded CapCURE, a prostate cancer research foundation dedicated to finding a cure for this disease through the promotion and support of medical research.

Michael Milken's courageous battle with prostate cancer reminds us that

disease is indiscriminate. Disease is not a problem of the old or the poor, but a tragedy that could strike any one of us at any time. This prospect becomes all the more frightening when we are confronted with a disease that has no cure, but no disease must remain incurable.

CapCURE focuses on research for the cure to prostate cancer, because it is only through research that we can improve the prognosis of those with deadly diseases. With all that medical research can do for us, we must do more for medical research. In order to improve the level of health care we can provide, as well as to ultimately reduce costs, research must be a vital component of any package which is billed as comprehensive health care reform. I am pleased to inform my colleagues that a proposal advanced by my colleague Senator HARKIN and myself is gaining momentum and has now been attached, in various forms, to the major moving health care reform vehicles in the Senate.

Our call for a National Fund for Health Research has been endorsed by well over 250 advocacy groups and a bipartisan group of cosponsors. Together, this informal coalition agrees that only through enhanced research can our health care system improve in the areas of prevention and cost efficiency, a fact which I ask my colleagues to keep in mind throughout the health care debate.

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

[From the New York Times, June 5, 1994]

FIGHTING A HOSTILE TAKEOVER: MICHAEL MILKEN

(By Tom Teicholz)

On March 2, 1993, Michael Milken was supposed to become a free man.

Once the most powerful player on Wall Street, Milken, whose innovative use of high-yield securities—junk bonds—raised billions for companies like MCI and Turner Broadcasting, has just been released from a Hollywood halfway house, after serving 22 months in prison for securities-law violations. He had pleaded guilty to only 6 felony counts (he had been indicted on 98), none having to do with insider trading or racketeering. Nevertheless, when it was revealed that he earned $550 million in a single year, his image had been cast: he was blamed for all the country's economic woes—layoffs, the failure of the S&L's, the national debt. In the end, he paid more than $1 billion in fines and settlements and was banned from the securities industry for life. When his imprisonment ended, seven years after the investigation into his dealings began, it looked as if Milken had survived the worst.

But on the very day he was released, Milken, then 46, learned he had prostate cancer, a disease estimated to have afflicted 165,000 American men last year, resulting in 35,000 deaths. Though Milken looks fit and has no symptoms, the cancer has spread to his lymph nodes, and when that happens there is no consistently effective treatment.

For a man used to controlling his fate, Milken was devastated by the diagnosis. Still, true to his nature, he refused to let it defeat him. He became determined to mastermind (and finance) a cure. In a matter of days after the diagnosis, he had contacted physicians all over the country. Within weeks he had met with leading researchers, and within two months he had created a foundation, Cap Cure (The Association for the Cure of Cancer of the Prostate), to which the Milken family's foundation has pledged $5 million for each of the next five years. (The foundation has already financed 30 programs at 24 academic centers) All this while performing court-ordered full-time community service, trying to spend more time with his family, writing his memoirs and receiving treatments for a disease that could kill him within a year.

For this interview, we met several times over the last few months at the offices of Cap Cure and the Milken family foundation in Santa Monica, Calif., and at his home in the San Fernando Valley. Milken was by turns personable and maddening: it was hard not to admire him for what he hopes to accomplish, yet his unapologetic view of his past bordered on the naïve, as if he could not understand why the world fails to see him as he sees himself.

Q: In early 1993, shortly after you were released from prison in Northern California to a Hollywood halfway house, your own internist gave you a complete physical and told you that you were fine. He also checked your prostate and found no cause for concern. But while you were in prison, several friends, including Steve Ross, found out they had prostrate cancer, so you insisted on taking a P.S.A.—prostate-specific antigen—blood test. What happened next?

A: On the day that I was officially released from the halfway house, I received a call from that same doctor who told me that all my blood tests had come back perfect. But the very last thing he said was: "Except you have this elevated P.S.A." Around 22.

Q: Which is very elevated.

A: Right. Within hours, I got a little paperback that says if you have a P.S.A. over 20, the odds that you have prostate cancer are over 90 percent. I immediately started calling close friends who had dealt with prostate cancer. After talking to everyone, I identified Dr. Stuart Holden, here in L.A. at Cedars-Sinai Medical Center, as one of the leading urologists in the country. I had a blood test in his office, and the results were confirmed.

I was a little depressed, but I think a conscious effort that I made, and this might be a link to the previous seven years—it is a link—is that I wanted to do something different. When the investigation began in 1986, I knew I wasn't involved in insider trading, and I didn't take the charges seriously. So this time I decided to take a very aggressive approach.

Q: What did you do?

A: I discovered they were having a conference of prostate cancer scientists in Houston. I wanted to attend and see for myself what was going on. I had to get permission to travel out of the state, because I'm on probation.

Q: And what did you learn at this conference?

A: The very first slide I saw was this epidemiology study that showed that Alameda County, Calif., has the highest incidence of prostate cancer of any place in the United States.

Q: Alameda County being next to the location of the prison camp where you were incarcerated. Are you saying your prostate cancer was caused by being in prison?

A: It might not have helped me. It has also made me wonder whether a study should be conducted of all the men who have been housed there. My guess is not too many of them are getting P.S.A. exams. But I'm going to try to undertake a study of that issue.

Q: What happened next at the conference?

A: A few slides later, I saw the curves on life expectancy. And I'm in the one-to-two-year life-expectancy chart. I then had to take a break.

Q: Did you wonder, why you? Why now?

A: Well, the story of Job comes to mind. Job was always saying: "Why me?" But I had that for seven years.

Q: Did you feel as if you were being punished?

A: Well, it's easy to find things in that story that I could identify with. I've had a lot of challenges. And I forget the quote—it may be Martin Luther King. It really stuck with me that the measure of a man is not how far he's traveled, but how high are the hills he's had to climb. So essentially I view prostate cancer as, I just got another mountain.

Q: After returning from the conference you met with many of the nation's most prominent prostate cancer doctors and scientists. What did you learn from them?

A: How little money is being spent on prostate cancer and why something takes a decade to accomplish that I believe should take a year. For me 15 seconds was a long time. I had to make decisions—yes, no, buy, sell—based on everything I ever knew. But in medicine, last year for the first time in 15 years they introduced a new drug for epilepsy—15 years! I can't wait 15 years for a prostate cancer cure. If people are dying every 15 minutes, forget me. Essentially Cap Cure was born from that trip.

Q: What course of treatment did you decide upon?

A: I went on hormones and over several weeks, my P.S.A went from 24 to 0. At the same time I began my Eastern medicine. I began a friendship with Deepak Chopra [the author of "Ageless Body, Timeless Mind"], and today we are very close.

Q: And you decided to do visualization and meditation?

A: I began his meditation process. Then I arranged to go back to Lancaster Maharishi Ayur-Veda Health Center [a facility in Massachusetts where Deepak Chopra was medical director]. I went there with my wife, Lore, and Michael Jackson, who was very concerned about my health. After I returned home I had a doctor from Colorado who was very into Ayurveda Indian herbal medicine come live with me for the next three of four weeks. It involved meditating in the morning and exercising in the evening. I tried to change the way I ate. I have plastered up in my kitchen the proverb that says it's better to eat a stone sitting down that a banana standing up. I rented a house at the beach. I did substantially change my life style for six months between March and September?

Q: What changed in September:

A: Well, first my P.S.A. had come down. My lymph nodes had shrunk by 90 percent, and my prostate had shrunk dramatically. So I had responded as well as anyone to this hormonal treatment, far better than anticipated. But tests showed I still had prostate cancer cells.

I started radiation in November. It's very dehumanizing. In order to hold you in the proper postion during radiation they have to create molds of you. I've got my tushy mold at home. At the hospital sometimes I would

be lying face down in an uncomfortable position for an hour and a half. I would then actually meditate on the radiation table.

Q: How is Cap Cure going about finding a cure for prostate cancer?

A: Say I'm going to build a factory and have it operational in two years, what do I have to do? What takes the longest? What approvals do I need? I've been focusing on the development of the cure in the same way. The difference between a professional soccer team and young kids is that all the kids run to the ball instead of staying in their positions. We want people in gene therapy to work in gene therapy; people in immunology, there; people in chemotherapy, there.

Q: Let's talk about your career in finance if we could, and some of what happened to you as a consequence of it. One thing no one will argue about is that although you didn't invent junk bonds, your use of them did create revolution on Wall Street. What do you see as your lasting achievement?

A: What I accomplished was to change the flow of capital to those people that had ability rather than those people who were born with money or worked for large companies. My ability was to see the relationships of different parts of society and to try to figure out where value lies and how to finance it.

Q: In the last year have you gained any new understanding of who you were 10 years ago?

A: I knew who I was 10 years ago and I know who I am now. Consistently, I've always felt the best investor was the social scientist. I was focused on letting people feel they had a chance to participate. And I think I was very successful in doing that. My other feeling was that many of the ills of society will never be taken care of effectively unless people have a job.

Q: Those are noble sentiments. But many of your clients—Ronald Perelman, Saul Steinberg, Asher Edelman, to name but a few—were raiders. Their business—and yours—was hostile takeovers.

A: You used the word "raiders." What is a raider? Nelson Peltz was defined as a raider. Why? He made a higher offer. If you wanted to go buy a painting at an auction tomorrow and my assistant Katie was willing to make a higher offer, does that make her a raider? G.E. has just made an offer for the Kemper Corporation. Are they raiders?

Q: But there is a social cost to those decisions—jobs were lost, pensions too. So how can you talk about creating jobs?

A: You're talking about things that are totally false.

Q: Well, then correct me.

A: You're talking about millions of jobs that were created in the last two decades. All the net jobs created by quote, "junk" companies. Raiders didn't eliminate jobs in America. What cost jobs were the companies that didn't improve their businesses.

Q: You feel you've been unjustly portrayed. But what should we say about Michael Milken? Do we say that he was someone who worked at Drexel Burnham Lambert and provided financing for companies? Do we say that he's someone who—

A: Who went to prison camp?

Q: Who pleaded guilty?

A: My view is that you have to take a longer view. Let history be the judge.

Q: Why did you decide to plead guilty? Your wife, your friends even your brother advised against it.

A: That's probably too broad a statement. We had a vote in the family and it wasn't 100 percent. The question was, "How do you get this behind you?" There were so many misconceptions that I felt I had to find a way to end the situation. Today I feel that was the correct decision.

Q: As part of your plea bargain, the prosecutors wanted you to make certain admissions of guilt. You told the court that "certain of our transactions [with arbitrageur Ivan Boesky] involved reciprocal accommodations, some of which violated the law." What does that mean?

A: I engaged in what one would consider a normal business contact, that no one thought was criminal. Since then many firms have signed consent decrees for similar activities, many of them involving far more dollars and more securities. And those consent decrees did not bar anyone from the industry as a penalty. There were no fines. No companies were put out of business.

Q: But are you saying that these were not crimes?

A: I've never said that. I said they were wrong. But I don't think anyone knew.

Q: Let me read you a quote from Robert Sobel's book "Dangerous Dreamers": "What Milken's defenders and critics alike have ignored is that crucial element of motivation. What prompted him to take the chances he did? Why would a person of such talents, imagination and wealth assume such risks?" And then he quotes from "Howards End": "Why do people who have enough money try to get more money?"

A: Money had nothing to do with my motivation. I think the issue is passion. Do you have a passion for something? And as I see it, wealth is really a byproduct of creating something of value.

Q: That brings us to the $550 million question. Why should anyone make that much money in one year, as you did in the mid-80's?

A: We received a percentage of the profits. In 1986, the profits of my department approached $2 billion. The percentage we received was about two-thirds of what you would have received at other Wall Street firms. Compensation is a byproduct of investing your money.

Q: Why didn't you take your case seriously?

A: I knew I had not been involved in insider trading. If Ivan Boesky was involved in insider trading, it wasn't with me. I knew I paid my taxes. I even paid my maid's Social Security—not doing so is against the law—but I haven't seen too many people prosecuted for that.

Q: What about prison? Were you terrified? Was entering prison your lowest point?

A: I don't consider it my lowest point at all. Was it frightening? No. I viewed it as, "How are you going to get this thing behind you?" Taking out the trash isn't demeaning. Scrubbing the floor isn't demeaning. Making a caricature of me and my ideas and beliefs, that's pretty demeaning. The worst part was the separation from family and from the feeling that I could do something constructive.

Q: You were banned from the securities industry for life. Do you miss being in your business?

A: Not at all. By 1986 I was really focused on foreign countries, their debt, real estate. I was very involved in education. I was moving away from being involved in day-to-day trading.

Q: Do people still call to ask you for favors?

A: It occurred in prison constantly. When I talked to people on the phone, they'd all be asking me for favors. You know, Mike, I'm sorry about what happened to you—but could you get me in this hotel? Or I have this problem, could you give me your advice? Or could you help my daughter or son get a job? That has never stopped, even today.

Q: You are uniquely positioned to comment on health care—as a patient, as a financier, as someone hoping to finance a cure for prostate cancer. What should the Administration do about health care costs?

A: The 10 largest pharmaceutical companies have lost collectively $60 billion in market value in the last year and a half. People are cutting research and freezing hiring, and the potential for breakthrough research is being limited. But I believe research is the best way to reduce health care costs. In other words, if you could eliminate 10,000 surgeries a year at $8,000 a surgery, that's $80 million. If you don't invest in research you're going to have an escalation of health care costs, not a decrease.

Q: I keep trying to find ways that your recent experience has changed you. Clearly, not wearing the toupee is a sign that you're a different person.

A: I didn't view it as a cover-up before, and I don't view it as an uncovering today. It became a way of personally attacking me. But being a patient means giving up enormous personal control, dignity, privacy.

Q: What happens to you now?

A: I'm at a crossroads. In the two hours that we're talking today, eight men will die of prostate cancer in the United States. Every day, your body produces cancer cells. In the normal person your immune system is effectively dealing with them. So why would a body produce cancer cells that your immune system does not deal with? I remember I gave a talk in the temple when I was 13 or 14, and my theory was that God was within you. There is this inner strength you focus to get your immune system going. My point is that I've got to help myself. Today I'm living with cancer rather than dying of cancer.

Q: Although people often characterize you as the embodiment of the 80's, you sound very much like a personification of the 60's: you want to change the world. At the same time, you also have the naïveté associated with the 60's.

A: That's the romanticism of growing up in California. The romanticism that what is right will, in the end, turn out to be true; that you can solve any problem and that if you have cancer, it's not a death sentence.

Q: Even if everything you publish doesn't change people's perceptions, for whatever reasons, can you live with people forever calling Mike Milken the junk-bond king?

A: I believe the truth comes out. Someday, they're going to invent a time machine and be able to go back and look at the trading desk and see what Mike was actually doing, and what he wasn't doing. But my first goal is to make sure I have a natural course of life.

Q: And if you only have a year left?

A: I can't even contemplate that. No matter what happens, I'm just not going to lie down and not put up a fight. Everything else will take care of itself.

WHITEWATER

Mr. DOLE. Mr. President, although I have not had an opportunity to review independent counsel Robert Fiske's interim report, I do want to commend him for his apparent diligence in completing the first phase of his investigation.

Of course, there are some who would misuse Mr. Fiske's report to suggest that congressional hearings are no longer necessary. The bottom line, however, is that Congress and Mr. Fiske have different responsibilities: Mr. Fiske's job is criminal investigation. Congress' job is full public disclosure.

Even Mr. Fiske admits that the rules on grand jury secrecy prevent him from publicly disclosing anything more than the results of his investigation into the White House-RTC-Treasury meetings. So, absent a congressional hearing, the American people will remain in the dark about what actually went on behind the scenes at the White House. And while Mr. Fiske finds insufficient evidence of criminal wrongdoing, he expresses no opinion as to whether the meetings violated any ethical rules or standards. That is what congressional hearings should determine.

As the New York Times pointed out today, in an editorial entitled "Not Criminal, Just Reprehensible":

* * * an action does not have to rise to the level of criminality to be labeled stupid, irresponsible and improper behavior by government officials. That is the only way to describe the three meetings at the heart of Mr. Fiske's inquiry.

Mr. President, the American people deserve a full airing of the entire Whitewater affair. Notwithstanding what Mr. Fiske may or may not conclude, Republicans will continue to insist that Congress fulfill its own oversight responsibilities.

Mr. President, I ask unanimous consent that the New York Times editorial be inserted in the RECORD immediately after my remarks.

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

[From the New York Times, July 1, 1994]

NOT CRIMINAL, JUST REPREHENSIBLE

The "Washington" phase of the special prosecutor's Whitewater inquiry is nearly finished. Questions about the behavior of the former White House counsel, Bernard Nussbaum, remain unanswered. And the truly important part—the "Arkansas" phase—is still to come.

Even so, senior officials at the Treasury Department and White House can breathe easier now that Robert Fiske has concluded that they did not act "with the intent to corruptly influence" a Federal investigation into whether funds deposited in Madison Guaranty Savings and Loan were diverted to President Clinton's 1984 gubernatorial campaign and the Whitewater Development Company.

Mr. Fiske asserts that these officials did not criminally obstruct justice as defined in Section 1505 of the U.S. Code. But an action does not have to rise to the level of criminality to be labeled stupid, irresponsible and improper behavior by government officials. That is the only way to describe the three meetings at the heart of Mr. Fiske's inquiry.

On Sept. 29 and Oct. 14, 1993, Jean Hanson, Treasury's General Counsel, briefed White House officials on the Resolution Trust Corporation's investigation into Madison, which had resulted in criminal referrals naming the Clintons as possible beneficiaries of illegal activities at the Arkansas savings and loan. Then, last Feb. 2, Roger Altman, Deputy Treasury Secretary, gave White House aides a "heads up" on the same investigation.

Lloyd Cutler, brought in by Mr. Clinton to stir through the ethical wreckage at the White House, said he was "pleased" by Mr. Fiske's conclusion—although he did have the minimal grace to concede that "some of these contacts may have been inadvisable." That description is inadequate to the point of silliness. What was going on was that Mr. Nussbaum, Mr. Altman and Ms. Hanson, along with White House aides like George Stephanopoulos and Harold Ickes, were meddling in the Cabinet departments to try to control inquiries into the President's finances. Though their behavior has now been judged legal, the fact remains that the Administration from its first days has shown a reckless tendency to put the President's desire for a question-free existence ahead of the independence of law enforcement and regulatory officials.

The clumsy handling of the late Vincent Foster's records in a case in point. On that count, Mr. Nussbaum is not out of the woods yet. Mr. Fiske will report soon on Mr. Nussbaum's dispersal of Whitewater files left behind by Mr. Foster, the deputy White House counsel whose death Mr. Fiske has now ruled a suicide.

Nor are the Clintons out of the woods. With the Washington inquiries virtually over, Mr. Fiske turns now to the task that will determine his credibility as a special prosecutor. That involves Madison Guaranty, Whitewater and all those not-so-long-ago dealings of an ambitious political couple and the interesting friends who were so eager to do them financial favors.

ISSUANCE OF POSTAL STAMP HONORING RAOUL WALLENBERG

Mr. PELL. Mr. President, I rise to register my support for the issuance of a commemorative postal stamp in honor of Raoul Wallenberg.

Wallenberg's heroic efforts to save the lives of Jews during the Holocaust are now legendary. He saved the lives of 100,000 Hungarian Jews, earmarked to face almost certain extermination in the Nazi death camps, by issuing them fabricated passports and identification papers.

Wallenberg was a Swedish citizen of Lutheran faith, but his courageous life-saving actions transcend all divisions of creed and nationality. In recognition of his heroism, Wallenberg was made an honorary citizen of the United States in 1981, by an act of Congress which I am proud to have originated. Winston Churchill is the only other person in history to be made an honorary American citizen.

It is especially appropriate to include Wallenberg's name on the 1995 list of postal stamp honorees because 1995 marks the 50th anniversary of his tragic and mysterious disappearance. In 1945, Wallenberg was arrested by the occupying Russian Army in Budapest, Hungary, and he has not been seen or heard from since.

I am pleased to join the Members of Congress, Governors, religious and civil rights leaders, and countless ordinary Americans who are crusading to have Raoul Wallenberg's name included on the 1995 list of postal stamp honorees. It is an altogether fitting way to keep alive the memory of this valiant humanitarian.

I call on the Citizen's Stamp Advisory Committee and the Postmaster General to heed our calls for action and place the name of Raoul Wallenberg on the 1995 commemorative stamp list.

TAX POLICIES THAT DISCOURAGE RISK-TAKING

Mr. LUGAR. Mr. President, I rise today to share with my colleagues in the Senate a letter I recently received from a small business owner from Buck Creek, IN.

Small businesses have been the primary engine of job growth over the last decade. Yet despite the importance of small businesses to our economy, the Federal Government has adopted tax policies that discourage risk-taking by Americans who create jobs through their capital, their ideas, and their entrepreneurial energy.

During the last year I have frequently spoken about the heavy tax burden that small business owners are asked to endure and the negative effects of the 1993 Clinton tax plan on small business job formation. Yet the most convincing testimony on these matters has come from small business owners who are striving to provide good jobs for their employees and a good living for their families. Beth Muehlhausen, the owner of Baker's Peak in West Lafayette, IN, is one such person. I ask that this letter be inserted in the RECORD.

DEAR SENATOR LUGAR: This is a letter of inquiry. I am at an impasse, and seek your council.

As a mother of four children, I have sought to provide them with an environment in their formative years conducive to the building of strong character. The future will need adults who are decisive, confident, caring, honest and moral. This commitment to the family required that I prioritize the childrens' needs by being a full-time Mom. Contrary to popular belief, I hold to old-fashioned ideals that say a mother is best equipped to train and raise her children. Only tentatively did I enter the workforce on a part-time basis when my last child entered kindergarten in 1987.

My husband and I have supported Christian education for our children during their elementary and junior high years at Lafayette Christian School, a private, parent-owned, non-denominational Christian school. The high level of academic success and personal spiritual and ethical development of our four very unique children has proven the commitment to the school extremely successful—though it has not been without sacrifice and severe financial burden.

As in every family, the years bring change and readjustments—and when our oldest entered college in 1991, I looked for more regular employment to help defray expenses. My

husband's conscientious commitment as a Purdue professor, finally with tenure and a Ph.D., provided us with a reasonable level of security at that point. However, we were still struggling to avoid debt, and had the most expensive years of child-rearing still ahead. My college training had been in the field of education also. I graduated from Purdue with a degree in secondary English education in 1971—but never used my degree, as my decision to "stay home" was strong. Going back to update educationally after so many years would be time consuming and costly, I knew. So, I took a job with "Baker's Peak"—a small custom bakery, deli, and caterer, utilizing my cake decorating and food preparation skills developed in the years at home in my own kitchen.

A year and a half ago the shop went up for sale. With the help of an inheritance left me following my father's death in 1992, I was able to purchase the store. It continues to be a "scratch" shop; we create almost any baked good or food item in any quantity. Although the business has far outgrown the building we occupy, we continue to produce at a breakneck pace. Obviously the public is tired of prepared and fast food options and appreciates our product. We have established a wonderful reputation. Owning and managing the business has proven rewarding; we influence lots of lives in a positive manner. The stress level is acute in proportion; I work long and hard for my profits. My health has suffered. I've felt encouraged as the recent months went by, however, because I felt that at least I was going to be able to make a significant difference for my family, as well as for my eight hard-working part-time employees, who make excellent wages—between $6 and $9 an hour.

Recently I reviewed our family's financial status, and projected needs for the coming months. Next fall we will be supporting one child in Christian school, two in college, and one in public high school. The usual car payments, house payments, and insurance-of-teenage-driver payments will be there. I felt confident we could handle the challenges without going into debt as we had in years past.

Last week, tax-time rendered a terrific blow. After consulting with a professional "tax man", our worst fears were confirmed. I would pay income tax totaling 45% of my net earnings. I reeled from the news; it seemed the unemployment tax, payroll tax on my employees' generous salaries, and sales tax had already supported the government to a great extent. I was not prepared for more than a 28 to 30%-or-so-rate.

I saw a bumper sticker recently that said, "THE SMALL BUSINESS—AMERICA'S LATEST ENDANGERED SPECIES". Along with the death of the small business comes the death of an American ideal—hard work, quality control, and personal accountability to the customer. Too bad! And any more governmental intrusion—in the form of health-care, or governmental intrusion—in the form of health-care, or whatever—will effectively kill businesses like mine, and financially destroy their owners and owners' families. How sad. Devotion to honesty and sweat of the brow are no longer rewarded. Or even applauded. Instead, I feel penalized. Or, worse yet, victimized. The most difficult issue to face—and accept—is that I am working to the limit of my ability and strength in every possible way in order to be a responsible citizen and provide the best that I can for my family, my employees, and the community at large. However, much of my effort is going to support welfare, not for the truly needy, but for those who have come to expect a "free ride"—abortion clinics where irresponsible and immoral behavior is accepted and condoned—or other governmental agencies in which I have little confidence.

And so I face a frustrating and formidable problem. Ethically, I will not cheat on taxes. Also, I will not be quick to diminish the amount of business that we do, thus destroying jobs and disappointing the expectations of the public. My only choice is to keep on keeping on working and working and working—for what? This is truly an agonizing situation.

The system is killing me. Have I any recourse?

I eagerly anticipate your response.

Sincerely,

BETH MUEHLHAUSEN.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let's have a little pop quiz: How many million would you say are in a trillion. And when you figure that out, just consider that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business on Thursday, June 30, the Federal debt stood—down to the penny—at $4,645,801,898,177.58. This means that every man, women and child in America owes $17,819.74, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion?—there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

SEIJI OZAWA CONCERT HALL INAUGURATED IN TANGLEWOOD

Mr. KENNEDY. Mr. President, each summer a spectacular migration occurs in Massachusetts, as music lovers follow the beloved Boston Symphony Orchestra to the Berkshires in the beautiful western part of our State for the music festival at Tanglewood. The symphony takes up residency in the Berkshires for 9 weeks of superb music in that magnificent mountain setting.

The creative arts are a major industry in western Massachusetts, with outstanding organizations such as the Williamstown Theater Festival, Jacob's Pillow, Clark Art Institute, Shakespeare & Co., and many others.

Tanglewood is named for "Tanglewood Tales," a collection of stories for children adapted from Greek mythology by Nathaniel Hawthorne and written at a nearby cottage in 1853. The yearly festival now adds $50 million to the economy of the Berkshires each year. The fans keep coming. In its first season in 1937, the audiences numbered 30,000. In 1993, more than 10 times that number—a record 350,000—attended the musical performances. The youngest, under 12, come for free.

Tanglewood is both a music festival and a training program, especially for young musicians who have a unique opportunity to study with some of the most talented artists of our time. Many of the Nation's best known singers, musicians, and composers also come to perform, to study, to learn, and to be a part of the unique atmosphere. At Tanglewood in the summer, the hills are literally alive with the sound of music.

Conductors who are alumni of the Tanglewood Music Center include Leonard Bernstein, Lorin Maazel, Zubin Mehta, and the current BSO conductor, Seiji Ozawa.

For half a century, the Tanglewood Music Center has offered intensive training in music, including the Fellowship Program, the Conducting Class, and the Phyllis Curtin Seminar. More recently, a cooperative program with Boston University's School for the Arts has been available for high school musicians. An additional program, "Days in the Arts," or "DARTS," offers 400 Massachusetts fifth and sixth graders from across the State an opportunity to experience the arts. Also, the Tanglewood Teachers Institute of the Boston Music Education Collaborative trains classroom and music teachers in the Boston public schools.

This year is especially notable, because on July 7 the symphony will inaugurate its new concert hall, an 1,180-seat facility on the grounds of Tanglewood. The hall, designed by William Rawn Associates of Boston, will provide a new home for solo and chamber performances. It will be named in honor of Seiji Ozawa, the symphony's outstanding music director. The hall is an especially appropriate tribute. Maestro Ozawa came to the United States in 1960 to study music in Lenox, MA. Tanglewood was so renowned that Ozawa, as one of the most talented young musicians in the world, traveled here from Japan to study music with the masters.

Fortunately for the Boston Symphony, Seiji Ozawa has been a fixture ever since at Tanglewood, and he has been music director for the symphony since 1974. Our symphony is one of the finest in the Nation as a result of his leadership and commitment.

All of us in Massachusetts are delighted that this new concert hall will bear his name. It is a fitting monument to Maestro Ozawa, and a well-deserved recognition of the enduring promise of the Tanglewood Music Center.

It is an honor to take this opportunity to congratulate Seiji Ozawa, all the members of the Boston Symphony Orchestra, and the countless people from Massachusetts and throughout the Nation who have made this magnificent concert hall the latest chapter in the brilliant musical legacy of Tanglewood.

I urge my colleagues in Congress to visit the Berkshires this summer.

They'll find that the beauty of the setting and the quality of the music are unparalleled in the world.

HONORING THE MEMORY OF MORRIS SIEGEL

Mr. DODD. Mr. President, on Thursday, June 2, 1994, Morris Siegel died at the age of 78, and the city of Washington lost its premiere sportswriter and one of its most colorful and lovable personalities.

Morrie Siegel covered sports for this town for almost half a century. He did it in a manner and a style reminiscent of the legendary sportswriters of the past.

But as his friends Ben Bradlee, former editor-in-chief of the Washington Post, and Shirley Povich, dean of Washington's sportswriters and the man who gave Morrie his first job here at the Post in 1946, have said, Morrie was more than just a sportswriter: he was a real newspaperman. No one worked harder to get the story, and no one took greater delight in scooping the competition. His sources were vast, varied, and impeccable. His writing had the wit and color of Runyon; the clarity and simplicity of Hemingway.

Like the legends of his field, he did not just work the sidelines and the locker rooms in search of a story. He worked the trains and planes, the hotel lobbies and coffee shops, the restaurants and bars here in Washington and around the country. It was in those restaurants and bars—often after-hours joints—that Morrie found and wrote some of his best and most colorful stories. And it was in those same places that the legend of Mo Siegel was born and grew to gargantuan proportions.

At his table on any given night, and often into the wee hours of the morning, could be found politicians, lawyers and judges, sports heroes and writers, celebrities and movie stars, bookies and gamblers. There they would sit, hour upon hour in rapt attention as Mo convulsed them with stories of "the famous people who know me." His gift for storytelling was epic. Name a famous or an infamous character from the present or past and Mo could recount in uproarious detail times they had spent together.

No one had a quicker wit. Once at a Washington Senators game, to which he had been invited by a group of sportswriters, Earl Warren, after thanking his hosts for their company and hospitality, added that if there was anything he could do for them in return, they should not hesitate to call. Without missing a beat, Mo whipped out a parking ticket he had received, shoved it into Warren's hand and asked the Chief Justice of the U.S. Supreme Court to get it fixed for him.

One of Morrie's son Michael's favorite one-liners of his father's happened one night when Morrie arrived late to a dinner at which he was the master of ceremonies. It was just at the end of the Persian Gulf war and the crowd was getting restless and a bit surly because of the delay. Undaunted, Morrie bounded up to the microphone and quickly won them over by explaining, "I would have been here on time but my cabdriver kept trying to surrender to me."

That and more was the public Mo Siegel—a marvelous writer, a gifted raconteur, a true newspaperman. That and more was the private Morrie Siegel. It's true that he could be a bit cantankerous at times, but he was always a joy to be with. You could not have a better friend. He was loyal and loving. Your problems were his concerns, and your happiness was his delight. If you did something for him, he could not find enough ways to express his thanks. To those of us in public life who have become forced to be guarded and suspicious of the media, even when we are relaxing with the press, Morrie was a rare gem. He was completely trustworthy—a value that is not too common around this town.

The true loves of his life were his children, Leah and Michael, and his former wife, Myra MacPherson, who continued to be his best friend, even after their divorce. How he continually marveled at Myra's talent as a writer and mother. How he trumpeted Leah's career and recent marriage.

How proud he was of Michael's work in government and politics. It was their love for their friend and father that gave Morrie the strength to fight the cancer that ravaged him these past 6 years, and it was their love that allowed him to continue to file his stories and regale his friends up to the moment he died with Leah holding his hand.

On the Monday following his death, his family, friends and colleagues filled to overflowing the Washington Hebrew Congregation for a final tribute to Morrie. Speaker after speaker recalled tales by Siegel and tales of Siegel. For two solid hours the room rocked with laughter—not usually the case in such a place at such a time. But it was the only fitting way to remember Morrie and the utter joy he brought to those he touched and loved.

The next morning in the Post, Tony Kornheiser ended his moving and magnificent farewell to Morrie by writing:

> Isn't laughter wonderful?
> Father John Myslinski, who had the task of following Russell (political humorist Mark Russell) quoted a religious philosopher who wrote, "Joy is the ineffable sign of the presence of God."
> And if that is true, God was in the house yesterday, laughing with the rest of us who loved Mo Siegel.

Michael closed the celebration by saying to all how proud he and Leah are to be the kids of Morris Siegel. Mr. President, I am equally proud to have been his friend.

TRIBUTE TO LT. GEN. WILLIAM M. KEYS, U.S. MARINE CORPS

Mr. NUNN. Mr. President, I want to congratulate Lt. Gen. William M. Keys, USMC, the Commander of U.S. Marine Corps Forces, Atlantic, on the occasion of his upcoming retirement from the Marine Corps.

The thrust of his 34 distinguished years of military service can be summed up in an old Marine saying, "Marines live by deeds and not by days." He has been chosen to and excelled at every level of command available to the Marine infantryman, and he has held positions of significant responsibility in which the prestige of the United States and the reputation of the Marine Corps were clearly borne on his shoulders in times of crisis. The choices he has made in his career clearly denote an individual who does not shrink from difficult and dangerous assignments but who actually thrives on them, especially those that offer the challenge of leading marines in combat. He has not only been repeatedly recognized for personal valor on the battlefield with the Nation's second highest award, but also for a cool-headed leadership style that has become his hallmark throughout the corps. He has also earned the nickname of "Bulldog Keys" for his leadership ability.

Whether commanding a Marine rifle company in the Republic of Vietnam in 1966 or leading the illustrious 2d Marine Division in liberation of Kuwait City in 1991, Lt. Gen. Keys could always be found at the front of his troops, where he dominated the situation through his imposing moral, intellectual, and physical presence. In those times of uncertainty, strain, and exhaustion, his marines could find solace and strength in his forceful, confident manner and selfless example.

Mr. President, Lieutenant General Keys has continued to lead from the front in his most recent assignment of great responsibility where he commanded one-half of the Marine Corps' operating forces. Responding with great flexibility and innovation to the innumerable changes resulting from the post-cold-war world, Lieutenant General Keys has enhanced the Marine Corps ability to operate jointly with its sister services and with our Allies in future conflicts and crises. The effect on his ideas and initiatives will be of long-lasting impact and importance to the Marine Corps of the future.

Mr. President, I ask our colleagues to join me in congratulating General Keys as he ends his distinguished career of devoted service to our country. As a proud son of Pennsylvania, he is a man of immense talent, energy, and patriotism who no doubt will continue to serve the public good for many years to come in whatever endeavor he decides to enter. I know all of us thank him for his dedication, professionalism, and selfless service to the United States of

America and to the men and women of our Marine Corps.

I ask unanimous consent that his official biography be printed in the RECORD at this point.

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

LIEUTENANT GENERAL WILLIAM M. KEYS, USMC

Lieutenant General William M. Keys is the Commander, U.S. Marine Corps Forces, Atlantic; Commanding General, Fleet Marine Force, Atlantic; Commanding General, II Marine Expeditionary Force; Commander, Marine Striking Force, Atlantic; Commander, U.S. Marine Corps Forces, South (Designate); and the Commanding General, Fleet Marine Force, Europe (Designate). He was advanced to this present grade and assumed his duties on June 25, 1991.

A native of Fredericktown, PA., General Keys was commissioned a second lieutenant in the U.S. Marine Corps upon his graduation from the U.S. Naval Academy with a B.S. degree in June 1960. His professional military education includes The Basic School, Amphibious Warfare School and the Command and Staff College, all at Quantico, VA. General Keys is also a graduate of the National War College in Washington, D.C., and holds an M.S. degree from American University, and an honorary Ph.D. in Public Service from Washington and Jefferson College.

Designated an infantry officer, General Keys has served at every level of operational command: initially as a platoon leader with 3d Battalion, 2d Marine Regiment; as a company commander with the 1st Battalion, 9th Marine Regiment in Vietnam; as Commanding Officer, 3d Battalion, 5th Marine Regiment; as Regimental Commander of the 6th Marines; and as Commanding General, 2d Marine Division during Desert Storm combat operations in Southwest Asia. There he led the Division in its successful assault across the Kuwaiti border, breaching Iraqi barriers and minefields, and into Kuwait City. He also served an early tour with the Marine Detachment aboard USS Long Beach, and a second tour in Vietnam as an advisor to the Vietnamese Marine Corps.

He has held the following principal staff assignments: Infantry Officers' Monitor, Personnel Management Division, Headquarters Marine Corps; Marine Corps Liaison Officer to the U.S. Senate; Special Projects Directorate in the Office of the Commandant; Aide de Camp to the Assistant Commandant of the Marine Corps; Deputy Director, and subsequently Director, Personnel Management Division, Manpower and Reserve Affairs Department, HQMC; and the Deputy, Joint Secretariat, Joint Chiefs of Staff, Washington, D.C.

General Keys' decorations and medals include: the Navy Cross; Distinguished Service Medal; Silver Star Medal; Legion of Merit with Combat "V"; Bronze Star with Combat "V"; Defense Meritorious Service Medal; Combat Action Ribbon; Presidential Unit Citation; Navy Unit Commendation; Meritorious Unit Commendation; National Defense Service Medal; Vietnam Service Medal with four bronze stars; Republic of Vietnam Cross of Gallantry with Palm and Silver Star; Republic of Vietnam Armed Forces Honor Medal (First Class); Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Color); Republic of Vietnam Meritorious Unit Citation (Civil Actions Color); and the Republic of Vietnam Campaign Medal.

MAJ. GEN. PAUL E. STEIN, DIRECTOR, LEGISLATIVE LIAISON

Mr. NUNN. Mr. President, on behalf of the members and staff of the Armed Services Committee, I want to take this opportunity to personally thank Maj. Gen. Paul E. Stein for his distinguished service to our committee and the U.S. Senate as director, Air Force legislative liaison. General Stein will be promoted to the rank of lieutenant general today and will become the next Superintendent of the U.S. Air Force Academy. He testified before the committee on his nomination and demonstrated a solid grasp of the issues and the challenges ahead in this new position.

For the past 2 years, General Stein's thorough understanding and detailed knowledge of all aspects of Air Force operations and the intricacies involved in the legislative process have provided positive results for both the Armed Services Committee and the Air Force. General Stein is known for his high integrity and strong leadership, all of which allowed him to coordinate and supervise highly successful legislative liaison action. During his tenure, the Air Force liaison team provided timely, accurate, and high quality information on Air Force issues and programs to congressional offices.

We all have been extremely fortunate to have General Stein as our legislative link to the Secretary and Chief of Staff of the Air Force. He has been an outstanding Air Force ambassador on Capitol Hill and has served with distinction. General Stein has earned our grateful appreciation for a job well done.

Mr. President, I know my colleagues on the Armed Services Committee and in the Senate join me in thanking General Stein for his service to the Senate and to the Nation. We congratulate General Stein on his promotion and his new position. We extend our best wishes to him and his family for continued success.

WATCHING AND WAITING: THE CONFIRMATION OF DAVID BIRENBAUM AS U.S. REPRESENTATIVE FOR U.N. MANAGEMENT AND REFORM

Mr. PRESSLER. Mr. President, last Friday, June 24, 1994, the nomination of Mr. David Birenbaum to be U.S. Representative for United Nations Management and Reform was confirmed by the Senate. I want everyone to know that action did not have my consent. In fact, it was only through Cloakroom staff error that the nomination was cleared. It was not cleared by me, my staff, nor by other Senators who have supported me in this matter. I do not blame anyone specifically. Errors do occur from time to time. Everyone should realize, however, that Mr. Birenbaum has become the U.S. Representative because of the situation I have just described.

Before clearing this nomination, Senator HELMS and I had a few more questions for Mr. Birenbaum. In fact, a letter incorporating those few questions was ready for signature when the Senate acted last Friday. In view of the circumstances in which this nomination was cleared for consideration erroneously, I intend to submit the additional questions to Mr. Birenbaum and have called upon him to respond. I trust he will do so.

Since "60 Minutes" aired a segment on U.N. mismanagement last September, this issue has gained momentum in Congress. U.N. management and peacekeeping reform are necessary to ensure that the United Nations functions more efficiently and effectively. Consequently, it is imperative that the newly confirmed U.S. Representative for U.N. Management and Reform not only be highly qualified, but also management-oriented.

I have become concerned about David Birenbaum's prior activities as a consultant to the U.S. U.N. Mission. In his capacity as a consultant to Ambassador Albright since 1993, Mr. Birenbaum has advised the U.S. Mission regarding the creation of a permanent, U.N.-sponsored criminal court. A staunch opponent of the establishment of a permanent international criminal court, I have been concerned about the details of Mr. Birenbaum's consultancy and his willingness to make U.N. management and reform his top priority.

Mr. President, I would think that David Birenbaum would have discussed his consultancy during this April 21, 1994, Senate confirmation hearing. While he mentioned on his formal Senate Foreign Relations Committee application that he served as a consultant to the U.S. Mission, he did not discuss his specific activities with regard to the creation of an international criminal court. I am curious why Mr. Birenbaum did not explain his consultancy in his testimony, as it would have demonstrated past involvement with the United Nations. I would think Mr. Birenbaum would have viewed his consultancy as an indication of his familiarity with the United Nations and its operations. Yet, he still chose not to raise this issue in his testimony before the committee.

As a result, along with our colleague from North Carolina, Senator HELMS, I sent a letter to Mr. Birenbaum with a request for specific information about his activities as a consultant to the U.S. Mission. Additionally, Senator HELMS and I sent a letter to Secretary of State Warren Christopher regarding the State Department's official description of the responsibilities involved in the post of U.S. Representative for U.N. Management and Reform. Both the response from Mr. Birenbaum and the response on behalf of the State

Department offered only pat answers. According to the letter from Wendy Sherman, Assistant Secretary for Legislative Affairs at the State Department, in answer to our questions about Mr. Birenbaum's potential involvement with the establishment of an international criminal court:

Responsibility within the State Department for U.S. policy towards an International Criminal Court (ICC) rests with the Office of the Legal Adviser (L) in Washington. USUN's own legal adviser works closely with L and reports directly to Ambassador Albright. Ambassador Albright's counsel in her Washington office also participates in matters related to the ICC. We cannot rule out the possibility that one or another of these offices may ask Mr. Birenbaum to comment on an ICC-related issue.

This is hardly an official State Department assurance that David Birenbaum will not be devoting his time to issues relating to the court. It is more of an acknowledgement that David Birenbaum very well may be given the opportunity to work on the court's creation.

Mr. President, I ask unanimous consent to place the letter to David Birenbaum, his response, and the letter to Secretary Christopher and his response in the RECORD at the end of my remarks.

Recently, I have reviewed an unclassified copy of the executive summary of President Clinton's Decision Directive on Reforming Multilateral Peace Operations (PDD 25). Thus far, I have seen only the executive summary of PDD 25, as the full text of PDD 25 remains classified. I am pleased, however, that the executive summary notes the administration's support for much needed management reforms in the United Nations.

While the President's acknowledgement of the seriousness of this issue in PDD 25 is an excellent step in addressing the United Nations' rampant management abuses, continued pressure and insistence from the President, Ambassador Albright, and now David Birenbaum, are absolutely necessary to ensure that management reforms are taken seriously by U.N. Secretary-General Boutros Ghali and representatives from other Member States in the General Assembly.

I urge my colleagues to continue supporting for tough U.N. management reforms and to keep a watchful eye on the efforts of the U.S. Representative for U.N. Management and Reform. If the United Nations is to be an effective international body, U.S. support and funding are necessary. However, if the United Nations fails to reform and continues to mismanage peacekeeping operations, the United States cannot remain silent. We must not continue down the same wasteful spending paths that are notoriously synonymous with the United Nations.

I am the sort of Senator who—if David Birenbaum performs well in the job—will not begrudge him and will praise his reform efforts. In fact, I have just sent a letter of praise to someone in a Federal agency whose nomination I originally opposed. I wish David Birenbaum success as our newest reform leader at the United Nations.

Mr. President, I ask unanimous consent to place excerpts from Mr. Birenbaum's April 21, 1994, confirmation hearing in the RECORD at this time.

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

EXCERPTS FROM THE U.S. SENATE FOREIGN RELATIONS COMMITTEE HEARING ON THE NOMINATION OF DAVID BIRENBAUM TO BE REPRESENTATIVE OF THE U.S. TO THE UNITED NATIONS FOR MANAGEMENT AND REFORM, APRIL 21, 1994

Senator PRESSLER. Do you think he [Boutros Boutros-Ghali] has proceeded in the direction of reform since he has come?

Mr. BIRENBAUM. I am trying to answer that question. I said I think in some ways he has and in other ways he has not. He has, by initially supporting and then establishing the Office of Inspection and Investigation which I thought was a positive step, not a complete step, not a perfect step. It requires further action, and we are committed to accomplishing that action, but nonetheless it is a positive step toward the direction of reform.

He also reformed the Secretariat. I think he cut some 16 positions initially, high level positions. There has been, I believe, some backsliding since then. There are two high level . . .

Senator PRESSLER. What has become of those 16 positions you mentioned?

Mr. BIRENBAUM. I do not know.

Senator PRESSLER. Where did those people go?

Mr. BIRENBAUM. I do not know the answer to that question. I know the positions were cut. There was a reorganization of the Secretariat.

Senator PRESSLER. But the people are still in the U.N.?

Mr. BIRENBAUM. I do not know what has happened to them.

Senator PRESSLER. Would you find out what has happened to them?

Mr. BIRENBAUM. Yes

Senator PRESSLER. They did not leave?

Mr. BIRENBAUM. I do not know the status of those individuals.

Senator PRESSLER. But you brought it up.

Mr. BIRENBAUM. They do not hold the position that they had previously, which was one of the objectives that he sought to accomplish. In addition . . .

Senator PRESSLER. Since you raise that point, I think you will find that those 16 people were reshuffled, that they are collecting as much money as ever.

Mr. BIRENBAUM. Well, that may be . . .

Senator PRESSLER. Then why would that be a reform?

Mr. BIRENBAUM. Well, if by reform we mean to make more effective the management of the Secretariat, the fact that those individuals are still present in the United Nations. . . .

Senator PRESSLER. But they are still in the Secretariat.

Mr. BIRENBAUM. That does not necessarily mean, it seems to me, that the restructuring, which has as its objective to make the management system more effective, is not for real. There have been any number of studies which, so far as I can tell, are quite well-funded, that recommend that fewer people report to the Secretary General than had been the case.

Senator PRESSLER. These are not reform.

Mr. BIRENBAUM. If I may complete my response, please.

Senator PRESSLER. Yes, but I just want to get the specific reforms you are citing. He has reassigned 16 people within the same Secretariat.

Mr. BIRENBAUM. I do not know whether they are in the Secretariat. It is a very large institution. But what I am saying here is that there were a very considerable number of people who were reporting to the Secretary General, and indeed there were a number of studies that I have seen that criticized this on the basis that the Secretary General cannot possibly effectively manage if he has so many people reporting to him. Also, there were overlapping responsibilities, and so coordination was a major problem and a major headache. Now, I think one of the reforms that he instituted initially was in the direction of regularizing these reporting relationships and reconfiguring the Secretariat so that now there are, as I understand it, six departments as distinguished from whatever the number was before, certainly much greater than that.

Now, is this complete reform? Is this sufficient? Is this the end of the story? Of course not, but I think it represented a positive step that he took when he first became Secretary General.

Do I think this suggests that he is a great reformer and we do not have to push him and that everything is going to be fine? I do not. I think there is a great deal that we need to do. We need to push him very hard, and if I am conformed in this position, it would be my objective to do exactly that.

Senator PRESSLER. But in all honesty, if you will look at that reasoning of 16 people and the reshuffling, if you consider that reform, we have a serious disagreement.

Mr. BIRENBAUM. Well, one has to define terms. Reform is, of course, not a self-defining term. I do know, and indeed there is one study that I would refer you to, because it was chaired by Senator Kassebaum and Chairman Hamilton, and it was sponsored by the Stimson Center—it examined some of these issues particularly with respect to peacekeeping.

One of the points that was made, and I thought it was a valid point, is that any Secretary General who is going to be an effective administrator on reform, and certainly who wants to accomplish that objective and certainly is going to be able to run the business better, ought to have fewer people reporting to him, and that it is important to consolidate functions so as to avoid a lot of overlapping, confused and decentralized decision making, which leads to many problems at the United Nations. I think the initial reform that he undertook was aimed in that direction. Does that mean staff cutbacks, getting rid of people, etc? That is a different objective, and I do not know that it does mean that. I do not know that these people were relieved of the position that they previously held are no longer with the United Nations. If you have knowledge that they are still there, I do not challenge that.

Senator PRESSLER. What have Boutros-Ghali's views been with regard to the Office of the Inspector General position?

Mr. BIRENBAUM. Well, as you know, he supported the position of the Office of Inspections and Investigations, and I believe that, I do not know what his position will be on

our proposal for a General Assembly resolution to provide now a legal basis and statutory basis, if you will, for the Office of an Independent Inspector General. I do not know what his position is on that.

Senator PRESSLER. Well, he has expressed strong opposition to it publicly.

Mr. BIRENBAUM. I am not aware of this opposition publicly to the establishment of the Office of Inspector General.

Senator PRESSLER. Would you check on his statements on that and put them in the record?

Mr. BIRENBAUM. Yes.

Senator PRESSLER. Since the President said that we must say no to peacekeeping operations how many operations have been established or renewed since the President's statement?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. How many operations have been abolished or countries denied peacekeeping assistance during the same period of time?

Mr. BIRENBAUM. I do not know that any have been abolished, but I do understand that the United States has successfully resisted peacekeeping proposals which have come before the Security Council or were on the verge of coming before the Security Council.

Senator PRESSLER. To its credit, the administration has initiated efforts to reform planning, management, and budgeting of U.N. peacekeeping operations. What specific proposals have been submitted to the U.N., and which committees?

Mr. BIRENBAUM. I do not know the status of proposals that we have made. I do know that there are a number of management reforms in the area of peacekeeping that we have, that the administration, I am sorry, has conceived. I do not know the status of them, as far as their presentations to committees are concerned.

Senator PRESSLER. Now, last year the Secretary General established an Office of Inspections and Investigations. How does this office compare—or what does this office do, first of all?

Mr. BIRENBAUM. Well, I think as far as the scope of the responsibility is concerned it is similar to the Office of Inspector General that we have in mind. The difference, however, is that we want first of all, and I think most importantly, to have a statutory foundation which underpins the Office of Inspector General. That does not exist now. This Office of Inspections and Investigations was created by act of the Secretary General. What the Secretary General does, of course, he can undo or modify in his discretion, if that is not acceptable.

There are a number of other very important aspects of our proposal for the establishment of an independent Inspector General Office that differentiate that office from the current Office of Inspection and Investigation. In particular there is the issue of the appointment and removal authority. Right now it rests with the Secretary General. Our proposal would require that any appointment or removal decision made by the Secretary General be subject to ratification by vote of two-thirds of the General Assembly, which is very important constraint and one that we are insisting upon in connection with our resolution or will be, I should say, when it is introduced.

We also want to make sure that the budget for the Office of Inspector General is treated separately and not in normal course, which again reinforces the independent status and stature of the Office of Inspector General.

And one other point I would make in this connection, because I think it is also very important, and that is that the Inspector General would have the title of Under Secretary, not Assistant Secretary which is the current rank that the incumbent has within the U.N. system.

Senator PRESSLER. So in other words you consider the Office of Inspections and Investigations as a whitewash, basically, is what you are saying?

Mr. BIRENBAUM. No, I am not saying that, Senator. I am saying I think it is a useful step but it is only that, and that we need to make sure that there is a statutory foundation which supports the independence of the functioning of the Inspector General. That will be terribly important.

Senator PRESSLER. Well, but if it is a useful step, you just have laid out all these things that it cannot do that the Inspector General could do. What can the Office of Inspections and Investigations, what have they done, if it is a useful step?

Mr. BIRENBAUM. Well, he can conduct investigations. He has, I think, power commensurate with the position of an independent Inspector General.

Senator PRESSLER. Have you seen any reports from it?

Mr. BIRENBAUM. I have not seen any reports from it, but then I think it has only been in existence for a fairly short time. But rather than critique what the Secretary General has done which was an act taken on his own authority, he obviously cannot himself enact a resolution of the General Assembly that requires General Assembly. It seems to me to be, now at least for us, terribly important to focus on what it is that we want the General Assembly to do by way of making sure that this is the kind of Office of Inspector General that we want, and then take the actions necessary and appropriate to secure action by the General Assembly in short period of time, and that is I believe the present policy.

Senator PRESSLER. I am just using your words. You said this was a useful step.

Mr. BIRENBAUM. Yes.

Senator PRESSLER. What has resulted?

Mr. BIRENBAUM. Well, I cannot tell you what has resulted except for the establishment of the office and the constitution.

Senator PRESSLER. Then how do you know it is a useful step, then?

Mr. BIRENBAUM. Because it is a useful step to establish an Office of Inspections and Investigations within the United Nations system with powers of investigation and the responsibilities of auditing and monitoring and evaluation this office has.

Senator PRESSLER. Well, how many people are in this office? How many people are in this Office of Inspections and Investigations?

Mr. BIRENBAUM. I do not know the population, although I do know that it combined a number of operations that had existed before then in a fairly uncoordinated way, which is another aspect of the positive step as I have characterized it. But I do not want to get hung up on this because I share your view that what we need at the United Nations is a truly independent Inspector General, basically on the American model. And that is the administration policy.

Senator PRESSLER. Well, yes, I am in agreement there. But according to my information this Office of Inspections and Investigations is not different from the previous internal oversight mechanisms and that it does not have autonomy from the Secretary General and it just has absolutely no power at all and has not done anything.

Mr. BIRENBAUM. I do not know what it has done. But I do know that as a matter of the instruments that constitute it it does have authority and it also has a reporting responsibility. Now, I left that out because it is very important, I think to us, in terms of fashioning the resolution which we would like to present to the General Assembly that it be very clear that the Inspector General report to the General Assembly through the Secretary General and that his report not be altered by the Secretary General that the membership will have undiluted the recommendations and analysis of an independent Inspector General and take whatever action it deems necessary.

Senator PRESSLER. But the present office cannot go directly to the UNGA. The Secretary General has to sign off before it goes to the UNGA, which makes it just an instrument of his office. Is that not true?

Mr. BIRENBAUM. I am not sure.

Senator PRESSLER. The head of the OII cannot issue criticism of the Secretary General's management practices to the UNGA unless he signs off.

Mr. BIRENBAUM. If you will give me a moment, I think I can answer that question. I think that is right, that the OII, the head of the OII, does not report directly but reports to the Secretary General and the Secretary General files a report based on the activities of the OII to the General Assembly. That is one of the changes that we are insisting on. That is one of the responsibilities or powers that we would like to have the Inspector General possess, that is, the power to report to the General Assembly through the Secretary General with no alteration.

Senator PRESSLER. It is my understanding that the State Department is prepared to accept with some modifications that the OII, that is the Office of Inspections and Investigation, meets the requirements of an OIG, that is an Office of Inspector General. There appear to be serious differences between the two concepts in the areas of appointment, reporting, operating authority, staffing and budgeting levels. Under these circumstances, how would the administration defend the OII as meeting the requirements for an OIG outlined by the President in his statement to the United nations General Assembly?

Mr. BIRENBAUM. Well, I do not know. I guess I would not accept the premise of that question, that is, the Department of State or the administration is prepared to accept an OII with minor tinkering. My understanding of the position of the policy of the administration is that it supports enthusiastically and will aggressively seek to have established a truly independent IG, and that it does have reporting and removal responsibilities that I have outlined.

Senator PRESSLER. Now, when he assumed office, Secretary General Boutros Boutros-Ghali announced plans for a sweeping reorganization and a reform of U.N. operations and programs. What progress has been achieved since Boutros-Ghali took office?

Mr. BIRENBAUM. Well, Senator, apart from the discussion that we had a few minutes ago I do not know that I have anything to add.

Senator PRESSLER. And that discussion was that you felt that the Office of OII was a useful step?

Mr. BIRENBAUM. I thought that the establishment of the Office of OII was a useful step and that I thought that the reconfiguration of the secretariat was a useful step. Those are two postiive steps.

Senator PRESSLER. Have either of those resulted in less fraud, theft, or waste, or resulted in a change in the personnel policies?

Mr. BIRENBAUM. I cannot answer that, Senator.

Senator PRESSLER. Could you find out? I mean if it is a useful step we need to know what some of the results have been. Is that a fair question?

Mr. BIRENBAUM. No, I do not think it is a fair question to ask whether it has resulted in the diminution of fraud. How do you measure that? I think as far as fraud, waste, and abuse is concerned, as you pointed out, this is a very serious and real problem. It should not exist and it is intolerable. It is intolerable at any time, and particularly now when governments are strapped for funds and the United Nations responsibilities have become so much more important. That is one reason, not the only reason, but one reason, why the administration is so strongly committed to the establishment of an independent Inspector General function. It will be his responsibility to look into instances of that.

Senator PRESSLER. I very much appreciate that, and they came to that conclusion under very heavy pressure from Congress because a couple of years ago they were very much opposed to it, or a year and a half ago.

Let me ask you this, either here or for the record, if you feel there has been some reform under Boutros Boutros-Ghali? He announced all of these plans, and indeed you can have a reorganization or you can create an office. But is it a fair question to ask you to cite one or two things that have resulted in improvements in the functioning of the U.N.?

Mr. BIRENBAUM. I think certainly it is a fair question, and I am not sure that I can give you a complete catalog, if there is a catalog to be made of the positive results that have ensued as a consequence of reform measures that he supported. The only reform measures that come to my mind are the ones that I have indicated. I can certainly ask for an inventory of other reform measures, if you like, and I can make that available to you. I am not sure one can connect that with particular results. That is very hard. But I can seek to provide you with more information on this point.

Senator PRESSLER. All right. You mentioned that 16 positions were eliminated. At the same time, the Secretary General has created a number of special representative positions, usually at the rank of Under Secretary General. How many special representatives are now funded by the U.N.?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. My question then is what is the function of each of these and their salary level, and if you will submit it for the record you will find that they are at a very high level. Indeed, the bureaucracy has expanded rather than decreased.

Now, did the U.S. approve or support the establishment or funding of each or any one of these additional new high-level conditions?

Mr. BIRENBAUM. I do not know the answer to that.

Senator PRESSLER. Do you consider that part of Boutros-Ghali's reform?

Mr. BIRENBAUM. Well, you are asking me if something happened. I do not know whether it happened or not. And whether the United States Government supported it, I cannot say. And whether that is part of reform is all part of the same package. Frankly, I do not know what has happened in this connection and I cannot say whether it is part of reform, now knowing what these functions are.

Senator PRESSLER. Well, I would not have asked this question except you brought up that he had eliminated 16 high-level positions.

Mr. BIRENBAUM. Yes. But I want to be clear about that, and I think there has been some confusion between us on this issue. I am not touting this as an instance of cost-saving, necessarily. What I was suggesting to you is that it is an indication of a desire to reconfigure the management structure of the Secretariat, and that is an objective, if one has in mind sound management practices, that makes some sense, whether it results in cost-saving or not.

Now, there is a further decision as to what should happen to the people who have been removed from high-level positions that they held previously as a consequence of the management reconfiguration within the Secretariat. I do not know the answer to that. I do not know what happened to these individuals. I do not know whether the jobs that they are doing are jobs that they should be doing. I just cannot answer that.

Senator PRESSLER. Okay. I keep going around in circles here because I am trying to identify these. You have told me that you believe that Boutros-Ghali has made some progress and reforms. You cited the 16 and you said this reconfiguration or whatever it is that he has done is a reform. But yet we see that none of these people left and that we have created a number of special representative positions at the rank of Under Secretary General. And so it has become even more proliferated. Who do these people report to?

Mr. BIRENBAUM. I do not know that that is correct, the premise of your question, that is, that the 16 people who were removed from the position they had previously are now Under Secretary Generals with different reporting responsibility. I do not know whether that is correct or not.

Senator PRESSLER. Well, I understand that they report to him.

Mr. BIRENBAUM. I just do not know.

Senator PRESSLER. So the number of people reporting to Boutros-Ghali has been reduced?

Mr. BIRENBAUM. That is what I have been informed. That is what I have seen or read.

Senator PRESSLER. How many people report directly to him?

Mr. BIRENBAUM. I do not know the answer to that question, but I do know there are six separate departments that were created which reduced immediately the number of department heads reporting to the Secretary General. I do not know exactly how many people report to him now.

Senator PRESSLER. What is the current total number of high level positions at the U.N.?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. What criteria exists to determine if these positions are at the appropriate level or if they are even necessary?

Mr. BIRENBAUM. I do not know the answer to that question.

Senator PRESSLER. So we need criteria?

Mr. BIRENBAUM. Yes. I think one very important responsibility as far as reform is concerned is in the field of personnel, and I believe the mission will be making a proposal in that regard.

There will be proposals and classifications and all of that.

Senator PRESSLER. Does the establishment of a high-level position require General Assembly approval?

Mr. BIRENBAUM. I do not know. I do not know the answer to that.

Senator PRESSLER. Can you find out how many posts receive General Assembly approval prior to their establishment?

Mr. BIRENBAUM. Well, I can inquire about that.

Senator PRESSLER. That should not be hard to figure out.

Mr. BIRENBAUM. It would be. Certainly, there would have to be, it would have to be in the budget, which is approved by the General Assembly. Now, how this process functions, in terms of authorizing positions, I do not know.

Senator PRESSLER. This Secretary General created a whole number of new special representative positions, usually at the rank of Under Secretary General, during this period of time when you feel he was making steps towards reform. Did he have those approved?

Mr. BIRENBAUM. I do not know.

Senator PRESSLER. Would you find out and answer for the record?

Mr. BIRENBAUM. Yes.

Senator PRESSLER. Now, if you are not a member of the ACABQ, nor a member of the other expert bodies associated with United Nations administrative and budgetary issues, and not on the Fifth Committee, what will your role be at the United Nations?

Mr. BIRENBAUM. Well, I concede my role to be multidimensional. One is I will surely have supervisory responsibility with respect to the way in which the United Nations presently functions. And, in that connection, the person whom I will certainly work with. I would expect to work with the person who does sit on the Fifth Committee now. I am not saying that that will not be my responsibility to sit on that Committee or not. I, frankly, at this stage do not know whether that is a function that I would be asked to perform, or whether it would be appropriate. I really cannot answer that question.

Another very important component of the portfolio, which I would hold if confirmed to this position, has to do with reforming the United Nations, meaning on a going forward basis, not just making sure that the rules as they exist now are complied with. That is very important. But I think no less important is helping to conceive of a plan for a thorough going, serious reform of the United Nations in many of its dimensions, in many of its practices.

I would want, with you and the others who are concerned about this in Congress, to help develop a meaningful, substantial and comprehensive reform agenda, and then to work for its acceptance and implementation. Because I think what is, is not good enough.

Senator PRESSLER. Yes. But how do you envisage your job just on a daily basis? I mean, you are not a member of the Advisory Committee on Administrative and Budgetary Questions. You are not a member of the Fifth Committee. You are not a member of any of the other expert bodies associated with the United Nations administrative or budgetary issues. What will you do?

Mr. BIRENBAUM. Well, I do have people who are in all of those capacities reporting to me. And I would expect to make sure. I would expect to supervise them and work with them in the discharge of their responsibilities. In addition to that, as I said, I think there is an enormous amount of work to be done.

Senator PRESSLER. The person who goes to the Fifth Committee will report to you?

Mr. BIRENBAUM. Well, frankly, I do not know whether that person will report to me or not. What I do know is that I will work that person.

Senator PRESSLER. Now, it is my understanding that currently two U.S. United Nations Ambassadors are involved in United Nations reform. Ambassador Inderfurth is responsible for reform of the Security Council

and peacekeeping operations. Ambassador Victor Marrero follows reform in the economic and social areas. If appointed, will responsibility for these issues be transferred to you?

Mr. BIRENBAUM. Well, I think I responded that I really do not know how I will relate to Ambassador Inderfurth and Ambassador Marrero. That will have to be worked out. I have not tried to do that as yet.

Senator PRESSLER. But as one who follows these matters somewhat, here we are confirming, and this is not your decision, somebody in the State Department made this decision. But could you please, for the record submit, would you ask the State Department, but I will ask you. I am trying to get a definition of what your job is going to be compared to Ambassador Inderfurth's and Ambassador Marrero. They have these divisions of responsibility up there, and what is yours going to be, that is what I am trying to get to here.

Mr. BIRENBAUM. I understand that, Senator.

Senator PRESSLER. Is that a fair question, if we are sending an ambassador someplace?

Mr. BIRENBAUM. Of course it is a fair question, but I think one should understand that in the area that we are talking about, namely reform, there is a necessary overlap between somebody whose responsibility is reform oriented rather than subject matter oriented, and the people who are already working and who have responsibility for particular subject matters such as ECOSOC, such as peacekeeping management reform.

Now, I do not want to leave you with the impression, because it would surely not be accurate, that no one has been doing anything by way of pursuing reform pending my arrival there. That surely is not the case. There have been certain steps taken with respect to reforming the ECOSOC operation, which Ambassador Marrero has been responsible for. And, of course, Ambassador Inderfurth has been deeply engaged in reforming the management of peacekeeping operations.

Now, how I will relate when I get there, if I am confirmed, to what they are actually doing now, and have been doing for some period of time, I am not sure that I can answer you. And I am sure, frankly, that that is something one should try to map out with such precision and specificity. I think it would be much better to see whether one cannot work out, which would be my expectation, a collegial and cooperative way of working together on what will be a common objective, namely reform.

Senator PRESSLER. How many ambassadors do we have up at the U.N.?

Mr. BIRENBAUM. I believe in New York there are five.

Senator PRESSLER. We have five. Ed Zorinsky, who passed away, God bless his soul, a Senator from Nebraska, used to always try to get the jobs of some of these ambassadors defined before we sent them, but I find myself struggling. I mean with these other two ambassadors already doing this function, are they going to drop out of that area?

Mr. BIRENBAUM. No, no certainly not.

Senator PRESSLER. So there will be three ambassadors working on reform.

Mr. BIRENBAUM. Well, that depends on how you look at it. One could say that Ambassador Albright herself is a fourth ambassador working on reform because, of course, the chief of mission is responsible for all of our efforts, including reform. What I am saying is that there is an overlap, and it seems to me not to be extraordinary or difficult or terribly confusing. The word reform is not self-defined, it can be all encompassing, it can be limited, and I am not sure that at this point it makes a great deal of sense to try to flesh it out with great specificity right now.

I think it is much better, it is very clear that there is a hard-core set of reform responsibilities that would come to me, that I will be responsible for. There are also a lot of other reform areas which presently are being worked by other people who are there because they fall under their subject matter jurisdiction, if you would like. ECOSOC is an example and so is peacekeeping.

I would expect to work on a cooperative basis with the ambassadors who have primary responsibility in those areas. There is a difference between subject-matter responsibility and, if you like, proceed. Reform is more of a procedural nature.

U.S. SENATE,
Washington, DC, June 13, 1994.

Mr. DAVID BIRENBAUM,
Washington, DC.

DEAR MR. BIRENBAUM: We have reviewed with great concern and security your nomination to be Deputy Permanent Representative to the United Nations for Management and Reform. In doing so, we have been interested in knowing what duties as you performed during your tenure as a "consultant" to U.S. Permanent Representative, Madeleine Albright.

Neither in your formal Foreign Relations Committee forms nor during your confirmation hearing, did you explain what your consultancy to the United Nations involved. A December 14, 1993, White House press release describing your nomination indicated you "served as a public member of the U.S. Delegation to the UN Commission on Human Rights, and as a consultant to the U.S. Mission to the United Nations on the proposal to establish an international criminal court." Not once have you mentioned that you consulted Ambassador Albright on the creation of a permanent, UN-sponsored international criminal court nor have you—to the best of our knowledge—disclosed financial information in conjunction with either your consultancy or your service as a Public Member of the U.S. Delegation to the UN Conference on Human Rights. As opponents of the establishment of a permanent international court, your involvement with this issue is of grave concern to us.

Prior to floor consideration on your nomination, we would appreciate receiving specific answers to questions regarding your position as a consultant to the UN and your interest in the creation of a permanent international criminal court. We would like to obtain detailed responses to the following questions:

What functions did you perform as a consultant to Ambassador Albright? How long did you serve as a consultant? How did you become involved as a consultant to the U.S. Mission? Was this at Ambassador Albright's request? Were you paid for your work as a consultant? Where you paid when you served as a Public Member of the U.S. Delegation to the U.N. Conference on Human Rights in 1993?

Do you support the creation of the international criminal court? As a consultant, did you promote the establishment of an international criminal court? If so, what functions did you perform in the promotion of the court?

If confirmed, what would be your involvement with regard to the creation of a permanent court? Do you plan to promote the establishment of an international criminal court if confirmed? Do you intend to devote a substantial amount of your efforts on the progress of the court or will you focus on UN reform and management?

Did you consult the U.S. Mission with regard to the Yugoslav War Crimes Tribunal? If so, what specifically is your view on progress toward the establishment of the Tribunal?

As supporters of a more effectively managed United Nations, it is of utmost importance to us that a qualified overseer and reformer be confirmed for the position to which you have been nominated. It has been our understanding that your job as U.S. Representative and Reform is to focus exclusively on management and administrative functions at the United Nations. We are concerned that you envision your duties for this UN position as parallel to your previous work consulting the United Nations on the establishment of a permanent criminal court. The effective management of the United Nations—not the creation a UN-sponsored criminal court—should be a priority issue to which you should devote great energy.

We look forward to receiving your responses to the questions we have raised and to discussing these matters with your further.

Sincerely,

JESSE HELMS.
LARRY PRESSLER.

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON,
Washington, DC, June 20, 1994.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for your letter of June 13. I am pleased to have this opportunity to reassure each of you as to my dedication to the vital cause of improved U.N. management and reform. My answers to the questions which you raised are given in the attachment.

Should you wish to discuss these matters, I am available to meet with you at any time.

Sincerely,

DAVID E. BIRENBAUM.

FUNCTIONS AND RESPONSIBILITIES—REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM

The U.S. Representative for U.N. Management and Reform is charged with the principal oversight of all matters relating to U.N. reform, budget management, fraud and mismanagement, procurement practices and interaction with U.S. business.

The U.S. Representative carries the rank of Ambassador, to highlight the importance that the U.S. attaches to U.N. management and reform issues. The incumbent will shape and advance U.S. interests before those bodies charged with budget and management matters, in particular the Fifth Committee, one of the main committees of the U.N. General Assembly, charged with oversight of Administrative and Budgetary matters.

In addition to pursuing issues related to sound management and needed reform, the U.S. Representative insures that American companies are provided with opportunities to compete fairly for U.N. procurements of material and services. In this regard, the U.S. Representative works closely with New York-based Department of Commerce officials.

The U.S. Representative for U.N. Management and Reform reports to the Chief of Mission, who is the U.S. Representative to the United Nations.

QUESTIONS SUBMITTED BY SENATORS HELMS AND PRESSLER TO AMBASSADOR-DESIGNATE DAVID E. BIRENBAUM, JUNE 13, 1994

1. Q. What functions did you perform as a consultant to Ambassador Albright?

A. I provided legal advice to the Mission (with the assistance of other lawyers at my firm) concerning the proposal before the U.N. for the establishment of an international criminal court, in particular the draft statute for such a court prepared by a working group of the International law Commission. I also assisted in presenting the Mission's position to other U.S. government agencies.

2. Q. How long did you serve as a consultant to the U.S. Mission?

A. I served as a consultant from May 18, 1993 until the present.

3. Q. How did you become involved as a consultant to the U.S. Mission? Was this at Ambassador Albright's request?

A. I was asked by Ambassador Albright to consult with the U.S. Mission.

4. Q. Were you paid for your work as a consultant?

A. My firm received a fixed fee of $2500 and reimbursement of incurred expenses not to exceed $1500.

5. Q. Were you paid for your work as a Public Member of the U.S. Delegation to the U.N. Conference on Human Rights in 1993?

A. My work as a Public Member of the U.S. Delegation to the U.N. Conference on Human Rights was performed without charge. I was reimbursed for incurred expenses in accordance with established government procedures.

6. Q. Do you support the creation of an international criminal court?

A. I believe that an international criminal court could make a useful contribution to the prosecution of crimes of an "international character." I would only support such a court if it were clear that it will safeguard U.S. law enforcement interests and assure due process of law to those charged.

7. Q. As a consultant, did you promote the establishment of an international criminal court? If so, what functions did you perform in the promotion of the court?

A. I did not promote the establishment of an international criminal court with the Congress or the public. My sole function was providing internal advice to Ambassador Albright and her staff and assisting them in discussions with other members of the Executive Branch.

8. Q. If confirmed, what would be your involvement with regard to the creation of a permanent court? Do you plan to promote the establishment of an international criminal court if confirmed? Do you intend to devote a substantial amount of your efforts on the progress of the court or will you focus on U.N. reform and management?

A. I have attached a description of the responsibilities of the U.S. Representative to the United Nations for U.N. Management and Reform. If confirmed, I would devote myself to carrying out those responsibilities to the best of my ability and on a full time basis. In response to your specific question whether, if confirmed, I intend to devote a substantial amount of my efforts to the progress of the court, the answer is no. I intend to focus on U.N. reform and management.

9. Q. Did you consult the U.S. Mission with regard to the Yugoslav War Crimes Tribunal? If so, what specifically is your view on progress toward the establishment of the Tribunal?

A. My consultancy did not include the Yugoslav War Crimes Tribunal. My only involvement with regard to this Tribunal was to participate in a meeting of experts convened by Ambassador Albright on May 13, 1993, before Resolution 827 (1993), providing for the establishment of the War Crimes Tribunal, was adopted by the Security Council and prior to commencement of my consultancy. The purpose of the meeting was to review the report of the U.N. Secretary-General called for by Resolution 808 (1993).

U.S. SENATE,
Washington, DC, June 14, 1994.

Hon. WARREN M. CHRISTOPHER,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: We are encouraged by the creation of the new position at the United Nations designed specifically to address UN mismanagement. This post—U.S. Representative for Management and Reform—can serve as a focal point in meeting the UN Inspector General requirements outlined in Section 401 of the recently signed Foreign Relations Authorization Act.

As strong supporters of both UN reform and the establishment of an independent UN Inspector General's Office, we are interested in knowing what duties David Birenbaum—if confirmed—will perform in this newly created management post. We are concerned over David Birenbaum's nomination, having learned that he consulted the U.S. Mission in 1993 with regard to the establishment of a permanent international criminal court.

While Mr. Birenbaum mentioned that he served as a consultant to the U.S. Permanent Representative to the United Nations in 1993, he never indicated—at any time during his confirmation hearing nor in his formal Foreign Relations Committee application—that he consulted the U.S. Mission on the establishment of the court. However, a December 14, 1993, White House press release indicated that Mr. Birenbaum "served as a public member of the U.S. Delegation to the UN Commission on Human Rights, and as a consultant to the U.S. Mission to the United Nations on the proposal to establish an international criminal court." We are concerned that Mr. Birenbaum may envision his post as involving responsibilities paralleling those during his tenure as a consultant on the criminal court.

Recently, the Administration submitted a report pursuant to Section 517 of the Foreign Relations Authorization Act to the Senate Foreign Relations Committee regarding the progress of the international court's establishment. According to this report, the Administration currently is reviewing the International Law Commission (ILC) draft statute for the creation of a permanent UN-sponsored court. U.S. officials are preparing comments to the ILC draft so they can be considered during the current session of the ILC. If confirmed will Mr. Birenbaum be a part of this review process, given his past consulting experience? Would this be one of the responsibilities of the new U.S. Representative for UN Management and Reform?

We would appreciate your specific description of the functions for the position of U.S. Representative for Management and Reform. What are the responsibilities of this post? We need assurances that the position to which David Birenbaum has been nominated will not involve work toward the creation of a permanent international court.

We need to ensure that David Birenbaum will concern himself solely with the effective management and needed fiscal reform of the United Nations. It is important for us to know that nominees are not only qualified for their respective posts, but that they do not fulfill duties which are not within the scope of the positions to which they have been confirmed. We would appreciate your prompt attention to this matter.

Sincerely,

JESSE HELMS,
Senator.
LARRY PRESSLER,
Senator.
BENJAMIN A. GILMAN,
Representative.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 20, 1994.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for your letter of June 14 to Secretary Christopher regarding the responsibilities of the United States Representative to the United Nations for UN Management and Reform. As you know, the President has nominated Mr. David Birenbaum to fill this position.

Mr. Birenbaum will—if confirmed—be part of a team working under the direction of Permanent Representative Madeleine Albright. Each of the five Ambassadors accredited to our mission (USUN) in New York has a set of responsibilities which are clearly spelled out and to which they devote their full energies. Occasions do arise, of course, in which they must fill in for one another, or where responsibilities overlap. Ambassador Albright seeks to take full advantage of the experience and abilities of all those at the mission in furthering American objectives at the UN.

The U.S. Representative for UN Management and Reform will be charged with principal responsibility for oversight of all matters relating to UN reform, budget management, fraud and mismanagement, procurement practices and interaction with the American business community.

We have re-titled and re-defined, this Ambassadorial position to highlight our interest—which we know you strongly share—in improving the efficiency and effectiveness of United Nations operations and programs. To this end, the U.S. Representative will work to shape and implement strategies to achieve our reform objectives and to establish budget priorities at the UN that reflect our own interests.

In response to the concerns expressed in your letter, we can assure you that Mr. Birenbaum's past consultancy and current expertise on the International Criminal Court will not impede his efforts in behalf of UN reform.

Responsibility within the State Department for U.S. policy towards an International Criminal Court (ICC) rests with the Office of the Legal Adviser (L) in Washington. USUN's own legal advisor works closely with L and reports directly to Ambassador Albright. Ambassador Albright's counsel in her Washington office also participates in matters related to the ICC. We cannot rule out the possibility that one or another of these offices may ask Mr. Birenbaum to comment on an ICC-related issue. We can assure you, however, that any response he might make to such a request would not come at the cost of attention of other duties.

You should also know that the Administration has completed its review of the International Law Commission's draft statute for the creation of an ICC. Thus, Mr. Birenbaum

would not have the opportunity in his position in New York to review or prepare comments to this draft.

In closing, let me reiterate our desire to see Mr. Birenbaum confirmed soon. We need the strongest possible team working in New York for UN reform.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

A TONY FOR McCARTER

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to this year's recipient of the Tony Awards for Outstanding Regional Theater. With innovative staging, significant artistic accomplishments and extraordinary performance, the McCarter Theatre, located in Princeton, NJ, has finally been recognized for its continuing contributions to the development of American culture.

McCarter has a long history of dynamic production techniques, risky strategies, and top-notch performance which make every show an exciting experience for its audience. Even after 35 years of productions, the actors, the sets, and the entire presentation continue to delight and enchant audiences.

Under the artistic direction of Emily Mann, the theater has received both regional and national notoriety. In its many productions—ranking from works such as Joyce Carol Oates' newest comedy, to a review of music by Irving Berlin—the McCarter succeeds in living up to the expectations of its audiences. With an electric mix of classical and modern plays, the McCarter incorporates the best playwrights, actors, and set design available.

With the notable leadership of the board of directors, and the unflagging dedication of cast members, set designers, and directors, the theater has always been a New Jersey treasure. Now that they have won a Tony, however, the McCarter can finally become the national treasure that it has always deserved to be.

HONORING MELVIN GRELL

Mr. DURENBERGER. Every life has passages which our parents used to call phases as they adjusted to our growth. As I reflect on mine, each passage has a person to whom my successful passage can be attributed. It is my God who gives me power, but he always uses another to achieve his end.

Today, Mr. President, I rise to honor a guiding force in my life, Melvin Grell, upon his retirement this month after 37 years of service with American Family Insurance.

Some young 4-H'er asked me the other day when I had first wanted to be a Senator. And I recall that it was sometime after I was sworn in. Almost the same thing is true of my going to law school back in 1956.

I really didn't want to go to law school or to be a lawyer, but a friend in the Army encouraged me to take an entrance exam, which I did, and I was accepted at the University of Minnesota Law School and graduated there in 1959.

But I doubt I would have been successful in my profession and in what it has led me to without the help of a friend, roommate and at times, a soulmate and playmate.

Mel Grell was born to be an important part of my life in Pierz, MN. He went to school there, and we met first when he earned his degree at St. John's University near my home. We met again at the University of Minnesota from 1957 to 1959 while we resided at the Gamma Eta Gamma law fraternity at 914 Fourth Street SE. in Minneapolis, MN. Together we rebuilt the house, the fraternity and to some degree, our ambitions.

Mel had gone to law school just before I did and it was he and his friends who helped me provide some leadership to rebuilding the fraternity and the fraternity house. He was able to keep my nose in the books and my head in the right place while we enjoyed the friends of one's graduate years and the joy of having a good time.

It was at this period of time that Mel was building a career for himself and for the law department at American Family Insurance, although he didn't necessarily look at the latter as his purpose in life.

But what I will always remember about Mel Grell is his commitment to love his God, his family and others as he would love himself. His commitment to God was also a commitment to his Catholic Church. He knew the powers and the hierarchy in Rome in particular and talked humorously about the political powers that ran the Church. But his personal faith was even deeper than his roots in Catholic country in Morrison County.

His roots in Pierz and his family were deep. His mother was his life. Every weekend was spent at their home in Pierz with her and with other family members. Everybody in what is today an enlarging rural family speaks lovingly of "Uncle Melvin".

I suspect it is the same at American Family Insurance and I regret that I am unable to celebrate with them the graduation of their friend and mine, Melvin Grell, into the retirement phase of his life. The love we all have for a man who gives never to receive, knows no bounds. So, Mr. President, we celebrate the life of a special Minnesotan and we wish him Godspeed, good health and long life.

REPORT ON TRAVEL BY SENATOR SPECTER

Mr. SPECTER. Mr. President, during the Memorial Day recess, I had the opportunity to travel from May 26 through June 7, 1994, to North Atlantic Assembly meetings in Oslo, Norway, and then on to Moscow, Russia; Almaty, Kazakhstan; Bishkek, Kyrgyzstan; Tashkent and Samarkand Uzbekistan; Ashgabat, Turkmenistan and the D-day ceremonies in France. I believe it is worthwhile to share with my colleagues some of my impressions from that trip.

NORTH ATLANTIC ASSEMBLY

At the North Atlantic Assembly meeting, considerable attention was given to the question of admitting countries from the former Eastern bloc such as Hungary, Poland, the Czech Republic, and the Slovakian Republic to membership in NATO and the alternative of more limited participation in the so-called Partnership For Peace. Nations from the former Eastern bloc were understandably interested in becoming a part of NATO to enjoy the guarantee of collective security. Obviously, there is reluctance to grant NATO membership because of the potential obligation for NATO nations, including the United States, to defend those nations if attacked by Russia.

There has also been considerable concern about the Russian reaction to the inclusion of the former Eastern bloc countries in NATO. Such an expansion of NATO might result in the isolation of Russia and nationalist dissidents in Russia might use such expansion of NATO to argue in favor of reconstituting the former USSR. In light of those difficulties, the lesser status of Partnership For Peace has been proposed which provides a lesser status and can include Russia as well.

The issues of the expanded membership in NATO or the Partnership For Peace raise the underlying question of what NATO's mission should be now that the cold war is over and its principal opponent, the Warsaw Pact, has been disbanded.

In a conversation with former Russian Ambassador Lukin, now chairman of the foreign affairs committee of the Russian Parliament, I asked for his views on the appropriate mission of NATO now that the cold war has ended. With a smile he replied that it was like a movie he once saw where the French, under King Louis XIV, were confronting the Germans in battle. When the Germans left the field it caused Louis XIV to proclaim "My enemy has betrayed me." Mr. Lukin was suggesting that NATO's role was really over.

During later aspects of our trip to the Central Asian States of the former Soviet Union, the issue of Partnership For Peace was discussed. Kazakhstan, Kyrgyzstan, and Turkmenistan have joined the Partnership For Peace and Uzbekistan has signaled its willingness to do so. It may be that NATO will undertake a changed mission with inclusion of Russia, former Eastern bloc countries and Newly Independent

States in the Partnership For Peace and perhaps ultimately in a revised NATO.

At the North Atlantic Assembly meeting there was considerable discussion of Bosnia and Herzegovina. The draft report on "NATO Peacekeeping and the Former Yugoslavia" noted the folly of issuing threats which, when not carried out do serious damage to the credibility of threatening governments. The report further noted the indispensable quality of leadership by the United States and further commented on the timidity and uncertainty of NATO, the Western European Alliance and the United Nations.

The Economic Committee of the North Atlantic Assembly spent considerable time discussing the final draft of the agreement of the Uruguay round signed on April 15, 1994. The Committee noted the projected increase in global income by up to $700 billion.

One area of significant concern is the change in the GATT rules on antidumping where there will be a reduction or elimination in the ability of many countries to use their national antidumping laws. This could be especially problemsome to the United States where so many of our industries (steel, textiles, glass, etc.) have been victimized by dumping, where the exporting nation sells more cheaply in the United States than in their home markets, and where the exporting countries engage in substantial subsidies. Those questions and many others will obviously have to be carefully considered when the GATT proposal is considered by the Congress.

RUSSIA

In Moscow we had an opportunity to meet with the former President of the USSR, Mikhail Gorbachev, who was robust and voluble during the course of a 1-hour meeting. Mr. Gorbachev said that it was very important for the United States to be supportive of Russia and for the United States to be active internationally even though there is an obvious tendency after the cold war to look to domestic affairs. Mr. Gorbachev emphasized that it was in the national self-interest of the United States to do so.

On the subject of NATO expansion and the Partnership For Peace, former President Gorbachev was emphatic that the new alliances should not be under the old umbrella of NATO which was antagonistic to the USSR, but instead should be under the umbrella of CSCE or a newly formed European Security Council.

Mr. Gorbachev emphasized the need for Russia to gain capital and urged the United States to help supply that capital. He noted that there had been a flight of capital from Russia in the past few years and said that this was very harmful.

He further expressed his concern that any instability in Russia could be an opening for Russian nationalists to come to power. When asked if he planned to run again for the political office he replied with a curt "nyet?"

While in Moscow, we met with the former Chief Judge of the Russian Constitutional Court, Valery Dmitriyevich Zorkin. Judge Zorkin advised that Russian courts were not functioning and that he had not undertaken any judicial duties on the Constitutional Court since we met with him on October 10, 1993, because that court had been dissolved. He further advised the Russian Government was functioning only by executive decree.

Judge Zorkin was very pessimistic about the future of the Russian economy. He noted that a great deal of capital had left Russia as part of the free economy and that the sight regions of Russia could not be managed by the Government. He said there had been a dramatic decrease in industrial productivity with some 50 percent of the machinery not being utilized.

On the political side, Judge Zorkin expressed the opinion that there was no real democracy in Russia now nor would there be in the near future because the Russian society was not sufficiently developed to have a viable democracy. He expressed his concern that the armed forces might be more active in the next election.

While in Moscow, we also met with a number of officials to discuss the proposed arrangement for scrapping Russian naval vessels at the Philadelphia Naval Yard. Our meetings included Russian Ministry of Defense officials: Col. Alexander Letunov, First Deputy to Lieutenant General Zobnin; Capt. Genadi Volkov and Col. Dimitri Rogozin; Mr. Boris Ivanov, affiliated with Russian-American Enterprises, Inc.; and Capt. Peter Galbraith and Col. Gary Rubus, of the U.S. Embassy.

Colonel Letunov advised that Russia was prepared to go forward with the sale of their ships for salvage and that it was now up to the United States to search for contracts to carry out the purchase of the Russian ships. Colonel Letunov advised that the Letter of Agreement was in effect and that it was his expectation that there would be an experiment with one ship to see if the environmental cleanup was possible; that Russia would look for the highest offer and was already dealing with other countries including Great Britain, India, Spain, Italy, Japan, Germany, Turkey, and Norway; that the other countries had not expressed the same concern about the environmental cleanup which had been insisted upon by U.S. officials; and that there are over 500 ships now on the market for sale under a presidential decree to sell the ships for hard currency.

From these meetings, it appears that the Russian officials are prepared to move ahead with this sale of Russian warships. The issue of feasibility for the environmental cleanup has yet to be determined and there is the significant open question as to whether prospective purchasers from other countries will offer more money if, in fact, those countries are not concerned about the environmental cleanup which will obviously be expensive to meet U.S. standards.

I advised the Soviet officials that a feasibility study had been undertaken by officials of the City of Philadelphia and that members of the Pennsylvania Congressional Delegation had met with ranking officials of the Department of Defense in an effort to implement the transfer of Russian warships to the Philadelphia Naval Yard for salvage purposes.

KAZAKHSTAN

Kazakhstan is a large nation stretching approximately 2,000 miles from the Caspian Sea in the west to China in the east and more than 1,000 miles in a north-south direction. The country has special significance because there are approximately 100 SS18's each with multiple warheads located in Kazakhstan. The United States has agreed to pay Kazakhstan directly under agreement for their destruction.

Kazakhstan's Foreign Minister Saydabayev stressed problems which his country was having with Russia and urged United States support to guarantee the democratic development of the Newly Independent States. He emphasized that the reputation of the United States is outstanding in the world and said that Kazakhstan needed economic aid in order to succeed with their market economy.

The Foreign Minister emphasized that Kazakhstan was proceeding with privatization as rapidly as possible. Coupons were being distributed to citizens who could then use them for purchasing housing or shops or on a collective basis for acquiring a share of larger businesses.

We met separately with a large group of businessmen who described very extensive privatization occurring in Kazakhstan. Philip Morris, for instance, had bought a tobacco factory, and Nabisco had bought a large candy factory.

One matter involved a coal project with a group known as Partners in Economic Reform, Inc. The project director, Allen Irving, described his company's efforts to help to mine coal with modern procedures including worker protection. That corporation has a distinguished board of directors including Lane Kirkland, Richard Trumka, and W.J. Usery.

We had a fascinating meeting with Defense Minister Nurmagambetov, age 70, a very distinguished soldier who had been awarded medals as Hero of the USSR and Hero of Kazakhstan. He advised that he did not think that Kazakhstan faced a military threat either from China or Russia; and that

there was no threat from Islamic Fundamentalism because Kazakhstan, although significantly Moslem, was a secular society.

He reminisced about his first encounter with Americans on July 1, 1945, when Americans and Russians embraced with their forces met in Berlin. He said it was unfortunate that an era of mistrust developed after Churchill's iron curtain speech in Fulton, MO, the formation of NATO, and United States military action in Korea and Vietnam. He welcomed our visit, saying that such contacts contributed to trust and understanding.

KYRGYZSTAN

In Kyrgyzstan, the Speaker of the Parliament Sherimkulov expressed the opinion that if Boris Yeltsin could succeed on his economic reforms for 2 years, then there will be stability in Russia.

He expressed concern about the economic development in Kyrgyzstan saying it would take much longer than many had thought, that it was not a matter for 2 or 3 years, but it would take decades for the market economy to take hold.

Kyrgyzstan's Acting Foreign Minister Jekshenkulov said that his country was having substantial problems with privatization because of the absence of foreign investment. He noted that some 120,000 Russians had left Kyrgyzstan last year, weakening their country.

When asked whether Russia would succeed with democracy and a market economy, Minister Jekshenkulov expressed some concerns. He commented that he had met Zhirinovskiy in 1989 at a youth conference and that while people were disinclined to take him too seriously, he had a certain grassroots appeal because he had talked of nationalism as opposed to bureaucracy. When asked if he thought Zhirinovskiy would come to power, the Minister said that it all depends upon what Yeltsin does.

Minister for Trade Iordan acknowledged the difficulty of implementing privatization. He noted the psychology of telling people for 70 years that everything belonged to the State with the sudden change of now telling them to change to a system with private property.

UZBEKISTAN

In Uzbekistan we were scheduled to meet with three citizens who were identified as being opponents of the Government. That meeting did not take place as scheduled because, as reported by Ambassador Henry L. Clarke, two of the individuals scheduled to appear were detained by the Uzbek Government. Ambassador Clarke further advised that this type of detention prevented similar meetings during visits by then-Ambassador Strobe Talbott and with former National Security Council Adviser Zbigniew Brzezinski.

When I received Ambassador Clarke's report, I requested that he immediately notify the Ministry of Foreign Affairs. When we heard nothing later in the morning, we went to the Ministry of the Interior where we requested to see the Minister. When we were advised that he was out of the city, we reported the incident to the Chief of Staff.

Since we heard nothing until the scheduled meeting at 4 o'clock that afternoon with President Karimov, I raised the issue with President Karimov and presented him with a formal letter of protest.

President Karimov advised that there must have been some mistake and promised to investigate the matter fully. Before proceeding on other matters, President Karimov and I discussed the issue of human rights and then the prospects for free parliamentary elections in Uzbekinstan. President Karimov said that there would be elections later this year for Parliament, with the multiparty system under procedures which had been established in collaboration with the CSCE, Britain, and France.

President Karimov expressed concern about the rise of nationalism in Russia and said if nationalists found a leader, then the reforms in Russia and elsewhere in the former Soviet Union may be doomed. He noted that Zhirinovskiy says what many people in Russia think. He commented that Yeltsin used to talk of equality and the absence of any territorial claims by Russia, but that Yeltsin no longer says those things. He complained that Uzbekistan was treated very badly when under the control of the USSR which took 70 to 80 tons of gold and enormous quantities of cotton from his country each year.

On the subject of Iran and the potential expansion of Islamic Fundamentalism, President Karimov stated that his country would oppose that, but added that he was concerned about the expanding relationships between Turkmenistan and Iran.

We had a cordial meeting with Foreign Minister Saidkasymov who greeted us with the saying that "a guest is to be treated better than a father." I replied that it was a wonderful saying so long as my two sons didn't hear about it.

Uzbekistan Foreign Minister Saidkasymov said that privatization was going reasonably well in his country because Uzbekistan had a history for private activity in the past. He pointed out that in the Communist era, 50 percent of the bread came from the private sector and 80 percent of fruits and vegetables were grown on plots of land owned by individuals.

TURKMENISTAN

In Turkmenistan, our scheduled meeting with President Niyazov was not held because he was unavailable due to his late return after his 14-hour return trip from Indonesia. In the President's absence, we met with Shikh Muradov, Deputy Chief of the Cabinet of Ministers in Charge of Foreign Affairs and National Security who advised that he thought Russia would go ahead with its reform. He expressed confidence that Turkmenistan would work out its problem on shipping natural gas to Iran under an arrangement agreed to by Russia, Turkey, Iran, and Turkmenistan. He discounted any threat from Islamic Fundamentalism saying the relationship between Turkmenistan and Iran over the years would preclude fundamentalism making inroads there.

Of all the countries in the Central Asian States, Turkmenistan appears to have made the least progress toward human rights. Mr. Muradov said that security was paramount and they were not ready for democratization. The next presidential election, originally scheduled for 1997, has been rescheduled for the year 2002. This action is hardly consistent with any movement toward democratization.

Comments were made throughout the region that the Central Asian States could not be judged by U.S. standards on democracy and human rights. President Karimov summed up the regional sentiment when he said the "U.S. should help us, not push us."

HONORING CURTIS L. CARLSON

Mr. DURENBERGER. While I regret that a commitment to the health-caregiving communities in Moorhead and Duluth on July 7 makes it impossible for me to be with his family and friends on this day, I rise to salute in anticipation of their celebration the 80th anniversary of the birth of Curtis L. Carlson.

In spirit, we will celebrate with him the anniversary of his birth into the journey of life; as a celebration of the journey itself with all its joys, victories and accomplishments.

Mr. Carlson is yet another great figure in our society who began with little, yet accomplished so much. Curt Carlson rose from humble origins to seeping successes in family and business; achieving community and nationwide admiration.

As a boy in Morningside, MN, Curt subcontracted paper routes to his younger brothers and neighborhood boys while managing the largest paper route in town. In 1938 he married Arleen, whom he met while attending the University of Minnesota, and with whom he recently celebrated their 56th wedding anniversary. Working side-by-side with Arleen in the same year, he started the Gold Bond Stamp Co. in Minneapolis, signaling the beginnings of a brilliant entrepreneurial career based on the premise that incentive motivates high achievement.

The $50 he borrowed to start his first company has since grown into a multinational corporation that this year will see $11 billion in global revenue.

Curt's hospitality, marketing and travel companies and its franchises now employ 100,000 people worldwide, and he recently made an agreement that will form the largest travel company in the world.

Curt has been called a "passionate Minnesotan" with a great love for our State and the people who live and work in it. The son of Swedish immigrants, his activities have ranged back to the homeland his parents shared with thousands of his fellow Minnesotans. He has been bestowed the Medal of Honor by the King of Sweden, is a member of the Swedish Roundtable and was once named "Swedish American of the Year."

In Minnesota he involved himself with unsurpassed vigor and generosity. He was an original supporter of the Hubert H. Humphrey Institute and chaired the largest-ever private fundraising campaign for the University of Minnesota. Founded in his name was the Carlson School of Management, with Curt has promised will soon be the top management school in the Nation.

Some of his proudest accomplishments are embodied in his family, including two daughters, seven grandchildren and eight great-grandchildren. His spectacular daughters, Barbara Carlson Gage and Marilyn Carlson Nelson, vice chair of Carlson Cos., have not only grown to play vital roles in the family business, but possess the same qualities that continue to guide Curt through his long and prosperous life.

Thank you, Mr. President. I yield the floor.

STATEMENT OF THE AMERICAN JEWISH COMMITTEE ON THE PEACE PROCESS IN THE MIDDLE EAST

Mr. DODD. Mr. President, I want to commend to the attention of my colleagues a statement that was recently released by the American Jewish Committee on the subject of the Middle East peace process. The statement is a strong affirmation of the peace process and I would hope that each of my colleagues would have an opportunity to read it.

Mr. President, the peace process has not been an easy journey for the people of Israel, nor has it been without its difficulties for Israel's many supporters here in the United States. Israeli citizens continue to be the subject of ruthless and wanton terrorist attacks by extremists opposed to the accord. Delays and disagreements have continued to emerge over the agreement's interpretation and implementation. And with few exceptions, Israel's Arab neighbors refuse to recognize Israel and have maintained an economic boycott against the Jewish State.

Mr. President, the statement by the American Jewish Committee accurately takes into account the difficulties that have emerged since the peace process was begun. But equally important, the statement also offers an eloquent reminder of what is ultimately at stake in the Middle East peace process: "a new order in the Middle East in which Arab and Jew can coexist, prosper and know peace." As Israel and its supporters continue to work through the details and the dynamics of this agreement, that is an important message to keep in mind.

Mr. President, I ask unanimous consent that the statement by the American Jewish Committee appear in the RECORD at this point.

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

THE MIDDLE EAST PEACE PROCESS

STATEMENT OF THE AMERICAN JEWISH COMMITTEE—JUNE 20, 1994

The Declaration of Principles signed by Israel and the Palestine Liberation Organization on September 13, 1993, and the implementation accord concluded by the two parties on May 4, 1994, marked critical steps toward the fulfillment of Israel's long-held objective of achieving a secure peace with its Arab neighbors. The Israel-PLO accords and related documents were the first public and tangible agreements to grow out of the Middle East peace process inaugurated at Madrid by the United States and the former Soviet Union in October 1991; the success of these and future agreements in resolving key issues in the Arab-Israeli conflict will measure the ultimate ability of the peace process to change the course of Middle East history and afford Israel the security and regional acceptance it has been denied since its founding.

Two successive democratic governments of Israel, with differing views of the role of land in safeguarding security, have initiated and maintained Israel's full participation in the Middle East peace process. That they have done so, amidst vigorous domestic debate on the relative risks of compromise and status quo in Israel's relations with its Arab neighbors, reflects the deep yearning of the Israeli public for peace.

The Israeli Government's present course to peace is not without risks. Even as it negotiates with its neighbors and offers to compromise on vital security matters, Israel is subject to terrorist attacks and bellicose propaganda directed or sanctioned by Arab states; politically and economically, through persistent diplomatic isolation and the continuing Arab economic boycott, too many doors in the region remain closed to Israel. At the same time, the peace process has resulted in significant contacts across that chasm of rejectionism, with a number of Arab states engaging in a preliminary economic and political dialogue with Israel; Egypt, Israel's partner in peace since the Camp David Accords, has helped advance such dialogue, and played a generally constructive role in furthering talks between Israel and the PLO. But the Arab world's overall response to, and support for, the peace process has been disappointingly tentative, contrary to the interests of the region as a whole.

Although the peace process has only begun to yield agreements between Israel and its negotiating partners—with initial accords with the Palestinians and new understandings on economic relations with Jordan, but little evidence of movement on the Syrian track—Israel has, nevertheless, reaped substantial benefits from the negotiating process. Israel's diplomatic horizons have widened considerably; more than 40 states have established or renewed relations with Israel since the Madrid conference. New economic ties, encouraged by political change and the prospect of greater stability in the Middle East, have yielded mutually beneficial links between Israel and a growing number of states. In the United Nations General Assembly and other UN bodies, the peace process has begun to break down the wall of hostility erected by the Arab states and maintained by decisive majorities in world forums since 1967, opening a new, if belated, era of international acceptance.

Israel is waging its campaign for peace on many fronts; internally, in disputes over the pace and terms of agreements, as the Government seeks to allay public concerns over the long-term viability of present formulations for peace; in the self-rule areas, where armed Palestinian factions challenge the authority of PLO administrators, and throughout the territories, where Jewish settlers and Israeli troops remain at risk; and internationally, as it pursues negotiations with the Arab states while expanding its circle of political and economic interaction outside the region, both gaining from and contributing to the universal advance of democracy, technology and free markets. As Israel's campaign for peace advances, obstacles and threats persist. Ceaseless terrorist activity continues in southern Lebanon, unchecked by a weak government in Beirut. A cautious monarchy in Jordan makes tentative gestures toward peace, and a recalcitrant leadership in Syria signals a desire for peace while standing back from concessions at the bargaining table and providing a haven for terrorists. Elsewhere in the region, radical Islamic forces bent on Israel's destruction continue to make advances, and the relentless pursuit by Iran, Iraq, Libya and others of non-conventional weapons that would put Israel and the entire region at peril continues unabated.

The American Jewish Committee, cognizant of the risks in any peace process but convinced of the fundamental merit of the present undertaking, strongly supports Israel is this vital campaign for peace. In our view, there is no viable, long-term alternative to reconciliation with the Arab world in which Israel's security needs are recognized and assured. In that context, we affirm our belief that a settlement to the Arab-Israeli conflict, negotiated under the present framework, must maintain an undivided Jerusalem as the eternal capital of Israel and the capital of no other state.

The American Jewish Committee applauds the Government of Israel for its bold pursuit of the deepest desire of the Israeli citizenry since the founding of the Jewish state—to live in peace. We know that many of the risks Israel takes in this difficult but essential process can only be offset by the actions of others:

The PLO, having pledged to renounce terror against Israel, must honor that commitment and enforce the laws of civil society in the self-rule areas it controls in accordance with its agreements with Israel; must establish democratic institutions and practices to strengthen the foundation for political and economic progress; must fulfill its pledge to eliminate language in its charter that calls for the destruction of Israel; and must abide by agreed timetables to defer certain long-

term issues—including the rights of Palestinian inhabitants of Jerusalem, the final status of the territories, and refugees—until after the present negotiated period of confidence-building.

Syria, Jordan and Lebanon must demonstrate their commitment to full peace treaties with Israel, cease support for and halt the activities of terrorists operating openly in their midst, and accelerate their engagement in negotiations.

The Arab world and Muslim governments in general must cease the costly and counterproductive economic boycott of Israel and enter a new era of normalized relations.

The international community must reward those who work for peace in the Middle East as it guards against state-sponsored terrorism, the proliferation of weapons of mass destruction in the hands of unstable regimes often headed by radical elements, and the advance of Islamic extremism and the social and political conditions that fuel it. In that regard, international assistance for Palestinian development in the self-rule areas is needed to build the economic base for political stability. The United Nations has a particular obligation to strike down political resolutions adopted over the years and continually reintroduced that are hostile to Israel and inimical to the cause of peace in the Middle East.

The United States, Israel's partner in democracy and long-term strategic ally, has played the central role in creating the global and regional climate for resolution of the Arab-Israeli conflict, and in structuring the framework for bilateral and multilateral talks. American leadership in the pursuit of peace in the Middle East is positive, principled and irreplaceable. American steadfastness in friendship and support buttresses Israel's resolve—and minimizes its risks—as the peace process advances.

Conceived in Jerusalem and Washington, and nurtured in world capitals from Madrid to Moscow, Oslo to Cairo, the Middle East peace process has altered the landscape of a troubled region and raised the hopes and expectations of its inhabitants. The American Jewish Committee, in strong support of a negotiated settlement that will end the Arab-Israeli conflict and fulfill those hopes, commends the sponsors of the peace process; we share their vision, and that of Israel, for a new order in the Middle East in which Arab and Jew can coexist, prosper and know peace.

Adopted by the Board of Governors, June 20, 1994.

EXPLANATION FOR ABSENCE

Mr. DODD. Mr. President, I wanted to let my constituents and colleagues know that I was necessarily absent last week due to a serious illness in my family.

ANTI-BALLISTIC MISSILE TREATY

Mr. PELL. Mr. President, I am very pleased that an agreement was reached on a modification to Senator WARNER's amendment regarding the Anti-Ballistic Missile Treaty. I appreciate his willingness to accommodate the concerns raised by members of the Foreign Relations Committee.

The amendment, as modified, underscores the Senate's constitutionally mandated role in the treaty process. It reinforces my view, and I believe the view of many of my colleagues, that any substantive modification or reinterpretation of the ABM Treaty would require Senate approval. This is the appropriate position for the Senate to take.

Mr. President, this is not a partisan issue. I raised the same concerns in January, when I wrote the President regarding proposals his administration was making with respect to the ABM Treaty as follows:

> The proposed changes raise issues regarding the relationship between the Senate and the Executive Branch with respect to treaty making and interpretation. In particular, questions arise as to the proper role of the Senate in the event that the United States and Russia were to agree to change the Treaty and whether the proposed changes would reverse an interpretive understanding reached between the Senate and the Executive Branch when the Treaty was ratified.

Mr. President, the issue at hand is the role of this institution in the treaty-making process. I urge my colleagues to support a strong and appropriate Senate role by supporting this amendment.

FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I rise again today in my continuing effort to put real faces on the health care crisis confronting our country. I want to tell you about Ruth Ristola a 56-year-old woman from Ontonagon, a small town located in the Upper Pennisula of Michigan.

Ruth's health has suffered as a result of chronic respiratory problems ever since her childhood bouts with pleurisy and whooping cough. She now struggles with asthma, environmental sensitivities, and recurring episodes of pneumonia. Her fragile health has made it impossible for her to find affordable insurance, and crucial surgery has left her thousands of dollars in debt and dependent on government assistance to live.

Ruth and her children first lost their insurance coverage in 1978. That year, her husband filed for divorce and Ruth and her two children, then age 11 and 16, were refused continued coverage under his comprehensive health insurance policy. Ruth lost everything in the divorce except her home, which she subsequently sold on a land contract. Because her ex-husband did not pay his court-ordered child support, the land contract payments of $660 month provided the family's only income.

In the 15 years since then, Ruth has tried several times to purchase health insurance for herself and her children. In 1980, she bought an affordable health insurance policy that provided minimal benefits. But the company canceled her policy just 2 months later when she filed her first claim, because they did not want to cover treatment for her respiratory conditions.

Fortunately, her children were healthy and Ruth was able to manage the usual childhood illnesses and injuries. However, it was not always easy. Ruth recalls when one of her children had a tooth knocked out—she had to hold a garage sale just to raise enough money to have her child's mouth examined.

Ruth, however, faced far more serious and costly health problems. From November 1981 to July 1983, Ruth incurred $25,000 of hospital bills for emergency services, inpatient treatment and outpatient therapy for pneumonia and other respiratory problems. That's an average of $1,250 every month.

Because she did not have health insurance, Ruth was forced to drain her modest savings, and then make monthly payments against this substantial debt. These payments, combined with her asthma prescription drug costs, consumed 30 percent of Ruth's total monthly income. Almost 2 years later, in June 1985, she received a lump sum final payment on her house and used it to pay the hospital the remaining $16,000 she owed.

Later that summer, she tried again to purchase individual insurance through Blue Cross Blue Shield. They offered her a premium of $400 per month, and they would not cover any pre-existing conditions for the first 2 years. Clearly, this kind of coverage was neither affordable nor useful, and so Ruth was still without insurance coverage.

Unfortunately, Ruth faced further medical problems the very next year. She had an emergency appendectomy in October 1986, during which surgeons discovered both a calcium-filled gall bladder and a large uterine tumor. Sadly, Ruth had to have a hysterectomy, and have her gall bladder removed. In order to pay her $10,000 hospital bill, she had to spend the rest of her house sale income.

Her savings now completely gone and without further resources, Ruth finally turned to the State in 1988. Michigan does not offer cash assistance, but she did qualify for limited outpatient medical and drug coverage, as well as food stamps and subsidized housing. However, Ruth's State assistance did not cover any inpatient hospital care, so she continued to go without complete insurance protection.

Ruth faced more surgery in 1992 when her scar tissue from the previous operation herniated. As a result of this operation, Ruth cannot lift or move anything weighing more than 25 pounds without potentially tearing her abdominal wall. After Ruth's surgery, the hospital waived all their charges except for the surgeon's fees, so she is back to paying $20 a month on a bill of $1,400.

Ruth's health conditions and her need for government provided health

insurance limit her work options, but she continues to work as much as she can. Because her lungs function better in the clean air of Michigan's Upper Peninsula, Ruth has made a conscious decision not to move to larger towns even though they offer better employment opportunities. Since 1989, Ruth has worked as manager and curator of a small museum through a local nonprofit organization, which does not offer health insurance. So Ruth's income for full-time work is limited to just $2,400 a year—because to make more would mean losing her State medical coverage. She has had to make a choice that too many Americans face: she must remain poor to have access to medical care.

Ruth is a proud and independent woman who has raised two fine children under the most difficult of circumstances. She has spent over $47,000, or 64 percent of her total income for the last 14 years on medical and hospital debts. These costs have required her to raise her children on less than $2,000 a year.

Mr. President, our present health care system has failed this woman and her family. Her chronic medical frailties have left her uninsurable, taken all of her resources and forced her to remain poor, all because we do not guarantee every American affordable coverage. Pre-existing condition exclusions and high prices for individual coverage leave mothers like Ruth no alternative but impoverishment and overwhelming debt. I will work with my colleagues here in the Senate to ensure that we help individuals like Ruth, this year, with comprehensive health care reform legislation.

ON THE INDEPENDENT COUNSEL PANEL

Mr. FAIRCLOTH. Mr. President, late this afternoon—only minutes before 5 o'clock on a Friday afternoon preceding a holiday weekend—Attorney General Janet Reno petitioned the Independent Counsel Panel of the U.S. Court of Appeals to name Robert Fiske as independent counsel in the Whitewater affair.

Earlier in the day I sent a letter by courier to Ms. Reno, asking that she not do that. Instead, I asked her to recommend that a truly independent counsel be named.

Mr. President, I ask unanimous consent that that letter be included in the RECORD at this time.

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

U.S. SENATE,
Washington, DC, July 1, 1994.

Hon. JANET RENO,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: As you know, the President yesterday signed into law the reauthorization of the Independent Counsel Act. In signing it, he referred to the act as "foundation stone for the trust between the government and our citizens."

In your attached letter to me of January 11, 1994, in which you outlined your opposition to appointing a special counsel, you wrote that "Any such counsel appointed by me would not be regarded as truly independent . . ."

Now that the Independent Counsel Act has been reauthorized, given the appearance of not being truly independent which you referenced, it would be higly improper for you to recommend to the Independent Counsel Panel of the U.S. Court of Appeals that the current special counsel, Robert Fiske, be appointed Independent Counsel.

The "Washington Post" put it well when it said that "Its purpose is to ensure investigations free from political interference or the appearance of such interference." However, you put it best when you told me in your November 4, 1993 testimony to the Senate Banking Committee, ". . . I support that in every way possible to avoid any appearance of conflict . . ."

Further, in addition to appearances, very real questions about Mr. Fiske's independence have been raised. Prior to your appointment of him as special counsel, Mr. Fiske collaborated on at least one high-level Clinton appointment—The Director of the FBI, who is now overseeing criminal investigations involving a number of Clinton Administration officials.

Mr. Fiske also enjoyed a professional relationship with Bernard Nussbaum former White House Legal Counsel and current subject of the Fiske probe—which included Mr. Nussbaum referring clients to Mr. Fiske, Mr. Nussbaum recommending Mr. Fiske for a job with former Iran/Contra prosecutor Lawrence Walsh, and Mr. Nussbaum and Mr. Fiske being involved on the same side in at least two legal cases.

Mr. Fiske also collaborated with the President's Lawyer, Robert Bennett, in the defense of Clark Clifford and Robert Altman in the BCCI case. As you know, your Deputy Attorney General, Jamie Gorelick also attempted to get the money to pay Mr. Fiske's and Mr. Bennett's bills from the trustee of First American/BCCI. Further, BCCI has been implicated in various allegations surrounding the Whitewater affair, including allegations concerning possible illegal activities in Mena, Arkansas, and questionable activities surrounding the Arkansas Development Finance Authority.

I am also told that Mr. Fiske served as legal counsel to the firm which initially sold the land to the Clinton's Whitewater partnership, a possible conflict of interest which many obviously find quite troubling.

Given both the appearance of lack of independence which you referenced, and the relationship between Mr. Fiske and the Clinton Administration, Mr. Fiske should not be appointed Independent Counsel. While a new, truly independent counsel, might choose to retain Mr. Fiske in some capacity in order to insure continuity, his appointment as Independent Counsel would guarantee that the current cloud of doubt and suspicion hanging over his appointment would remain.

Therefore, I urge you not to recommend the appointment of Robert Fiske as Independent Counsel, and I urge you to actively encourage the Independent Counsel Panel of the U.S. Court of Appeals to appoint a new, truly independent, counsel that will enjoy the confidence of those who seek truth and justice, regardless of party.

Sincerely,

LAUCH FAIRCLOTH,
U.S. Senate.

Mr. FAIRCLOTH. Mr. President, very real questions about Mr. Fiske's independence have been raised. Prior to his appointment as special counsel, Mr. Fiske collaborated on at least one high-level Clinton appointment—the Director of the FBI, who is now overseeing criminal investigations involving a number of Clinton administration officials.

Mr. Fiske also enjoyed a professional relationship with Bernard Nussbaum—former White House Legal Counsel and current subject of the Fiske probe—which included Mr. Nussbaum referring clients to Mr. Fiske. Mr. Nussbaum also recommended Mr. Fiske for a job with former Iran/Contra prosecutor Lawrence Walsh, and Mr. Nussbaum and Mr. Fiske have been involved on the same side in at least two legal cases.

Robert Fiske also collaborated with the President's lawyer, Robert Bennett, in the defense of Clark Clifford and Robert Altman in the BCCI case. Deputy Attorney General Jamie Gorelick also attempted to get the money to pay Mr. Fiske's and Mr. Bennett's bills from the trustee of First American/BCCI.

Further, Mr. President, BCCI has been implicated in various allegations surrounding the Whitewater affair, including allegations concerning possible illegal activities in Mena, AR, and questionable activities surrounding the Arkansas Development Finance Authority.

I am also told that Mr. Fiske served as legal counsel to the firm which initially sold the land to the Clinton's Whitewater partnership, a possible conflict of interest which many obviously find quite troubling.

Mr. President, given the relationship between Mr. Fiske and the Clinton administration, Mr. Fiske should not be appointed independent counsel. While a new, truly independent counsel, might choose to retain Mr. Fiske in some capacity in order to insure continuity, his appointment as independent counsel would guarantee that the current cloud of doubt and suspicion hanging over his appointment would remain.

Therefore, I urge the Independent Counsel Panel of the U.S. Court of Appeals to appoint a new, truly independent, counsel that will enjoy the confidence of those who seek truth and justice, regardless of party.

PROGRESS TOWARDS PEACE IN GUATEMALA

Mr. LEAHY. Mr. President, for over 40 years the cold war cast its shadow over Central America. In Guatemala, government forces and the Guatemalan

National Revolutionary Unity [URNG] have been engaged in a bloody conflict dating to the early 1960's. It is the longest civil conflict in the Western Hemisphere.

During this period, tens of thousands of people have been killed, tortured and disappeared. The majority were civilians. Many were Mayan Indians, who were caught in the middle of a war in which they were victimized by both sides.

In recent years, attempts have been made to bring this tragic conflict to an end. Negotiations between the parties have been sporadic, but until this year there was little progress.

On March 29 in Olso, Norway, in a dramatic breakthrough, a Human Rights accord was agreed to by the Guatemalans to prevent future violations of human rights. Then on June 17, the parties signed an accord to deal with the return of refugees and other displaced persons who had lost or left their homes during the struggle. Following that, another accord was signed on June 23, establishing a commission to address the human rights abuses.

This is a historic achievement of all the Guatemalan people, and a positive sign for future United States relations with Guatemala. United Nations mediator Jean Arnault deserves great credit for his pivotal role in assisting the parties to reach these agreements. His fairness and skill were recognized by both parties who selected him to be the sole international member of the human rights commission, with two other people he will select with the approval of the parties.

The United States is also involved in supporting the process as a member of the group of countries that are friends of the peace process in Guatemala. Along with representatives from Colombia, Mexico, Spain, Norway, and Venezuela, the administration assisted in reaching agreement by meeting with the parties between negotiating sessions to review the issue and to help search for common ground.

This agreement should encourage those who seek a peaceful resolution of the conflict in neighboring Chiapas, Mexico, as well as reason to hope that progress towards lasting peace in El Salvador and Nicaragua will continue.

I also want to congratulate Guatemalan President De Leon Carpio, who has achieved that none of his predecessors were able to do. The leaders of the URNG also deserve praise. I urge both parties to finalize these accords before the year's end.

I also want to emphasize that we must not forget the thousands of people who died in this conflict and those who were forced to flee their homes. There are 40,000 refugees of Mayan descent living in squalid camps in the south of Mexico. Every effort must be made to enable these people to return to their homes without fear, as soon as possible. I will be among those who will be closely watching how the peace accords are implemented.

The talks are scheduled to resume in the near future. The agenda is ambitious. The series of topics to be covered will include various socioeconomic issues and the status of the agricultural sector, strengthening of civilian government and the Army's role in a democratic society, and the integration of the URNG into the country's political life. The goal is to deal with these issues by the end of the year, as well as negotiate a ceasefire and plans for demobilization of combatants.

Mr. President, I again want to congratulate the parties and all those involved in these very encouraging developments towards peace in Guatemala.

THE DEATH OF "MAMA" LUCY LOPEZ

Mr. BINGAMAN. Mr. President, I rise today on the occasion of the loss of one of New Mexico's great citizens, "Mama" Lucy Lopez of Los Vegas, New Mexico.

Known throughout NM as Mama Lucy, Mrs. Lopez was a mother of six, and ran the Plaza Hotel and a restaurant in historic west Las Vegas. Among her children is Jesus Lopez who carries on the family involvement in politics as the Chair of the San Miguel County Democratic Party. Mama Lucy's was long a required stop for politicians campaigning in northern New Mexico and no one who visited, including many students from the local university, left with an empty stomach or without being touched by the warmth of this woman. Like many northern New Mexicans of her time, Mama Lucy had been through difficult times, but her boundless kindness, spirit and zest for life saw her and those around her through the tough times.

Mama Lucy became a symbol for many of the political changes that swept New Mexico in the early 1970's. A progressive movement was begun at her restaurant, led by young politicians who got their start talking around a home cooked meal. Their vision has helped move New Mexico in the direction of change. They would be the first to acknowledge the contributions of this wonderful woman.

Mr. President while the occasion of the death of Mama Lucy is sad, she will always be remembered for the kindness and warmth that she showed to all. She will be missed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1021, 1022, 1023, 1024, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, and all nominations placed on the secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

FEDERAL ELECTION COMMISSION

Lee Ann Elliott, of Virginia, to be a Member of the Federal Election Commission for a term expiring April 30, 1999. (Reappointment)

Danny Lee McDonald, of Oklahoma, to be a Member of the Federal Election Commission for a term expiring April 30, 1999. (Reappointment)

DEPARTMENT OF STATE

David M. Ransom, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

Joseph Edward Lake, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

Ronald E. Neumann, of Virginia, of a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

Mary Ann Casey, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

Raymond Edwin Mabus, Jr., of Mississippi to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

George Charles Bruno, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

Elizabeth Frawley Bagley, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Portugal.

Brian J. Donnelly, of Massachusetts, to be Ambassador Extraordinary and Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

Clay Coinstantinou, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

INTER-AMERICAN FOUNDATION

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994.

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of

the Inter-American Foundation for a term expiring September 20, 2000. (Reappointment)

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Michael Marek, of Illinois, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of two years.

AFRICAN DEVELOPMENT FOUNDATION

Ernest Gideon Green, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 22, 1995.

DEPARTMENT OF THE TREASURY

Ronald K. Noble, of New York, to be Under Secretary of the Treasury for Enforcement. (New Position)

DEPARTMENT OF LABOR

Cynthia A. Metzler, of the District of Columbia, to be an Assistant Secretary of Labor. (New Position)

DEPARTMENT OF EDUCATION

Fredric K. Schroeder, of New Mexico, to be Commissioner of the Rehabilitation Services Administration, Department of Education.

NATIONAL SCIENCE FOUNDATION

Anne C. Petersen, of Minnesota, to be Deputy Director of the National Science Foundation.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Judith O. Rubin, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

Colleen Jennings-Roggensack, of Arizona, to be a Member of the National Council on the Arts for a term expiring September 3, 1996.

Rachel Worby, of West Virginia, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

John Haughton D'Arms, of Michigan, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Darryl J. Gless, of North Carolina, to be a Member of the National Council on the Humanities for a term expiring January 26, 1998.

Ramon A. Gutierrez, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Charles Patrick Henry, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Thomas Cleveland Holt, of Illinois of be a Member of the National Council on the Humanities for the remainder of the term expiring January 26, 1998.

Martha Congleton Howell, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Nicolas Kanellos, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Bev Lindsey, of Arkansas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Robert I. Rotberg, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

Harold K. Skramstad, of Michigan, to be a Member of the National Council on the Humanities for a term expiring January 26, 2000.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Arthur F. Salvaterra, and ending Bruce T. Muller, M.D., which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1994.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MODIFICATION OF THE JOHN HEINZ SENATE FELLOWSHIP PROGRAM

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 238, a resolution to modify certain provisions of the John Heinz Senate Fellowship Program submitted earlier today by myself, Senator DOLE, Senator WOFFORD, and others; that the resolution be agreed to, the motion to reconsider be laid upon the table; further, that any statements thereon appear in the RECORD at the appropriate place, as though read.

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

The resolution (S. Res. 238) was agreed to as follows:

S. RES. 238

Resolved, That Senate Resolution 356, agreed to October 7, 1992 (102d Congress, 2d Session) is amended by striking sections 2 through 5 and inserting the following:

"SEC. 2. FINDINGS.

"The Senate finds that—

"(1) Senator John Heinz believed that Congress has a special responsibility to serve as the guardian for those who cannot protect themselves;

"(2) Senator Heinz dedicated much of his congressional career to improving the lives of senior citizens and children;

"(3) it is especially appropriate to honor the memory of Senator Heinz through the creation of a Senate fellowship program which encourages the identification and training of new leadership in child protection, health, welfare, and education policy and which brings experts having firsthand experience in children's issues to the assistance of Congress in order to help advance the development of public policy in issues that affect children; and

"(4) as Senator Heinz was an outspoken advocate for rights of the older Americans, it is fitting to recognize his legacy by fostering the professional development of those who, like Senator Heinz, seek to enhance the quality of life for seniors and by bringing experts with firsthand experience in issues concerning the elderly to the assistance of Congress to help formulate legislation affecting seniors.

"SEC. 3. FELLOWSHIP PROGRAM.

"(a) IN GENERAL.—In order to encourage the identification and training of new leadership in issues affecting children and seniors and to advance the development of public policy with respect thereto, there is established a John Heinz Senate Fellowship Program (referred to in this resolution as the "fellowship program"). The fellowship program shall, in alternate years, provide for the selection of fellows experienced in working with issues relating to children or the elderly.

"(b) SENATE FELLOWSHIPS.—The Heinz Family Foundation, a Pennsylvania nonprofit corporation, shall select Senate fellowship program participants.

"(c) SELECTION PROCESS.—The Heinz Family Foundation shall—

"(1) broadly publicize the availability of the fellowship program;

"(2) develop and administer an application process for Senate fellowships;

"(3) conduct a screening of applicants for the fellowship program; and

"(4) select participants without regard to race, color, religion, sex, national origin, age, or disability.

"SEC. 4. COMPENSATION; NUMBER OF FELLOWSHIPS; PLACEMENT.

"(a) COMPENSATION.—The Secretary of the Senate (referred to in this resolution as the "Secretary") is authorized, from funds made available under section 5, to appoint and fix the compensation of each eligible participant selected under section 3 for a period determined by the Secretary. The period of employment for each participant shall not exceed 1 year.

"(b) NUMBER OF FELLOWSHIPS.—No more than 2 fellowship participants shall be so employed during each calendar year. Any individual appointed pursuant to this resolution shall be subject to all laws, regulations and rules in the same manner and to the same extent as any other employee whose pay is disbursed by the Secretary of the Senate.

"(c) PLACEMENT.—The Secretary, after consultation with the Majority Leader and Minority Leader of the Senate, shall assist with the placement of eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' areas of expertise. Fellows shall be considered as employees of the office or committee in which they are placed.

"SEC. 5. FUNDS.

"The funds necessary to compensate eligible participants under this resolution shall be made available for five years to the Secretary and paid from the contingent fund of the Senate, out of the account of Miscellaneous Items. Not to exceed $71,000 shall be available for each year of the fellowship program.

"SEC. 6. EFFECTIVE DATE.

"The fellowship program shall terminate 5 years from the date of adoption of this section.".

Mr. MITCHELL. Mr. President, the purpose of this resolution is to make minor modifications to Senate Resolution 356, a resolution agreed to by the Senate on October 7, 1992, to establish the John Heinz Senate Fellowship Program.

Under this program, individuals are selected to work for up to 1 year in the offices of Senators or Senate committees. These fellowship participants are selected on the basis of their expertise in issues affecting children or the elderly. As stated in the "Findings" of Senate Resolution 346, "Senator Heinz dedicated much of his congressional career to improving the lives of senior citizens and children."

The submitted resolution technically conforms the original authorizing resolution with certain laws that may relate to the employment of program participants.

FEDERAL ACQUISITION STREAMLINING ACT

Mr. NUNN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1587) a bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1587) entitled "An Act to revise and streamline the acquisition laws of the Federal Government, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Improvement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Agency decisions on protests.
Sec. 1017. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Repeal of requirement for secretarial determination regarding use of cost type or incentive contract.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Agency decisions on protests.
Sec. 1067. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Repeal of agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.
Sec. 1093. Discouragement of nonstandard contract clauses.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Right of United States to examine contractor records.
Sec. 1204. Consistency of time references.
Sec. 1205. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Competition requirement for awards of grants and contracts to nonprofit organizations.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Matters to be covered in regulations.
Sec. 1438. Definition of protest.
Sec. 1439. Oversight of acquisition of automatic data processing equipment by Federal agencies.

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1501. Congressional defense procurement policy.
Sec. 1502. Definitions.
Sec. 1503. Delegation of procurement functions.
Sec. 1504. Determinations and decisions.
Sec. 1505. Restrictions on undefinitized contractual actions.
Sec. 1506. Repeal of requirement relating to production special tooling and production special test equipment.
Sec. 1507. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Repeals.
Sec. 1555. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Repeal of vouchering procedures section.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

PART III—ACQUISITIONS GENERALLY

Sec. 2061. Interest penalty on contract closeout lag-time.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2101. Allowable contract costs.
Sec. 2102. Repeal of authority for contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2151. Allowable contract costs.
Sec. 2152. Revision of cost principle relating to entertainment, gift, and recreation costs for contractor employees.

PART III—ACQUISITIONS GENERALLY

Sec. 2161. Travel expenses of government contractors.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards

Sec. 2301. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

Sec. 2401. Clarification of provision relating to quality control of certain spare parts.
Sec. 2402. Contractor guarantees regarding weapon systems.

Subtitle F—Claims and Disputes

Sec. 2501. Certification of contract claims.
Sec. 2502. Shipbuilding claims.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

Sec. 3001. Weapon development and procurement schedules.
Sec. 3002. Selected Acquisition Report requirement.
Sec. 3003. Unit cost report requirement.
Sec. 3004. Requirement for independent cost estimate and manpower estimate before development or production.
Sec. 3005. Baseline description.
Sec. 3006. Repeal of requirement for competitive prototyping for major programs.
Sec. 3007. Repeal of requirement for competitive alternative sources for major programs.

Subtitle B—Testing Statutes

Sec. 3011. Authorization of less than full-up testing.
Sec. 3012. Limitation on quantities to be procured for low-rate initial production.
Sec. 3013. Operational test and evaluation of defense acquisition programs.

Subtitle C—Civil Reserve Air Fleet

Sec. 3021. Definition of contractor.
Sec. 3022. Consolidation of provisions relating to contractual commitment of aircraft.
Sec. 3023. Use of military installations by contractors.

Subtitle D—Miscellaneous

Sec. 3051. Regulations on procurement, production, warehousing, and supply distribution functions.
Sec. 3052. Repeal of requirements regarding product evaluation activities.

Sec. 3053. Codification and revision of limitation on lease of vessels, aircraft, and vehicles.
Sec. 3054. Repeal of application of Public Contracts Act to certain naval vessel contracts.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

Sec. 4001. Establishment of simplified acquisition threshold.
Sec. 4002. Federal acquisition computer network architecture.
Sec. 4003. Implementation in Armed Services.
Sec. 4004. Implementation in civilian agencies.

PART II—SIMPLIFICATION OF PROCEDURES

Sec. 4011. Procedures for purchases below micro-purchase threshold.
Sec. 4012. Procurement notice.
Sec. 4013. GAO test and report on performance of simplified acquisition threshold.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SUBPART A—GENERALLY

Sec. 4021. Inapplicability of future enacted procurement laws to contracts not exceeding the simplified acquisition threshold.

SUBPART B—ARMED SERVICES ACQUISITIONS

Sec. 4031. Inapplicability of certain provisions of law.
Sec. 4032. Conforming amendments relating to inapplicability of certain provisions of law.

SUBPART C—CIVILIAN AGENCY ACQUISITIONS

Sec. 4041. Inapplicability of certain provisions of law.
Sec. 4042. Conforming amendments relating to inapplicability of certain provisions of law.

SUBPART D—ACQUISITIONS GENERALLY

Sec. 4051. Conformance of certain procurement integrity requirements.
Sec. 4052. Inapplicability of the Drug-Free Workplace Act of 1988.

PART IV—CONFORMING AMENDMENTS

Sec. 4071. Armed Services acquisitions.
Sec. 4072. Civilian agency acquisitions.
Sec. 4073. Office of Federal Procurement Policy Act.

PART V—REVISION OF REGULATIONS

Sec. 4081. Revision required.

Subtitle B—Socioeconomic and Small Business Laws

Sec. 4101. Small business provisions.
Sec. 4102. Payment protections for subcontractors and suppliers.
Sec. 4103. Extension of test program for negotiation of comprehensive small business subcontracting plans.
Sec. 4104. Small Business Procurement Advisory Council.
Sec. 4105. Maximum practicable opportunities for apprentices on Federal construction projects.

Subtitle C—Miscellaneous Acquisition Laws

Sec. 4151. Restriction on use of noncompetitive procedures for procurement from a specified source.
Sec. 4152. Repeal of obsolete provision.

TITLE V—STANDARDS OF CONDUCT

Sec. 5001. Contracting functions performed by Federal personnel.
Sec. 5002. Repeal of executed requirement for study and report.
Sec. 5003. Interests of Members of Congress.
Sec. 5004. Waiting period for significant changes proposed for acquisition regulations.
Sec. 5005. Repeal of superseded and obsolete laws.

TITLE VI—DEFENSE TRADE AND COOPERATION

Sec. 6001. Exception to Buy American Act for micro-purchases.
Sec. 6002. Policy on purchase of foreign goods.
Sec. 6003. Consolidation of miscellaneous procurement limitations.
Sec. 6004. Repeal of obsolete and redundant provisions.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

Sec. 7001. Definitions.
Sec. 7002. Regulations on acquisition of commercial items.

Subtitle B—Armed Services Acquisitions

Sec. 7101. Establishment of new chapter in title 10.
Sec. 7102. Definitions.
Sec. 7103. Preference for acquisition of commercial items.
Sec. 7104. Exception to cost or pricing data requirements for commercial items.
Sec. 7105. Principle of construction with future laws.
Sec. 7106. Inapplicability of certain provisions of law.
Sec. 7107. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle C—Civilian Agency Acquisitions

Sec. 7201. Definitions.
Sec. 7202. Preference for acquisition of commercial items.
Sec. 7203. Exception to cost or pricing data requirements for commercial items.
Sec. 7204. Principle of construction with future laws.
Sec. 7205. Inapplicability of certain provisions of law.
Sec. 7206. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle D—Acquisitions Generally

Sec. 7301. Conforming amendment relating to inapplicability of certain provisions of law.
Sec. 7302. Flexible deadlines for submission of offers of commercial items.
Sec. 7303. Additional responsibilities for advocates for competition.
Sec. 7304. Provisions not affected.
Sec. 7305. Comptroller General review of Federal Government use of market research.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 8001. Test program.
Sec. 8002. Study of participation by certain small businesses in Federal procurement.
Sec. 8003. Furtherance of contract goal for small disadvantaged businesses and certain institutions of higher education.
Sec. 8004. Education and training.
Sec. 8005. Department of Defense acquisition of intellectual property rights.
Sec. 8006. Sense of Congress on negotiated rulemaking.
Sec. 8007. Vendor and employee excellence awards.
Sec. 8008. Codification of accounting requirement for contracted advisory and assistance services.
Sec. 8009. Technical and clerical amendments.

TITLE IX—EFFECTIVE DATES AND REGULATIONS

Sec. 9001. Effective dates.
Sec. 9002. Regulations.
Sec. 9003. Evaluation by the Comptroller General.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 2304(b)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

(a) CONTENT OF SOLICITATION.—Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i)—

(i) by striking out "(and significant subfactors)" and inserting in lieu thereof "and significant subfactors",

(ii) by inserting after "price-related factors" the following: "and subfactors", and

(iii) by inserting after "nonprice-related factors" the following: "and subfactors"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made

after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) The regulations implementing clause (iii) of subparagraph (A) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(4) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 2305(a) of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Paragraph (3) of section 2305(b) of title 10, United States Code, is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within three days after the date of contract award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (4)(B) of such section is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within three days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within five days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The head of the agency shall debrief the offeror within, to the maximum extent practicable, five days after receipt of the request by the agency.

"(B) Such debriefing shall include, at a minimum, the following:

"(i) The agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(ii) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(iii) The overall ranking of all offers and the total technical and cost scores of all offers.

"(iv) A summary of the rationale for the award.

"(v) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(vi) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AGENCY DECISIONS ON PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) DECISIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. AWARD OF MULTIPLE CONTRACTS.

Section 2305 of title 10, United States Code, as amended by section 1016, is further amended by adding at the end the following new subsection:

"(g) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, the head of an agency may award more than one contract for the same supply or service in any case in which the head of the agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1021. REPEAL OF REQUIREMENT FOR SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 303(b)(1) of the Federal Property and

Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1), by amending subparagraph (A) to read as follows:

"(A) all significant factors and significant subfactors which the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost- or price-related factors and subfactors, and noncost- or nonprice-related factors and subfactors); and";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) The regulations implementing subparagraph (C) of paragraph (1) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(3) Nothing in this subsection prohibits an executive agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An executive agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the executive agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of such section, as redesignated by section 1061(b)(3)(B), is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the executive agency within 5 days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

"(2) Such debriefing shall include, at a minimum, the following:

"(A) The executive agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(B) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(C) The overall ranking of all offers and the total technical and cost scores of all offers.

"(D) A summary of the rationale for the award.

"(E) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(F) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following new subsection:

"(h) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be

redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AGENCY DECISIONS ON PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) DECISIONS ON PROTESTS.—If, in connection with a protest, an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the executive agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. AWARD OF MULTIPLE CONTRACTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1066, is further amended by adding at the end the following new subsection:

"(j) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, an executive agency may award more than one contract for the same supply or service in any case in which the executive agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1071. REPEAL OF AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304 the following new section:

"SEC. 304A. MULTIYEAR CONTRACTS.

"(a) AUTHORITY.—An executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract;

"(2) the executive agency determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs; and

"(3) such contract is awarded on a fully competitive basis.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) CANCELLATION CEILING NOTICE.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $10,000,000 may be awarded, the executive agency shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Congress, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(d) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(e) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"SEC. 303H. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

"(a) AUTHORITY.—An executive agency may enter into a severable contract for procurement of services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) AVAILABILITY OF FUNDS.—To the extent provided in appropriations Acts, funds obligated for a contract entered into under the authority of subsection (a) shall remain available until no longer needed to pay for such contract.

"(c) SEVERABLE CONTRACT DEFINED.—In this section, the term 'severable contract' means a contract that contains a clause that makes the effectiveness of the contract for periods after the end of the fiscal year in which the performance of the contract begins subject to the availability of appropriations.".

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that offerors are afforded an opportunity to submit information on past contract performance and that such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies the policy regarding the period for which information on past performance of offerors may be maintained and considered.

"(4) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

SEC. 1093. DISCOURAGEMENT OF NONSTANDARD CONTRACT CLAUSES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. NONSTANDARD CONTRACT CLAUSES.

"The Federal Acquisition Regulatory Council shall promulgate regulations to discourage the use of a nonstandard contract clause on a repetitive basis. The regulations shall include provisions that—

"(1) clearly define nonstandard clauses; and

"(2) require prior approval for the use of a nonstandard clause on a repetitive basis by an official at a level of responsibility above the contracting officer.".

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) DOLLAR THRESHOLD STABILIZATION FOR OFFERORS FOR PRIME CONTRACTS.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENT OF DOLLAR THRESHOLD.—Such section is further amended by adding at the end the following new paragraph:

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.".

(b) LIMITATION ON AUTHORITY.—Subsection (c) of such section is amended to read as follows:

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.".

SEC. 1203. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Subsection (f) of section 2306a of title 10, United States Code, is amended to read as follows:

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the authority provided by section 2313(a)(2) of this title.".

SEC. 1204. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, is amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (d)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties" after "(or price of the modification)"; and

(2) in subsection (g), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1205. REPEAL OF SUPERSEDED PROVISION.

Subsection (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304A, as added by section 1072, the following new section:

"SEC. 304B. COST OR PRICING DATA: TRUTH IN NEGOTIATIONS.

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An executive agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the procuring activity concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(2) shall be considered as having been required to make available cost or pricing data under this section.

"(6) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(b) EXCEPTIONS.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of

the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, an executive agency shall have the authority provided by section 304C(a)(2).

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

Subtitle C—Research and Development

SEC. 1301. COMPETITION REQUIREMENT FOR AWARDS OF GRANTS AND CONTRACTS TO NONPROFIT ORGANIZATIONS.

Subsections (a) and (b) of section 2361 of title 10, United States Code, are amended by inserting "or nonprofit organization other than a federally funded research and development center (FFRDC)" after "college or university" each place it appears.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

(a) IN GENERAL.—Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) The term 'protest' means a written objection by an interested party to any of the following:

"(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(B) The cancellation of such a solicitation or other request.

"(C) An award or proposed award of such a contract.

"(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.".

(b) TECHNICAL AMENDMENTS.—Section 3551 of such title is further amended—

(1) in paragraph (2)—

(A) by inserting "The term" after "(2)"; and

(B) by striking out "; and" and inserting in lieu thereof a period; and

(2) in paragraph (3), by inserting "The term" after "(3)".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "15 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance was authorized in accordance with paragraph (2) before receipt

of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "120 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "60 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

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

"(3) An amendment to a protest that adds a new ground of protest, if timely raised, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is further amended in subsection (b) by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.".

(2) FEDERAL AGENCY PAYMENT OF COSTS.—Subsection (c) of such section is amended to read as follows:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly out of funds available to or for the use of the Federal agency; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.".

(3) REPORT.—Subsection (e) of such section is amended to read as follows:

"(e)(1) In any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c), the Comptroller General shall promptly submit a report on the matter to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives. The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 120 days after the date the protest is submitted to the Comptroller General.".

(4) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the date of the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before such date, be paid promptly out of funds available to or for the use of the Federal agency.

(c) RECOVERY OF COSTS FOR FRIVOLOUS PROTESTS.—Section 3554 of title 31, United States Code, is further amended by adding at the end the following new subsection:

"(f) If the Comptroller General expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, the Comptroller may recommend that the protester or other interested party who joins the protest be liable to the United States for payment of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (A) special circumstances would make such payment unjust, or (B) the protester obtains documents or other information for the first time, after the protest is filed with the Comptroller General, which establishes that the protest or a portion is frivolous or has not been brought in good faith and the protester then promptly withdraws the protest or portion of the protest.".

(d) RESTRICTION ON ACCESS TO CERTAIN INFORMATION.—Section 3553(f) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a person under paragraph (1), that prohibit or restrict the disclosure by the person of information described in subparagraph (C) that is contained in such a document.

"(B) The penalties specified under section 27(i) of the Office of Federal Procurement Policy Act shall apply to the disclosure of information described in subparagraph (C) in violation of a term, condition, or restriction in a protective order under this paragraph by a person that is subject to the protective order.

"(C) Information referred to in subparagraphs (A) and (B) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

"(D) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from the Congress or an executive agency.".

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting before the period at the end of the third sentence the following: ", including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—(1) Section 111(f)(2)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(2)(B)) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by adding at the end the following:

"(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract if the Board determines such action is in the best interests of the United States.".

(2) Section 111(f) of such Act (40 U.S.C. 759(f)) is amended in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.

"(D) The board may impose appropriate procedural sanctions, including dismissal of the protest, if the board determines that the board's process has been willfully abused during the course of a protest.

"(E) If the board makes a determination under subparagraph (C), the board may impose appropriate sanctions. Such sanctions may include imposition of liability on the protester, or other interested party who joins the protest, for payment to the United States of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (i) special circumstances would make such payment unjust, or (ii) the protester obtains documents or other information for the first time, after the protest is filed with the board, which establishes that the protest or a portion is frivolous or has been brought in bad faith and the protester then promptly withdraws the protest or portion of the protest.".

SEC. 1435. AWARD OF COSTS.

(a) AWARD.—Section 111(f)(5) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation.".

(b) DEFINITION OF PREVAILING PARTY.—Section 111(f)(9) of such Act (40 U.S.C. 759(f)(9)) is amended by adding at the end the following:

"(C) The term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)), as amended by section 1435, is further amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is further amended—

(1) by inserting after paragraph (6) the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions make the board or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records."; and

(2) by striking out paragraph (8).

SEC. 1438. DEFINITION OF PROTEST.

Section 111(f)(9) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) The term 'protest' means a written objection by an interested party to any of the following:

"(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(ii) The cancellation of such a solicitation or other request.

"(iii) An award or proposed award of such a contract.

"(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract."; and

(2) by capitalizing the first letter of the first word in subparagraph (B).

SEC. 1439. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) DATA COLLECTION.—(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each procurement the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Compatibility restrictions.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator—

"(A) shall carry out a systematic, periodic review of information received under this subsection;

"(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

"(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.".

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. CONGRESSIONAL DEFENSE PROCUREMENT POLICY.

Section 2301 of title 10, United States Code, is amended to read as follows:

"§2301. Congressional defense procurement policy

"(a) The Congress finds that in order to ensure national defense preparedness; conserve fiscal resources; enhance science and technology, research and development, and production capability; provide for continued development and preservation of an efficient and responsive defense industrial base; and ensure the financial and ethical integrity of defense procurement programs, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner consistent with achieving an optimum balance among efficient processes, full and open access to the procurement system, and sound implementation of socioeconomic policies. It is therefore the policy of Congress that—

"(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

"(2) to the maximum extent practicable, the Department of Defense shall acquire commercial items to meet its needs and shall require prime contractors and subcontractors, at all levels, which furnish other than commercial items, to incorporate to the maximum extent practicable commercial items as components of items being supplied to the Department;

"(3) when commercial items and components are not available, practicable, or cost effective, the Department of Defense shall acquire, and shall require prime contractors and subcontractors to incorporate, nondevelopmental items and components to the maximum extent practicable;

"(4) property and services for the Department of Defense may be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States and will provide for appropriate allocation of risk between the Government and the contractor with due regard to the nature of the property or services to be acquired;

"(5) contracts, when appropriate, shall provide incentives to contractors to improve productivity through investment in capital facilities, equipment, flexible manufacturing processes, and advanced and dual-use technology;

"(6) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

"(7) procurement protests and disputes shall be fairly and expeditiously resolved through uniform interpretation of relevant laws and regulations;

"(8) the head of an agency shall use advance procurement planning and market research and develop contract requirements in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired, but may restrict competitions to suppliers of commercial items to foster accomplishment of this objective; and

"(9) the head of an agency shall develop and maintain an acquisition career management program to ensure a professional acquisition work force in accordance with the requirements of chapter 87 of this title.

"(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall, in accordance with the requirements of this title—

"(1) be issued in accordance with and conform to the requirements of sections 22 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b and 421);

"(2) promote and implement the Congressional policies in subsection (a) and in section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401);

"(3) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

"(4) promote responsiveness of the procurement system to agency needs by—

"(A) simplifying and streamlining procurement processes, and

"(B) providing incentives to encourage contractors to take actions and make recommendations that would reduce the costs of property or services to be acquired;

"(5) facilitate the acquisition of commercial items and commercial components at or based on commercial market prices, without requiring contractors to change their business practices; and

"(6) promote the acquisition and use of commercial items, commercial components, and nondevelopmental items by requiring descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

"(c) Further, it is the policy of Congress that purchases and contracts entered into under this chapter should be placed with small business concerns and concerns that are small disadvantaged businesses in conformance with section 2323 of this title and subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644).

"(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.".

SEC. 1502. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3) and (7);

(2) by redesignating paragraph (6) as paragraph (12);

(3) by redesignating paragraphs (2), (4), and (5) as paragraphs (5), (8), and (9), respectively;

(4) by inserting after paragraph (1) the following new paragraphs:

"(2) The term 'procurement' has the same meaning provided such term in section 4(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(2)).

"(3) The term 'procurement system' has the same meaning provided such term in section 4(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(3)).

"(4) The term 'standards' has the same meaning provided such term in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).";

(5) by inserting after paragraph (5) (as so redesignated) the following new paragraphs:

"(6) The term 'full and open competition' has the same meaning provided such term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

"(7) The term 'responsible source' has the same meaning provided such term in section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)).";and

(6) by inserting after paragraph (9) (as so redesignated) the following new paragraphs:

"(10) The terms 'item', 'item of supply', and 'supplies' have the meaning provided in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

"(11) The term 'simplified acquisition threshold' has the meaning provided that term in section 4A of the Office of Federal Procurement Policy Act.

"(12) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided those terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1503. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—(1) Section 2311 of title 10, United States Code, is amended to read as follows:

"§2311. Assignment and delegation of procurement functions and responsibilities

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2311 and inserting in lieu thereof the following:

"2311. Assignment and delegation of procurement functions and responsibilities.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1504. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1505. RESTRICTIONS ON UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

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

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Subsection (g)(1)(B) of such section is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1506. REPEAL OF REQUIREMENT RELATING TO PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1507. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259) is amended by adding at the end the following new subsections:

"(d) The term 'simplified acquisition threshold' has the meaning provided that term by section 4A of the Office of Federal Procurement Policy Act.

"(e) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided such terms by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1301, is further amended by adding at the end the following new section:

"SEC. 312. ASSIGNMENT AND DELEGATION OF PROCUREMENT FUNCTIONS AND RESPONSIBILITIES.

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an executive agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) the head of an executive agency may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by adding at the end the following new section:

"SEC. 313. DETERMINATIONS AND DECISIONS.

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(c) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The executive agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1554. REPEALS.

The laws of the United States are amended to read as if the following sections of law had not been enacted:

(1) Section 630 of Public Law 102–393.

(2) Section 401 of Public Law 103–123.

SEC. 1555. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules of the General Services Administration by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(C) In any case in which an entity listed in subparagraph (A) uses a Federal supply schedule, the Administrator shall require the entity to reimburse the General Services Administration for any administrative costs of using the schedule.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77).".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§2307. Contract financing";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c);

(5) by inserting "CONDITIONS FOR PROGRESS PAYMENTS.—" after "(d)" in subsection (d); and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) TERMINOLOGY CORRECTION.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) CONDITIONS FOR PROGRESS PAYMENTS.—Such section is further amended in subsection (d)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—Such section is further amended by inserting after subsection (d) the following new subsection (e):

"(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace. The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.".

(f) NAVY CONTRACTS.—Such section is further amended by inserting after subsection (e), as added by subsection (e) of this section, the following new subsection (f):

"(f) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of a firm considered to be a small business; and

"(B) 90 percent, in the case of any other firm.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(h) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

(4) NAVY RESEARCH CONTRACTS.—Section 7522 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

SEC. 2002. REPEAL OF VOUCHERING PROCEDURES SECTION.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and the section designation and inserting in lieu thereof the following:

"SEC. 305. CONTRACT FINANCING.";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b); and

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c).

(b) TERMINOLOGY CORRECTION.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section is further amended by adding at the end the following new subsections:

"(d) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The executive agency shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the executive agency determines necessary to permit the executive agency to carry out the preceding sentence.

"(2) The executive agency shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the executive agency has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the executive agency determines are appropriate or customary in the commercial marketplace. The executive agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.

"(f) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to such contractor.

"(2) An executive agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud.

Upon making such a determination, the executive agency may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an executive agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the executive agency whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the executive agency in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each executive agency shall prescribe procedures to ensure that, before the executive agency decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an executive agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the executive agency whether the suspension or reduction should continue.

"(7) Each executive agency who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An executive agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

PART III—ACQUISITIONS GENERALLY

SEC. 2061. INTEREST PENALTY ON CONTRACT CLOSE-OUT LAG-TIME.

Section 3903(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by inserting "or" after the semicolon at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) in any case in which the Government delays making final payment under the contract for more than one year after the date on which the contractor completes all obligations under the contract (including submission to the Government of final incurred costs for all years covered by the contract), the date on which the contractor completes such obligations;".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) EXTENSION OF COVERAGE TO COAST GUARD AND NASA; OTHER MISCELLANEOUS AMENDMENTS.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting after "(a)" the following: "INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—";

(B) by striking out "Secretary of Defense" and inserting in lieu thereof "head of an agency";

(C) by striking out "Department of Defense" and inserting in lieu thereof "agency"; and

(D) by striking out "the Department of Defense Supplement" and inserting in lieu thereof "applicable agency supplement".

(2) Subsection (b) is amended—

(A) by inserting after "(b)" the following: "PENALTY FOR VIOLATION OF COST PRINCIPLE.—";

(B) in subparagraph (B) of paragraph (1) by striking out "regulations issued by the Secretary" and inserting in lieu thereof "provisions in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "head of the agency".

(3) Subsection (c) is amended—

(A) by inserting after "(c)" the following: "WAIVER OF PENALTY.—"; and

(B) by striking out "The Secretary shall prescribe regulations providing" in the first sentence and inserting in lieu thereof "The Federal Acquisition Regulation shall provide".

(4) Subsection (d) is amended—

(A) by inserting after "(d)" the following: "APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—"; and

(B) by striking out "the Secretary" and inserting in lieu thereof "the head of an agency".

(5) Subsection (e) is amended—

(A) by inserting after "(e)" the following: "SPECIFIC COSTS NOT ALLOWABLE.—";

(B) in subparagraph (D) of paragraph (1), by striking out "regulations of the Secretary of Defense" and inserting in lieu thereof "provisions of the Federal Acquisition Regulation";

(C) in subparagraph (M) of paragraph (1), by striking out "regulations prescribed by the Secretary of Defense" and inserting in lieu thereof "the Federal Acquisition Regulation";

(D) in subparagraph (A) of paragraph (2), by inserting "of Defense" after "Secretary" the first place it occurs;

(E) in subparagraph (C) of paragraph (2), by striking out "head of the agency" in the first sentence and inserting in lieu thereof "Secretary of Defense";

(F) in subparagraph (A) of paragraph (3), by striking out "regulations prescribed by the Secretary" and inserting in lieu thereof "the Federal Acquisition Regulation"; and

(G) by amending paragraph (4) to read as follows:

"(4) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications.".

(6) Subsection (f) is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" and all that follows through "The amendments" and inserting in lieu thereof the following: "REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions", and

(ii) by striking out "These regulations" and inserting in lieu thereof "The regulations"; and

(B) in paragraphs (2), (3), and (4)—

(i) by striking out "defense" before "contract auditor" each place it appears, and

(ii) by striking out "regulation" each place it appears and inserting in lieu thereof "Federal Acquisition Regulation".

(7) Subsection (g) is amended to read as follows:

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.".

(8) Subsection (h) is amended—

(A) by inserting after "(h)" the following: "CONTRACTOR CERTIFICATION REQUIRED.—";

(B) by striking out "by the Secretary" in paragraph (1) and inserting in lieu thereof "in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary of Defense" in paragraph (2) and inserting in lieu thereof "head of the agency".

(9) Subsection (i) is amended by striking out "The submission to the Department of Defense" and inserting in lieu thereof "PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an agency".

(10) Subsection (j) is amended—

(A) by inserting after "(j)" the following: "CONTRACTOR TO HAVE BURDEN OF PROOF.—"; and

(B) by striking out "United States Claims Court" and inserting in lieu thereof "United States Court of Federal Claims".

(11) Subsection (k) is amended—

(A) by inserting after "(k)" the following: "PROCEEDING COSTS NOT ALLOWABLE.—";

(B) in paragraph (2), by striking out "decision by the Department of Defense—" and inserting in lieu thereof "decision—"; and

(C) in paragraph (4)—

(i) by inserting after "head of the agency" the following: "or Secretary of the military department concerned",

(ii) by striking out "under regulations prescribed by such agency head" and inserting in lieu thereof "in accordance with the Federal Acquisition Regulation",

(iii) by inserting "or Secretary" after "agency head", and

(iv) by inserting before the period at the end the following: "or military department".

(b) COVERED CONTRACT DEFINED.—Such section is further amended by striking out subsections (l) and (m) and inserting in lieu thereof the following:

"(l) DEFINITIONS.—In this section:

"(1)(A) The term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(B) The dollar amount in subparagraph (A) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(2) The term 'head of the agency' or 'agency head' does not include the Secretary of a military department.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

(c) REGULATIONS.—The regulations of the Secretary of Defense implementing section 2324 of title 10, United States Code, shall remain in effect until the Federal Acquisition Regulation is revised to implement the amendments made by this section.

SEC. 2102. REPEAL OF AUTHORITY FOR CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"SEC. 306. ALLOWABLE COSTS.

"(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—An executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation (referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) or an executive agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the executive agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the executive agency shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the executive agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the executive agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an executive agency under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, an executive agency, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the executive agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) An executive agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the executive agency will consider granting such a waiver, and, if the executive agency will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) An executive agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications. Any submission by a contractor of costs which are incurred by the contractor and which are claimed to be allowable under Department of Energy management and operating contracts shall be considered a 'proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued', as used in this section.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, a contract auditor be present at any negotiation

or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of a contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

"(2) An executive agency may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default,

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the executive agency determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the executive agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(2) The dollar amount in paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 2152. REVISION OF COST PRINCIPLE RELATING TO ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES.

(a) COSTS NOT ALLOWABLE.—The costs of entertainment, gifts, or recreation for employees of a contractor or members of their families that are provided by the contractor to improve employee morale or performance or for any other purpose are not allowable under a covered contract unless, within 120 days of the date of the enactment of this Act, the Federal Acquisition Regulatory Council prescribes amendments to the Federal Acquisition Regulation specifying circumstances under which such costs are allowable under a covered contract. At a minimum, such amendments shall ensure that costs specifically not allowable under the entertainment cost principle (FAR 31.205–14) are not allowable under any other cost principle.

(b) DEFINITIONS.—In this section:

(1) The term "employee" includes officers and directors of a contractor.

(2) The term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code (as amended by section 2101(b)), or section 306(l) of the Federal Property and Administrative Services Act of 1949 (as added by section 2151).

(c) EFFECTIVE DATE.—The provisions of subsection (a), including any amendments to the Federal Acquisition Regulation prescribed under that subsection, shall take effect in accordance with section 9001.

PART III—ACQUISITIONS GENERALLY

SEC. 2161. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended by inserting after "Under any contract" the following: "requiring submission of cost or pricing data or the negotiation of final indirect costs".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or

subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of the head of an agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(2), is further amended by inserting after section 304B the following new section:

"SEC. 304C. EXAMINATION OF RECORDS OF CONTRACTOR.

"(a) AGENCY AUTHORITY.—(1) The head of an executive agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an executive agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304B with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the executive agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the executive agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(c) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—An executive agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(d) LIMITATION.—The authority of an executive agency under subsection (a), and the authority of the Comptroller General under subsection (b), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) FORM OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(g) USE OF IMAGES OF ORIGINAL RECORDS.—An executive agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(h) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

SEC. 2401. CLARIFICATION OF PROVISION RELATING TO QUALITY CONTROL OF CERTAIN SPARE PARTS.

The second sentence of subsection (a) of section 2383 of title 10, United States Code, is amended to read as follows: "In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

"(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

"(2) that any or all such requirements are unnecessary.".

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

(a) REPEAL OF REQUIREMENT FOR REPORT ON WAIVERS.—Subsection (e) of section 2403 of title 10, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(b) PROVISIONS TO BE ADDRESSED BY REGULATIONS.—Subsection (h) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

Subtitle F—Claims and Disputes

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENT-WIDE REQUIREMENT.—

(1) REPEAL.—Section 2410 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2453), is repealed.

(c) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410e of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

SEC. 2502. SHIPBUILDING CLAIMS.

(a) INCREASE IN TIME PERIOD DURING WHICH ADJUSTMENTS TO SHIPBUILDING CLAIMS MAY BE MADE.—Section 2405 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "entered into after December 7, 1983,"; and

(B) by striking out "occurring more than 18 months before the submission of the claim, request, or demand." and inserting in lieu thereof the following: "occurring—

"(1) in the case of a contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 18 months before the submission of the claim, request, or demand; and

"(2) in the case of a contract entered into on or after the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 6 years before the submission of the claim, request, or demand.".

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. WEAPON DEVELOPMENT AND PROCUREMENT SCHEDULES.

(a) DEADLINE AND PURPOSE.—Subsection (a) of section 2431 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "at the same time" and inserting in lieu thereof "not later than 45 days after"; and

(B) by striking out "a written report" and inserting in lieu thereof "budget justification documents"; and

(2) in the second and third sentences, by striking out "report" and inserting in lieu thereof "documents".

(b) ADDITIONAL MATTERS TO BE INCLUDED.—Subsection (b) of such section is amended—

(1) by striking out "include—" and inserting in lieu thereof "include each of the following:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1), (2), and (3);

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by amending paragraph (4) to read as follows:

"(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

"(B) In this paragraph:

"(i) The term 'most efficient production rate' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

"(ii) The term 'minimum sustaining rate' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.".

SEC. 3002. SELECTED ACQUISITION REPORT REQUIREMENT.

(a) DEFINITION OF PROCUREMENT UNIT COST.—

(1) DEFINITION.—Paragraph (2) of section 2432(a) of title 10, United States Code, is amended—

(A) in clause (A), by striking out "for a fiscal year" and all that follows through "such program in such fiscal year";

(B) in clause (B), by striking out "with such funds during such fiscal year." and inserting in lieu thereof a period; and

(C) by striking out the last sentence.

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is amended—

(A) in subparagraph (B) of subsection (c)(1), by striking out "current" before "procurement unit cost";

(B) in subsection (d), by striking out "current" before "procurement unit cost" each place it appears; and

(C) in subsection (e), by striking out "current" before "procurement unit cost" both places it appears.

(b) EXCLUSION OF FIRM, FIXED-PRICE CONTRACTS.—Subsection (a) of section 2432 of such title is amended in paragraph (3) by inserting before the period at the end the following: "and that is not a firm, fixed price contract".

(c) DEFINITION OF FULL LIFE-CYCLE COST.—Such subsection is further amended in paragraph (4) by striking out "has the meaning" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(d) NOTICE OF PROPOSED CHANGES IN SAR.—Subsection (c) of such section is amended in paragraph (2) by striking out the second sentence and inserting in lieu thereof the following: "Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.".

(e) ELIMINATION OF CERTAIN SAR REQUIREMENTS.—Such subsection is further amended in paragraph (3) by striking out subparagraph (C).

(f) UNIFORM IMPLEMENTATION OF LIFE-CYCLE COST ANALYSIS.—Such subsection is further amended—

(1) by striking out paragraph (5); and

(2) by adding at the end of subparagraph (A) of paragraph (3) the following: "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(g) DEADLINE REVISION.—Subsection (f) of such section is amended by striking out "60 days" in the first sentence and inserting in lieu thereof "45 days".

(h) ELIMINATION OF PRELIMINARY REPORT.—Such subsection is further amended by striking out the second sentence.

(i) TERMINOLOGY CORRECTIONS.—Such section is further amended as follows:

(1) Subsection (b)(3)(A) is amended by striking out "full scale development or" in clause (i).

(2) Subsection (c)(3) is amended by striking out "full-scale engineering" in subparagraph (A) and inserting in lieu thereof "engineering and manufacturing".

(3) Subsection (h)(1) is amended by striking out "full-scale engineering" both places it appears and inserting in lieu thereof "engineering and manufacturing".

SEC. 3003. UNIT COST REPORT REQUIREMENT.

(a) REVISION OF BASELINE REPORT DEFINITIONS.—

(1) REVISION.—Section 2433(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking out "Baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Estimate"; and

(ii) by striking out "Selected Acquisition Report in which" and all that follows through the end of the paragraph and inserting in lieu thereof "cost estimate included in the baseline description for the program under section 2435 of this title."; and

(B) by striking out paragraph (4).

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is further amended—

(A) in subsection (c)(1), by striking out "Baseline Report" in subparagraphs (A) and (B) and inserting in lieu thereof "Baseline Estimate"; and

(B) in subsection (d), by striking out "Baseline Report" in paragraphs (1) and (2) and inserting in lieu thereof "Baseline Estimate".

(b) CONTENTS OF UNIT COST REPORT.—Section 2433(b) of such title is amended in paragraph (3) by striking out "Baseline Report was submitted." and inserting in lieu thereof "contract was entered into.".

(c) ELIMINATION OF CERTAIN UNIT COST REPORT REQUIREMENT.—Section 2433(c) of such title, as amended by subsection (a), is further amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) CONSTANT BASE YEAR DOLLARS.—Section 2433(f) of such title is amended by striking out "include expected inflation" and inserting in lieu thereof "be stated in terms of constant base year dollars (as described in section 2430 of this title)".

(e) CONTENTS OF SAR.—Subparagraph (I) of section 2433(g)(1) of such title is amended to read as follows:

"(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.".

SEC. 3004. REQUIREMENT FOR INDEPENDENT COST ESTIMATE AND MANPOWER ESTIMATE BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Subsection (b) of section 2434 of title 10, United States Code, is amended to read as follows:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the full life-cycle cost of a program—

"(A) be prepared by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required—

"(A) to operate, maintain, and support the program upon full operational deployment; and

"(B) to train personnel to carry out the activities referred to in subparagraph (A).".

(b) TERMINOLOGY CORRECTION, ETC.—Subsection (a) of such section is amended—

(1) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development"; and

(2) by striking out "cost of the program, together with a manpower estimate, has" and inserting in lieu thereof "full life-cycle cost of the program and a manpower estimate have".

SEC. 3005. BASELINE DESCRIPTION.

(a) IN GENERAL.—Section 2435 of title 10, United States Code, is amended to read as follows:

"§2435. Baseline description

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

"(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the 'Baseline Estimate' in section 2433 of this title), schedule, and performance of such major defense acquisition program.

"(3) No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Technology.

"(4) A baseline description for a major defense acquisition program shall be established—

"(A) before the program enters engineering and manufacturing development; or

"(B) before the program enters production and deployment.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of such deviation reports within the Department of Defense; and

"(4) procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by amending the item relating to section 2435 to read as follows:

"2435. Baseline description.".

SEC. 3006. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3007. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. AUTHORIZATION OF LESS THAN FULL-UP TESTING.

Section 2366(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3) and in that paragraph by striking out "such certification" and inserting in lieu thereof "certification under paragraph (1) or (2)"; and

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

"(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data, if the Secretary certifies to Congress that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.".

SEC. 3012. LIMITATION ON QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.

Section 2400(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "this section"; and

(B) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development";

(2) by redesignating paragraph (4) as paragraph (5) and in that paragraph by inserting after the first sentence the following: "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."; and

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

"(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.".

SEC. 3013. OPERATIONAL TEST AND EVALUATION OF DEFENSE ACQUISITION PROGRAMS.

(a) AUTHORITY TO USE DIFFERENT PROCEDURES.—Section 2399(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply operational test and evaluation procedures other than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary transmits to Congress, before the Milestone II decision is made with respect to that program—

"(A) a certification that such testing would be unreasonably expensive and impracticable; and

"(B) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system meets initial operational capability requirements.".

(b) CROSS REFERENCE CORRECTIONS.—Section 2399 of such title is further amended—

(1) in subsection (b)(6) (as redesignated by subsection (a)(1)) and subsection (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)"; and

(2) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

Subtitle C—Civil Reserve Air Fleet

SEC. 3021. DEFINITION OF CONTRACTOR.

Section 9511(8) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (A); and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

SEC. 3022. CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.

Chapter 931 of title 10, United States Code, is amended—

(1) in subsection (a) of section 9512, by inserting "AUTHORITY TO CONTRACT.—" after "(a)";

(2) in subsection (c) of section 9512, by striking out "(c)" and inserting in lieu thereof "(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—";

(3) in subsection (b) of section 9512, by striking out "(b)" and inserting in lieu thereof "(c) TERMS AND REQUIRED REPAYMENT.—";

(4) by redesignating subsection (a) of section 9513 as subsection (b) and transferring such subsection (as so redesignated) to section 9512 and inserting such subsection after subsection (a);

(5) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(6) in subsection (b) of section 9512, as redesignated and transferred to such section by paragraph (4)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(e)"; and

(9) by striking out the heading of section 9513.

SEC. 3023. USE OF MILITARY INSTALLATIONS BY CONTRACTORS.

(a) AUTHORITY.—Chapter 931 of title 10, United States Code, as amended by section 3022, is further amended by adding at the end the following new section 9513:

"§9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(d) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

Subtitle D—Miscellaneous

SEC. 3051. REGULATIONS ON PROCUREMENT, PRODUCTION, WAREHOUSING, AND SUPPLY DISTRIBUTION FUNCTIONS.

(a) IN GENERAL.—Section 2202 of title 10, United States Code, is amended to read as follows:

"§2202. Regulations on procurement, production, warehousing, and supply distribution functions

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2202 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2202. Regulations on procurement, production, warehousing, and supply distribution functions.".

SEC. 3052. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2369.

SEC. 3053. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401 the following new section:

"§2401a. Lease of vessels, aircraft, and vehicles

"The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401 the following new item:

"2401a. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3054. REPEAL OF APPLICATION OF PUBLIC CONTRACTS ACT TO CERTAIN NAVAL VESSEL CONTRACTS.

(a) REPEAL.—Section 7299 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7299.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) IN GENERAL.—The simplified acquisition threshold for purposes of Federal acquisitions is (except as provided in subsection (b)) the amount of $25,000, as adjusted pursuant to subsection (c).

"(b) AGENCIES WITH FACNET CAPABILITY.—In the case of an executive agency, or a procuring activity of an executive agency, for which there is in effect a certification under 2302b(c) of title 10, United States Code, or section 302B(c) of the Federal Property and Administrative Services Act of 1949 with respect to implementation of a FACNET capability, the simplified acquisition threshold is the amount of $100,000, as adjusted pursuant to subsection (c).

"(c) PERIODIC ADJUSTMENT FOR INFLATION.—The dollar amount in effect under subsection (a) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1990 dollars (rounded to the nearest $1,000). The dollar amount in effect under subsection (b) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $1,000).

"(d) SPECIAL RULE FOR CONTINGENCY OPERATIONS.—In the case of a contract to be awarded and performed, or a purchase to be made, outside the United States in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code), the amounts in effect under subsections (a) and (b) shall be two times the amounts otherwise applicable.".

(b) CONFORMING AMENDMENT TO DEFINITION.—Section 4 of such Act is amended by striking out paragraph (11).

SEC. 4002. FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.

(a) FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1092, is further amended by adding at the end the following new section:

"SEC. 30. FEDERAL ACQUISITION COMPUTER NETWORK (FACNET) ARCHITECTURE.

"(a) IN GENERAL.—(1) The Administrator shall establish a program for the development and implementation of a Federal acquisition computer network architecture (hereinafter in this section referred to as 'FACNET'). The Administrator shall assign a program manager for FACNET and shall provide for overall direction of policy and leadership in the development, coordination, installation, operation, and completion of implementation of FACNET by executive agencies.

"(2) In carrying out paragraph (1), the Administrator shall consult with appropriate Federal agencies with applicable technical and

functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

"(3) The Administrator shall carry out paragraph (1) not later than the date that is 5 years after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(b) FUNCTIONS OF FACNET.—The FACNET architecture shall provide for the following functions:

"(1) GOVERNMENT FUNCTIONS.—Allow executive agencies to do the following electronically:

"(A) Provide widespread public notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the agency.

"(B) Allow responses to solicitations and requests for information to be submitted to the procuring activity through such system.

"(C) Allow public notice of contract awards to be provided through such system.

"(D) In cases in which it is practicable, allow questions regarding solicitations to be answered through such system.

"(E) Allow orders to be made through such system.

"(F) In cases in which it is practicable, make payments to contractors by bank card, electronic funds transfer, or other automated methods.

"(G) Archive data relating to each procurement action made using such system.

"(2) USER FUNCTIONS.—Allow private users to do the following electronically:

"(A) Access notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the executive agency.

"(B) Selectively access and review solicitations and orders issued by the executive agency.

"(C) Respond to solicitations and notices of orders issued by the executive agency.

(D) Receive orders from the executive agency.

"(E) Access information on contract awards made by the executive agency.

"(F) In cases in which it is practicable, receive payment by bank card, electronic funds transfer, or other automated means.

"(3) GENERAL FUNCTIONS.—

"(A) Allow the electronic exchange of procurement information between the private sector and the Federal Government.

"(B) Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data.

"(C) Allow convenient and universal user access through a single point of entry.

"(c) ARCHITECTURE DEFINED.—For purposes of this section, the term 'architecture' means an evolving description of all functions to be performed to achieve the mission of streamlining procurement through electronic commerce, the system elements and interfaces needed to perform the functions, and the designation of performance levels of those system elements.

"(d) ANNUAL REPORT TO CONGRESS.—The Administrator shall evaluate progress by executive agencies in implementing the FACNET under this section. The Administrator shall submit to the Congress, on the date that is one year after the date of the enactment of the Federal Acquisition Improvement Act of 1994 and on that date in each of the 5 years thereafter, a report on the overall progress by the executive branch and by each executive agency in implementing this section.".

(b) TECHNICAL AMENDMENTS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(1)(A), by striking out "notice" in the matter following clause (ii) and inserting in lieu thereof "notice of solicitation"; and

(2) in subsection (d), by striking out "a notice under subsection (e)" in the first sentence and inserting in lieu thereof "a notice of solicitation under subsection (a)".

SEC. 4003. IMPLEMENTATION IN ARMED SERVICES.

(a) ESTABLISHMENT IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302 the following new sections:

"§2302a. Simplified acquisition threshold

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"§2302b. Implementation of FACNET capability

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each agency named in section 2303 of this title shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act. In the case of the Department of Defense, the implementation shall be by the Secretary of Defense for the Department of Defense as a whole. For purposes of this section, the term 'head of an agency' does not include the Secretaries of the military departments.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—(1) The Secretary of Defense shall designate the Under Secretary of Defense for Acquisition and Technology to have responsibility for implementation of FACNET capability throughout the Department of Defense.

"(2) The head of each agency named in paragraph (5) or (6) of section 2303 of this title shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an agency or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition and Technology, determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive or the Under Secretary shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the agency for which the head of the agency determines that implementation is not cost effective or practicable) the agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the head of the agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302 the following new items:

"2302a. Simplified acquisition threshold.

"2302b. Implementation of FACNET capability.".

SEC. 4004. IMPLEMENTATION IN CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302 the following new sections:

"SEC. 302A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by executive agencies, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"SEC. 302B. IMPLEMENTATION OF FACNET CAPABILITY.

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each executive agency shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an executive agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each executive agency shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an executive agency determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an executive agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the executive agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the executive agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each executive agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that executive agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An executive agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the executive agency for which the head of the agency determines that implementation is not cost effective or practicable) the executive agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an executive agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the executive agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the executive agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the executive agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an executive agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that executive agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an executive agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the executive agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. PROCEDURES FOR PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4001, is further amended by inserting after section 4A the following new section:

"SEC. 4B. PROCEDURES APPLICABLE TO PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

"(a) REQUIREMENTS.—(1) The head of each executive agency shall ensure that procuring activities of that agency, in awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and section 2323 of title 10, United States Code, or section 315 of the Federal Property and Administrative Services Act of 1949, as applicable to that agency.

"(2) The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to any purchases with a price exceeding the micro-purchase threshold.

"(b) EXCLUSION FOR MICRO-PURCHASES.—A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to the Act of March 3, 1933, commonly referred to as the 'Buy American Act' (41 U.S.C. 10a–10c).

"(c) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of section 27, only subsections (a) and (b) shall apply with respect to purchases below the micro-purchase threshold. In applying such subsection (a), a contractor that enters into a contract under the micro-purchase threshold shall be considered to be a competing contractor. In applying such subsection (b), a civil officer or employee, and any member of the Armed Forces, who has authority to enter into contracts but whose contracting authority is limited to the amount of the micro-purchase threshold or less shall be considered to be a procurement official.

"(d) IMPLEMENTATION THROUGH FAR.—This section shall be implemented through the Federal Acquisition Regulation.

"(e) MICRO-PURCHASE THRESHOLD DEFINED.—For purposes of this section, the micro-purchase threshold is the amount of $2,500, adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $100).".

SEC. 4012. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended as follows:

(1) Paragraph (1) is amended—

(A) by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "the simplified acquisition threshold";

(B) by striking out "(c)—" in the matter preceding subparagraph (A) and inserting in lieu thereof "(c):";

(C) by striking out "an executive" at the beginning of subparagraphs (A) and (C) and inserting in lieu thereof "An executive";

(D) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof a period; and

(E) by amending subparagraph (B) to read as follows:

"(B) An executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000 but not to exceed the simplified acquisition threshold shall post a notice of solicitation described in subsection (b). The notice shall be posted at the contracting office issuing the solicitation or shall be made available through an electronic system with a FACNET capability that at least meets the requirements of paragraphs (1)(A) and (2)(A) of section 30(b). The notice shall be posted for a period of not less than 10 days, except that in the case of a posting made through an electronic system with such a FACNET capability, the posting may be for a period of less than 10 days as prescribed in the Federal Acquisition Regulation.".

(2) Paragraph (3)(B) is amended by inserting after "(B)" the following: "in the case of a contract or order for an amount expected to exceed the simplified acquisition threshold,".

(b) OPPORTUNITY FOR ALL RESPONSIBLE POTENTIAL OFFERORS.—Such subsection is further amended by adding at the end the following:

"(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that all potential offerors are permitted to respond to the solicitation for the contract within the period of time specified in the solicitation for the submission of offers.".

(c) ESTABLISHMENT OF DEADLINE FOR SUBMISSION OF OFFERS.—Such subsection is further amended by adding after paragraph (4), as added by subsection (b), the following new paragraph:

"(5) An executive agency shall establish a deadline for the submission of all bids or proposals in response to a notice of solicitation with respect to which no such deadline is provided by statute.".

(d) EXCEPTIONS.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

"(4)(A) The requirements of subsection (a)(1) shall not apply in the case of an acquisition for which notice is accomplished through the use of FACNET, as described in section 30 and certified under section 2302a of title 10, United States Code, or section 302A of the Federal Property and Administrative Services Act of 1949.

"(B) The Federal Acquisition Regulation shall provide for minimum periods of time for submission of offers for acquisitions described in subparagraph (A). Such periods shall provide offerors a reasonable opportunity to respond.

"(C) A notice of solicitation of bids or proposals for an acquisition described in subparagraph (A) shall include the matter described in subsection (b).".

SEC. 4013. GAO TEST AND REPORT ON PERFORMANCE OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) PERFORMANCE TEST.—The Comptroller General of the United States shall collect data and assess the effects of the simplified acquisition threshold, as established in section 4A of the Office of Federal Procurement Policy Act, on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) in procurement awards of less than $100,000 and the benefits and detriments, if any, to the procuring activities of the various Executive agencies.

(b) DATA TO BE COLLECTED.—Data collected under subsection (a) shall include data regarding whether the establishment of the simplified acquisition threshold has improved the acquisition process in terms of reduced paperwork, financial or other savings to the Federal Government, and any increase in the number of contractors participating in the contracting process.

(c) PERIOD.—Data shall be collected for purposes of subsection (a) during the period beginning with the first full fiscal year quarter after the effective date of the amendments made by section 3001 and ending on September 30, 1997.

(d) REPORT.—By March 1, 1998, the Comptroller General shall submit to Congress a report on the effects of the establishment of the simplified acquisition threshold by the amendments made by section 3001.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Subpart A—Generally

SEC. 4021. INAPPLICABILITY OF FUTURE ENACTED PROCUREMENT LAWS TO CONTRACTS NOT EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD.

(a) ARMED SERVICES.—Section 2302a of title 10, United States Code, as added by section 4003(a), is amended by adding at the end the following new subsection:

"(b) CONSTRUCTION WITH FUTURE ENACTMENTS.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an agency named in section 2303 of this title for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

(b) CIVILIAN AGENCIES.—Section 302A of the Federal Property and Administrative Services Act of 1949, as added by section 4004(a), is amended by adding at the end the following new subsection:

"(b) CONSTRUCTION WITH FUTURE ENACTMENTS.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an executive agency for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

Subpart B—Armed Services Acquisitions

SEC. 4031. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 2302a of title 10, United States Code, as amended by section 4021, is further amended by adding at the end the following new subsection:

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract in an amount not greater than the simplified acquisition threshold:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2313 of this title (relating to examination of books and records of contractor).

"(3) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(4) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors of contractors).

"(5) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(6) Section 2408(a) of this title (relating to prohibition on persons convicted of defense-contract related felonies).

"(7) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(8) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(9) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(10) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.).".

SEC. 4032. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(b) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

(c) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

(d) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold.".

(e) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(f) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) In this subsection, the term 'defense contract' means a contract in an amount in excess of the simplified acquisition threshold.".

(g) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(h) INAPPLICABILITY OF MISCELLANEOUS PROCUREMENT LIMITATIONS.—Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—This section does not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

Subpart C—Civilian Agency Acquisitions

SEC. 4041. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 302A of the Federal Property and Administrative Services Act of 1949, as amended by section 4021(b), is further amended by adding at the end the following new subsection:

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an executive agency in an amount not greater than the simplified acquisition threshold:

"(1) Sections 303G, 304(a), and 304C of this Act.

"(2) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(3) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.).".

SEC. 4042. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property

and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(c) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304C of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

Subpart D—Acquisitions Generally

SEC. 4051. CONFORMANCE OF CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.

Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting after "$100,000" the following: "or the simplified acquisition threshold, whichever is greater".

SEC. 4052. INAPPLICABILITY OF THE DRUG-FREE WORKPLACE ACT OF 1988.

Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4A of such Act) by any Federal agency".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of such title is amended by striking out "small purchases)" in the matter preceding subparagraph (A) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of such title is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(d) CROSS REFERENCE AMENDMENT.—Section 9005 of Public Law 102-396 (10 U.S.C. 2441 note) is amended in the first sentence by striking out "small purchases covered by section 2304(g)" and inserting in lieu thereof "purchases for amounts not in excess of the simplified acquisition threshold covered by section 2304(g)".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1)—

(A) by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold", and

(B) by striking out "regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984," and inserting in lieu thereof "Federal Acquisition Regulation";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(6) by striking out paragraph (5).

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of such Act (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter preceding paragraph (1) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of such Act (41 U.S.C. 254(b)) is amended in the third sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements for amounts in excess of the simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—(1) Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000 (other than such an amount that is specified by law); and

(B) amend the regulations so identified to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(2) Paragraph (1)(B) does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—Not later than 90 days after the date on which the review required by subsection (a)(1)(A) is completed, the head of each executive agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall—

(1) identify any such regulation, policy, or procedure that is applicable to acquisitions in excess of a specified amount that is less than $100,000; and

(2) pursuant to section 22 of such Act (41 U.S.C. 418b), publish amendments to the regulations so identified to provide that each such regulation, policy, or procedure does not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(c) RELATIONSHIP TO OTHER AUTHORITY.—None of the amendments to regulations made pursuant to subsections (a) and (b) apply to or in any way diminish the authority of the civil rights enforcement programs enforced by the Department of Labor.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4A of the Office of Federal Procurement Policy Act, as added by section 4001.

(2) The term "executive agency" has the meaning given such term in section 3(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. SMALL BUSINESS PROVISIONS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting after paragraph (7) the following new paragraphs:

"(8) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses and small businesses owned and controlled by socially and economically disadvantaged persons are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

"(9) developing policies that will promote achievement of goals for participation by small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals;".

SEC. 4102. PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS.

(a) REGULATIONS.—

(1) IN GENERAL.—The Administrator for Federal Procurement Policy shall prescribe in regulations the requirements described in paragraph (2).

(2) PROCEDURES RELATING TO COMPLIANCE WITH PAYMENT TERMS.—(A) Under procedures established in the regulations, upon the assertion by a subcontractor or supplier of a contractor performing a Government contract that the subcontractor or supplier has not been paid by the prime contractor in accordance with the payment terms of the subcontract, purchase order, or other agreement with the prime contractor, the contracting officer may determine the following:

(i) With respect to a construction contract, whether the contractor has made progress payments to the subcontractor or supplier in compliance with chapter 39 of title 31, United States Code.

(ii) With respect to a contract other than a construction contract, whether the contractor has made progress or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iii) With respect to either a construction contract or a contract other than a construction contract, whether the contractor has made final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iv) With respect to either a construction contract or a contract other than a construction contract, whether any certification of payment of the subcontractor or supplier accompanying the contractor's payment request to the Government is accurate.

(B) If the contracting officer determines that the prime contractor is not in compliance with any matter referred to in clause (i), (ii), or (iii) of subparagraph (A), the contracting officer may, under procedures established in the regulations—

(i) encourage the prime contractor to make timely payment to the subcontractor or supplier; or

(ii) reduce or suspend progress payments with respect to amounts due to the prime contractor.

(C) If the contracting officer determines that a certification referred to in clause (iv) of subparagraph (A) is inaccurate in any material respect, the contracting officer shall, under procedures established in the regulations, initiate appropriate administrative or other remedial action.

(D) This paragraph shall apply with respect to any Government contract, other than a Department of Defense contract, that is in effect on the date of promulgation of the regulations under this subsection or that is awarded after such date.

(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—The regulations prescribed under this section shall not apply to the following contracts:

(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

(2) A contract for the acquisition of commercial items (as that term is defined in section 4(12) of the Office of Federal Procurement Policy Act).

(c) AMENDMENTS TO ARMED SERVICES PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 2301 note) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to the following contracts:

"(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

"(2) A contract for the acquisition of commercial items (as that term is defined in section 2281 of title 10, United States Code).".

SEC. 4103. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 15 U.S.C. 637 note) is amended by striking out "September 30, 1994." in the second sentence and inserting in lieu thereof "September 30, 1997.".

SEC. 4104. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an interagency council to be known as the "Small Business Procurement Advisory Council" (hereinafter in this section referred to as the "Council").

(b) DUTIES.—The duties of the Council are—

(1) to serve as a forum for discussion of issues and problems relating to, and ideas for improvement of, small business procurement matters within the Federal Government;

(2) to provide information to other departments and agencies of the Federal Government about small business procurement; and

(3) to issue advisory reports to the Office of Federal Procurement Policy and the Small Business Administration on small business procurement matters.

(c) MEMBERSHIP.—The Council shall be composed of the following members:

(1) The Administrator for Federal Procurement Policy (or the designee of the Administrator).

(2) The Administrator of the Small Business Administration (or the designee of the Administrator).

(3) The Director of the Minority Business Development Agency.

(4) The head of each Office of Small and Disadvantaged Business Utilization in each Federal agency having procurement powers.

(d) COCHAIRMEN.—The Council shall be cochaired by the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration.

(e) MEETINGS.—The Council shall meet at the call of the chairmen, but not less often than four times a year and once each quarter.

(f) DIRECTOR.—The Chief Counsel for Advocacy of the Small Business shall serve as the director of the Council. The director may not vote on matters before the council except in the case of a tie vote among the members. The duties of the director shall be determined by the chairmen of the Council. The Chief Counsel for Advocacy shall receive no additional pay by reason of the counsel's service as director of the Council.

(g) ANNUAL REPORT.—(1) Not later than 30 days after the end of each fiscal year, the Council shall submit to Congress a report detailing the activities of the Council during the preceding fiscal year in carrying out this section.

SEC. 4105. MAXIMUM PRACTICABLE OPPORTUNITIES FOR APPRENTICES ON FEDERAL CONSTRUCTION PROJECTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) contractors performing Federal construction contracts should, to the maximum extent practicable, give preference in the selection of subcontractors to subcontractors participating in apprenticeship programs registered with the Department of Labor or with a State apprenticeship agency recognized by such Department; and

(2) contractors and subcontractors performing Federal construction contracts should provide maximum practicable opportunities for employment of apprentices who are participating in or who have completed such apprenticeship programs.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report on the extent to which contractors and subcontractors performing Federal construction contracts have increased subcontractor participation in registered apprenticeship programs.

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. RESTRICTION ON USE OF NON-COMPETITIVE PROCEDURES FOR PROCUREMENT FROM A SPECIFIED SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005, is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (k)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(k)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source from which the procurement is to made; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an executive agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an executive agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

SEC. 4152. REPEAL OF OBSOLETE PROVISION.

Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

TITLE V—STANDARDS OF CONDUCT

SEC. 5001. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1091, is further amended by inserting after section 22 the following new section 23:

"SEC. 23. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

"(a) LIMITATION ON USE OF CONTRACT ADVISORY AND ASSISTANCE SERVICES.—(1) An executive agency may not provide for an evaluation or analysis of any aspect of a proposal submitted for an acquisition by that executive agency to be conducted by a person who is not an employee of an executive agency or a member of the Armed Forces unless the executive agency determines that employees or members with adequate training and capability to perform the evaluation or analysis are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of employees within the executive agency or another Federal agency are readily available to perform a particular evaluation or analysis for the executive agency making the determination; and

"(B) the readily available employees have the training and capabilities necessary to perform the evaluation or analysis.

"(b) DEFINITION.—For purposes of this section, the term 'employee' has the meaning given such term in section 2105 of title 5, United States Code.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—

(1) IN GENERAL.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(B) provide guidance and promulgate regulations regarding—

(i) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(ii) the manner in which Federal employees with expertise may be shared with agencies needing expertise for such acquisitions.

(2) DEFINITION.—In paragraph (1), the term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

SEC. 5002. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 5003. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"SEC. 3741. No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 5004. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

Section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" in subsection (a) and inserting in lieu thereof "45 days"; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(3) A policy, regulation, procedure, or form described in subsection (a) may (notwithstanding that subsection) take effect earlier than 45 days after the date of publication thereof in the Federal Register pursuant to subsection (b) if the officer authorized to issue the procurement policy, regulation, procedure, or form determines that compelling circumstances make compliance with the 45-day requirement under subsection (a) impracticable. However, the policy, regulation, procedure, or form may not take effect earlier than 30 days after the publication date except as provided in paragraph (1).".

SEC. 5005. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following sections of title 10, United States Code, are repealed: sections 2207, 2397, 2397a, 2397b, and 2397c.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2207.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

TITLE VI—DEFENSE TRADE AND COOPERATION

SEC. 6001. EXCEPTION TO BUY AMERICAN ACT FOR MICRO-PURCHASES.

Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), commonly referred to as the "Buy American Act", is amended by adding at the end the following: "This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 4B of the Office of Federal Procurement Policy Act.".

SEC. 6002. POLICY ON PURCHASE OF FOREIGN GOODS.

(a) IN GENERAL.—Section 2533 of title 10, United States Code, is amended to read as follows:

"§2533. Policy on the purchase of foreign goods

"(a) DETERMINATION UNDER BUY AMERICAN ACT.— In determining whether application of the Buy American Act is inconsistent with the public interest, the Secretary of Defense shall give adequate consideration to the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The balance of payments of the United States.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) The need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) The need to maintain the same source of supply for spare and replacement parts either for an end item that qualifies as an American good or to maintain or foster the integration of the military and commercial industrial base.

"(9) National security interests of the United States.

"(b) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(b) CLERICAL AMENDMENT.—The item relating to section 2533 in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Policy on purchase of foreign goods.".

SEC. 6003. CONSOLIDATION OF MISCELLANEOUS PROCUREMENT LIMITATIONS.

Section 2534 of title 10, United States Code, is amended—

(1) by striking out subsections (a) through (f);

(2) by redesignating subsection (g), as added by section 4032, as subsection (d); and

(3) by inserting after the section heading the following:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure an item listed in subsection (b) only if the item is manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(b) COVERED ITEMS.—Subsection (a) applies to the following:

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (or components for such injectors), but only if the company that manufactures the item not only manufactures it in the United States but also meets the following requirements:

"(A) The company is an existing producer under the industrial preparedness program at the time the contract is awarded.

"(B) The company has received all required regulatory approvals.

"(C) The company has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded.

"(3) VALVES AND MACHINE TOOLS.—(A) Items in the following categories:

"(i) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(ii) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(B) Contracts for the procurement of items described in subparagraph (A) include contracts—

"(i) for the use of such items in any property under the control of the Department of Defense, including Government-owned, contractor-operated facilities; and

"(ii) entered into by contractors on behalf of the Department of Defense for the purposes of providing such items to other contractors as Government-furnished equipment.

"(C) In any case in which a contract for items described in subparagraph (A) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in this subsection applies.

"(D) This paragraph is effective through fiscal year 1996.

"(4) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(5) SONOBUOYS.—Sonobuoys.

"(6) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992. This paragraph is effective through fiscal year 1995.

"(c) EXCEPTIONS.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in subsection (b) if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(d) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 6004. REPEAL OF OBSOLETE AND REDUNDANT PROVISIONS.

(a) REPEAL OF REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(b) REPEAL OF REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(c) REPEAL OF STUDIES OF WAIVERS.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), relating to studies of certain employment effects and procurement effects of a waiver of the Buy American Act, is repealed.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

SEC. 7001. DEFINITIONS.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means any of the following:

"(A) Any item of a type customarily used in the course of normal business operations for other than Federal Government purposes, that—

"(i) has been sold, leased, or licensed to the general public or to domestic State, or local government entities; or

"(ii) has been offered for sale, lease, or license to the general public or to domestic State, or local government entities.

"(B) An item intended to be used in the course of normal business operations for other than Federal Government purposes that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

"(C) Any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A) or (B).

"(D) Any combination of items meeting the requirements of subparagraph (A), (B), or (C) that are of a type customarily combined and sold in combination to the general public.

"(E) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(F) Services offered and sold competitively, in significant quantities, in the commercial marketplace at established catalog prices or standard rates and under standard commercial terms and conditions.

"(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means any of the following:

"(A) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

"(B) Any item of supply described in subparagraph (A) that requires only minor modification or modification of the type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.

"(C) Any item of supply currently being produced that does not meet the requirements of subparagraph (A) or (B) solely because the item is not yet in use.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking out "Act—" in the matter preceding paragraph (1) and inserting in lieu thereof "Act:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraphs (4) and (10) and inserting in lieu thereof a period.

SEC. 7002. REGULATIONS ON ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide regulations to implement paragraphs (12) through (15) of section 4 of the Office of Federal Procurement Policy Act, chapter 136 of title 10, United States Code, and sections 314 through 314D of the Federal Property and Administrative Services Act of 1949.

(b) TERMS AND CONDITIONS.—The regulations prescribed under subsection (a) shall contain a set or sets of terms and conditions to be included in contracts for the acquisition of commercial end items. Such terms and conditions shall, to the maximum extent practicable, include only those contract clauses that are—

(1) required to implement provisions of law applicable to commercial item acquisitions; or

(2) consistent with standard commercial practice.

(c) TERMS AND CONDITIONS FOR COMPONENTS.—Such regulations shall provide that a prime contractor furnishing commercial items or items other than commercial items as items or components shall not be required to apply to any of its divisions, subsidiaries, affiliates, subcontractors, or suppliers that are furnishing commercial items as components any clause, term, or condition except those that are—

(1) required to implement provisions of law applicable to subcontractors furnishing commercial items; or

(2) determined to be consistent with standard commercial practice.

(d) MARKET ACCEPTANCE.—The regulations prescribed under subsection (a) shall provide that, under appropriate conditions, the agency head may require an offeror to demonstrate, as a condition for being considered responsive, that the items offered meet, among other criteria, market acceptance criteria, unless such item has been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements.

(e) USE OF FIXED PRICE CONTRACTS.—The regulations prescribed under subsection (a) shall include a requirement that firm, fixed price contracts, or fixed price contracts with economic price adjustment provisions, be used for the acquisition of commercial items and components.

(f) TERM OF CONTRACTS.—The regulations prescribed under subsection (a) shall provide that, to the extent practicable, contracts for acquisition of commercial items shall not require contract performance for a term longer than customary industry practice for the item being acquired. A contracting officer may include in a contract provisions for economic price adjustment if an extended period of performance under the contract cannot be avoided.

(g) CONTRACT QUALITY REQUIREMENTS.—The regulations prescribed under subsection (a) shall include provisions that—

(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the existing quality assurance system of the contractor as a substitute for compliance with an otherwise applicable requirement for the Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Government;

(2) require that, to the maximum extent practicable, the executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

(3) set forth guidance regarding the use of past performance of commercial items and sources as a factor in contract award decisions.

(h) DEFENSE CONTRACT CLAUSES.—

(1) REPEAL OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) is repealed.

(2) SAVINGS PROVISION.—Notwithstanding subsections (b) and (c), a contract of the Department of Defense entered into before October 1, 1994, and a subcontract entered into before such date under such a contract, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

Subtitle B—Armed Services Acquisitions

SEC. 7101. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) ESTABLISHMENT.—Part IV of subtitle A of title 10, United States Code, is amended by inserting before chapter 137 the following new chapter 136:

"CHAPTER 136—PROCUREMENT OF COMMERCIAL ITEMS

"Sec.

"2281. Definitions.

"2282. Preference for acquisition of commercial items.

"2283. Exception to cost or pricing data requirement for commercial items.

"2284. Principle of construction with future laws.

"2285. Inapplicability of certain provisions of law.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are amended by inserting before the item relating to chapter 137 the following new item:

"136. Procurement of Commercial Items 2281".

SEC. 7102. DEFINITIONS.

Chapter 136 of title 10, United States Code, as added by section 7001, is amended by adding after the table of sections the following:

"§2281. Definitions

"In this chapter:

"(1) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

SEC. 7103. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7102, is further amended by adding after section 2281 the following new section:

"§2282. Preference for acquisition of commercial items

"(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the agency;

"(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items as components of items supplied to the agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), an agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the agency's requirements;

"(B) could be modified to meet the agency's requirements; or

"(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2325 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 7104. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7103, is further amended by adding after section 2282 the following new section:

"§2283. Exception to cost or pricing data requirements for commercial items

"(a) EXEMPTION FROM SECTION 2306a IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 2306a of this title; and

"(2) to the maximum extent practicable, the head of the agency conducting the procurement may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 2306a of this title, the contracting officer shall use price analysis to determine whether the price of the contract is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 2306a of this title. Price analysis under this subsection shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 2306a of this title.

"(d) RIGHT TO AUDIT.—(1) The head of an agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the head of the agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 2306a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 2283 of this title.".

SEC. 7105. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Chapter 136 of title 10, United States Code, as amended by section 7104, is further amended by adding after section 2283 the following new section:

"§2284. Principle of construction with future laws

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes a provision of this chapter.".

SEC. 7106. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABLE PROVISIONS.—Chapter 136 of title 10, United States Code, as amended by section 7105, is further amended by adding after section 2284 the following new section:

"§2285. Inapplicability of certain provisions of law

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an agency for the procurement of a commercial item:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2320 of this title (relating to rights in technical data).

"(3) Section 2321 of this title (relating to validation of proprietary data restrictions).

"(4) Section 2324 of this title (relating to allowable costs).

"(5) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(6) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors or contractors).

"(7) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(8) Section 2408(a) of this title (relating to prohibition on persons convicted of defense contract-related felonies).

"(9) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(10) Section 843 of Public Law 103–160 (107 Stat. 1720) (relating to reports of defense contractors of dealings with terrorist countries).

"(11) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(12) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(13) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any entity described in paragraph (2):

"(A) Each provision of law listed under subsection (a).

"(B) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.".

SEC. 7107. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4032(a), is further amended by inserting before the period at the end of the sentence added by that section the following: "or to a contract for the acquisition of commercial items".

(b) INAPPLICABILITY OF REGULATIONS ON RIGHTS IN TECHNICAL DATA.—Section 2320 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The regulations prescribed under subsection (a) shall not apply to contracts for the purchase of commercial items.".

(c) INAPPLICABILITY OF REQUIREMENT FOR VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Section 2321(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ", other than a contract for supplies or services that are commercial items".

(d) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items.".

(e) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4032(d), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items.".

(f) INAPPLICABILITY OF PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4032(e), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(g) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end of paragraph (4), as added by section 4032(f), the following: "The term does not include a contract for the purchase of commercial items.".

(h) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended by adding after subsection (b), as added by section 4032(g), the following:

"(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial items.".

Subtitle C—Civilian Agency Acquisitions

SEC. 7201. DEFINITIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1553, is further amended by adding after section 313 the following new section:

"SEC. 314. DEFINITIONS RELATING TO PROCUREMENT OF COMMERCIAL ITEMS.

"As used in this title, the terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.".

SEC. 7202. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7201, is further amended by adding after section 314 the following new section:

"SEC. 314A. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

"(a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), the head of an executive agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.".

SEC. 7203. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7202, is further amended by adding after section 314A the following new section:

"SEC. 314B. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

"(a) EXEMPTION FROM SECTION 304B IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 304B of this title; and

"(2) to the maximum extent practicable, the executive agency may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 304B, the contracting officer shall use price analysis to determine whether the price is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 304B of this title. Price analysis under this section shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 304B.

"(d) RIGHT TO AUDIT.—(1) An executive agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the executive agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 1251, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 314B of this title.".

SEC. 7204. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7203, is further amended by adding after section 314B the following new section:

"SEC. 314C. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an executive agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes sections 314 through 314D of this title.".

SEC. 7205. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7204, is further amended by adding after section 314C the following new section:

"SEC. 314D. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—Procurements of commercial items shall not be subject to the following provisions of law (or regulations prescribed under such provisions):

"(1) Section 303G of this Act (relating to prohibition on limitation of subcontractor direct sales).

"(2) Section 304(a) of this Act (relating to prohibition on contingent fees).

"(3) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(4) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(5) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—Each provision of law listed under subsection (a) (and regulations prescribed under each such provision) shall not apply to any entity described in paragraph (2).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.

SEC. 7206. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4042(a), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4042(b), is further amended by inserting before the period at the end of the sentence added by section 4042(b) the following: "or to a contract for the acquisition of commercial items".

Subtitle D—Acquisitions Generally

SEC. 7301. CONFORMING AMENDMENT RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) COST ACCOUNTING STANDARDS BOARD.—Section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422) is amended in paragraph (2) by striking out "where the price negotiated" and all that follows through "(B)" and inserting in lieu thereof "(A) for the procurement of commercial items, or (B) for which the price negotiated is based on".

(b) CERTIFICATION REQUIREMENTS.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(7)(A)), as amended by section 4051, is further amended by inserting before the period at the end the following: ", for the procurement of goods and services other than commercial items".

(c) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152 of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.), as amended by section 4054, is further amended by inserting after the matter inserted by such section 4057 the following: ", other than a contract for the procurement of commercial items as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).".

SEC. 7302. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.".

SEC. 7303. ADDITIONAL RESPONSIBILITIES FOR ADVOCATES FOR COMPETITION.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 7304. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) section 315 of the Federal Property and Administrative Services Act of 1949 or section 2323 of title 10, United States Code;

(2) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(3) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(4) section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or any other provision of that Act; or

(5) the Act of June 25, 1938 (41 U.S.C. 46-48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the "Javits-Wagner-O'Day Act".

SEC. 7305. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 8001. TEST PROGRAM.

(a) IN GENERAL.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under this authority.

(b) DESIGNATION OF AGENCIES.—Each test conducted pursuant to subsection (a) shall be limited to not more than 2 specific contracting activities in an agency designated by the Administrator. Each agency so designated shall select the contracting activities participating in the test with the approval of the Administrator and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of tests within that agency.

(c) TEST REQUIREMENTS.—Tests conducted under subsection (a)—

(1) shall be developed and structured by the Administrator or by the agency senior procurement executives designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act in close coordination with the Administrator;

(2) shall be for a period of not greater than 4 years;

(3) shall be limited to specific programs of agencies or specific acquisitions;

(4) may not include any test with a total estimated life-cycle cost to the Federal Government greater than $100,000,000;

(5) shall include—

(A) a test by the National Aeronautics and Space Administration of simplified procurement procedures for acquisitions with an estimated annual total obligation of funds of $500,000 or less;

(B) a test by the General Services Administration of expedited methods for procuring automatic data processing equipment commodities; and

(C) a test by at least one agency of streamlined procedures for competition among interested sources participating in the tailoring of a solicitation for the purchase of commercial products; and

(6) shall not include any procurement the cost of which is expected to exceed $5,000,000 (including options).

(d) LIMITATION ON TOTAL VALUE OF CONTRACTS UNDER PROGRAM.—

(1) LIMITATION.—The Administrator shall ensure that the total amount obligated under contracts awarded pursuant to the program under this section does not exceed $600,000,000.

(2) MONITORING.—The Administrator shall monitor the value of contracts awarded pursuant to the program under this section.

(3) PROHIBITION ON AWARDS IN EXCESS OF LIMIT.—No contract may be awarded under the program under this section if the award of the contract would result in obligation of more than $600,000,000 under contracts under this section.

(e) PROCEDURES AUTHORIZED.—Tests conducted under this section may include any of the following procedures:

(1) Publication of agency needs before drafting of a solicitation.

(2) Screening of sources and competition among capable vendors.

(3) Issuance of draft solicitations for comment.

(4) Streamlined solicitations, with a minimized number of evaluation factors and information required from vendors, abbreviated periods for submission of offers, and page limitations on offers.

(5) Limitation of source selection factors to—

(A) cost to the Federal Government;

(B) past experience; and

(C) quality of the contents of the offer.

(6) Evaluation of proposals by small teams of highly qualified people, limited to 30 days.

(7) Competition among sources of preevaluated products.

(8) Alternative notice and publication requirements.

(9) A process in which—

(A) the competitive process is initiated by a notice in the Commerce Business Daily synopsizing the needs of the executive agency conducting the test, in functional and performance terms, with other specifications provided for guidance only;

(B) the notice invites interested sources to submit information or samples showing their product's suitability for those needs (with price quotations) or, if appropriate, showing the sources' technical capability, past performance, product supportability, or other qualifications (with appropriate consideration to rates and other cost-related factors);

(C) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submittals made by interested sources and, if the officials determine necessary, after consultation with those sources; and

(D) the contract is awarded after a streamlined competition limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on those qualification-based factors included in an invitation to submit information pursuant to subparagraph (B).

(f) TEST PLAN.—Not later than 60 days before implementing any test program under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (g)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(2) provide a copy of the plan to the appropriate authorizing committees of the House of Representatives and the Senate; and

(3) publish the plan in the Federal Register and provide an opportunity for public comment.

(g) WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the 9 procedures described in subsection (e).

(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law referred to in paragraph (1) are the following:

(A) Section 2304 of title 10, United States Code.

(B) Section 2305 of title 10, United States Code.

(C) Section 2319 of title 10, United States Code.

(D) Section 3709 of the Revised Statutes (41 U.S.C. 5).

(E) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(F) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(G) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(H) Section 310 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 260).

(I) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(J) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a).

(K) Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

(L) Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c).

(M) Section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

(N) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(3) PROPOSAL FOR ADDITIONAL WAIVER.—If the Administrator determines that the conduct of a test requires the waiver of a law not listed in paragraph (2) or requires approval of an estimated dollar amount not permitted under subsection (c)(4), the Administrator may propose legislation to authorize the waiver or grant the approval. Before proposing such legislation, the Administrator may provide and publish a test plan as described in subsection (f). If Congress does not authorize the waiver or grant the approval within 120 days after the date of receipt of the proposal, the proposal shall be deemed to be withdrawn. A proposal not approved within such 120 days may be resubmitted to Congress under this paragraph at any time.

(h) REPORTS AND REVIEWS.—

(1) ADMINISTRATOR.—The Administrator shall report to the Congress on the results of each test conducted under subsection (a).

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall review each test conducted under subsection (a) and report to the Congress on each test and shall report annually to the Congress on the conduct of and results of all tests conducted under subsection (a).

(i) EXPIRATION OF AUTHORITY.—The authority to conduct tests under this section and to award contracts under such tests shall expire on October 1, 1998. Contracts entered into before October 1, 1998, pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(j) FEDERAL AVIATION ADMINISTRATION ACQUISITION PILOT PROGRAM.—(1) The Administrator shall delegate to the Secretary of Transportation authority to conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code.

(2) The authority delegated under paragraph (1) shall include authority for the Secretary of Transportation—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such program—

(i) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(3) Paragraph (2) applies with respect to—

(A) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act; and

(B) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

(4) The Administrator may use the waiver authority provided under subsection (g) to waive the applicability of any provision referred to in paragraph (1) of that subsection to the program designated by the Secretary of Transportation under this subsection.

(k) DEPARTMENT OF DEFENSE ACQUISITION PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(A) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—All contracts directly relating to the procurement of a training simulation system, including related hardware, software, and subsystems, to perform collective training of field artillery gunnery teams, with development of software as required to generate the training exercises.

(B) JOINT DIRECT ATTACK MUNITION (JDAM I).—All contracts directly relating to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 1000-pound and 2000-pound bombs in inventory.

(C) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

(i) All contracts related to acquisition or upgrading of commercial-derivative aircraft for use in meeting future Air Force airlift, tanker, and airborne warning and control system requirements.

(ii) For purposes of this subparagraph, the term "commercial-derivative aircraft" means any of the following:

(I) Any aircraft that is of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

(II) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy the criteria in subclause (I).

(D) COMMERCIAL-DERIVATIVE ENGINE.—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (i) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in supporting the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

(2) CONDUCT OF DEFENSE ACQUISITION PROGRAMS.—In the case of each defense acquisition program designated under paragraph (1) for participation in the Defense Acquisition Pilot Program, the Secretary of Defense shall—

(A) develop guidelines and procedures for carrying out the program and the criteria to be used in measuring the success of the program;

(B) evaluate the potential costs and benefits which may be derived from the innovative procurement methods and procedures tested under the program; and

(C) develop the methods to be used to analyze the results of the program.

(3) SPECIAL AUTHORITY.—The authority delegated under paragraph (1) may include authority for the Secretary of Defense—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such programs—

(i) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(4) APPLICABILITY.—(A) Paragraph (3) applies with respect to—

(i) a contract that is awarded or modified during the period described in subparagraph (B); and

(ii) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(B) The period referred to in subparagraph (A) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

SEC. 8002. STUDY OF PARTICIPATION BY CERTAIN SMALL BUSINESSES IN FEDERAL PROCUREMENT.

(a) STUDY.—The Administrator for Federal Procurement Policy shall conduct a study of—

(1) the degree of participation by small businesses owned and controlled by socially and economically disadvantaged individuals in procurements conducted by executive agencies, other than agencies in the Department of Defense; and

(2) the extent of compliance by those executive agencies with the goals for participation by such businesses required by Office of Federal Procurement Policy policy letter 91-1, relating to Government-wide small business and small disadvantaged business goals for procurement contracts.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit a report on the study required under subsection (a) to the Committee on Government Operations and the Committee on Small Business of the House of Representatives, and to the Committee on Governmental Affairs and the Committee on Small Business of the Senate. The report shall include recommendations to facilitate the provision of authority to executive agencies, other than agencies in the Department of Defense, to conduct procurement set asides for small businesses owned and controlled by socially and economically disadvantaged individuals, and on improved outreach programs to increase the participation by such businesses in procurements conducted by those executive agencies.

SEC. 8003. FURTHERANCE OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323 of title 10, United States Code, is amended to read as follows:

"§2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

"(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each of fiscal years 1987 through 2000 for the total combined amount obligated for contracts and subcontracts entered into with—

"(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

"(B) historically Black colleges and universities; and

"(C) minority institutions (as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058)), including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.

"(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section.

"(3) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

"(b) AMOUNT.—

"(1) DEPARTMENT OF DEFENSE.—With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

"(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

"(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

"(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

"(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

"(2) COAST GUARD.—With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

"(3) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of the agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the agency head considers appropriate. If the resources of the agency are inadequate to provide such assistance, the agency head may enter into contracts with minority private sector entities with experience and expertise in the design, development,

and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities and to minority institutions may include programs to do the following:

"(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

"(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

"(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

"(F) Equip and renovate laboratories for the performance of defense research.

"(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

"(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

"(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense—

"(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

"(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

"(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

"(1)(A) The head of the agency shall—

"(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence;

"(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

"(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the progress of the prime contractors of the agency in attaining such goal.

"(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the agency head shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

"(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

"(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The agency head shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

"(4) To the extent practicable, the agency head shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

"(5) The agency head shall prescribe regulations which provide for the following:

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to agency personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to an agency procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).

"(f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.

"(2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).

"(g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—

"(A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and

"(B) ensure that contracts awarded to attain the goal established by subsection (a) are made across the broadest possible range of industry categories.

"(2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the agency head shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.

"(i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

"(2) The report required under paragraph (1) shall include the following:

"(A) A full explanation of any progress toward attaining the goal of subsection (a).

"(B) A plan to achieve the goal, if necessary.

"(3) The report required under paragraph (1) shall also include the following:

"(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

"(B) An analysis of the impact that subsection (a) shall have on the ability of small

business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the agency.

"(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

"(j) DEFINITIONS.—In this section:

"(1) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.".

SEC. 8004. EDUCATION AND TRAINING.

Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) establish policies and procedures for the establishment and implementation of education and training programs authorized by this Act, including the establishment and implementation of training, in conjunction with the General Services Administration, for critical procurement personnel designed to increase the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and other minorities in procurement activities conducted by an executive agency.".

SEC. 8005. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

SEC. 8006. SENSE OF CONGRESS ON NEGOTIATED RULEMAKING.

(a) FINDINGS.—The Congress finds the following:

(1) The use of negotiated rulemaking or similar policy discussion group techniques is an appropriate tool for—

(A) fostering effective implementation of, and compliance with, laws and regulations;

(B) avoiding litigation; and

(C) achieving more productive and equitable relationships between the Federal Government and the regulated segments of the private sector.

(2) The use of negotiated rulemaking or similar techniques in Federal procurement regulations could be appropriate given the extreme complexity and intricate interactions between buyer and seller in Federal procurements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in prescribing acquisition regulations, the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in accordance with sections 561 through 570 of title 5, United States Code, or similar techniques intended to achieve the benefits described in subsection (a)(1).

SEC. 8007. VENDOR AND EMPLOYEE EXCELLENCE AWARDS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out the period at the end of paragraph (10) (as redesignated by section 4011(b)(2)) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraphs:

"(11) providing for a Government-wide award to recognize and promote vendor excellence; and

"(12) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions.".

SEC. 8008. CODIFICATION OF ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services (as defined in the Federal Information Resources Management Regulation prescribed by the Administrator of General Services) unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102–394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) DOD SPECIFIC LAW.—Section 2212 of title 10, United States Code, is repealed.

(2) GOVERNMENT-WIDE LAW.—Section 1114 of title 31, United States Code, is repealed.

(3) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212. The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

SEC. 8009. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TABLE OF CONTENTS AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The first section of the Office of Federal Procurement Policy Act (41 U.S.C. 401 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Office of Federal Procurement Policy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Findings and purpose.
"Sec. 4. Definitions.
"Sec. 4A. Simplified acquisition threshold.
"Sec. 4B. Procedures applicable to purchases below micro-purchase threshold.
"Sec. 5. Office of Federal Procurement Policy.
"Sec. 6. Authority and functions of the Administrator.
"Sec. 7. Administrative powers.
"Sec. 8. Responsiveness to Congress.
"Sec. 9. Effect on existing laws.
"Sec. 10. Effect on existing regulations.
"Sec. 11. Authorization of appropriations.
"Sec. 12. Delegation.
"Sec. 14. Access to information.
"Sec. 15. Tests of innovative procurement methods and procedures.
"Sec. 16. Executive agency responsibilities.
"Sec. 18. Procurement notice.
"Sec. 19. Record requirements.
"Sec. 20. Advocates for competition.
"Sec. 21. Rights in technical data.
"Sec. 22. Publication of proposed regulations.
"Sec. 23. Contracting functions performed by Federal personnel.
"Sec. 24. Travel expenses of Government contractors.
"Sec. 25. Federal Acquisition Regulatory Council.
"Sec. 26. Cost Accounting Standards Board.
"Sec. 27. Procurement integrity.
"Sec. 28. Advocate for the Acquisition of Commercial Products.
"Sec. 29. Nonstandard contract clauses.
"Sec. 30. Federal acquisition computer network (FACNET).".

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The first section of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Property and Administrative Services Act of 1949'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Definitions.

"TITLE I—ORGANIZATION

"Sec. 101. General Services Administration.
"Sec. 102. Transfer of affairs of Bureau of Federal Supply.
"Sec. 103. Transfer of affairs of the Federal Works Agency.
"Sec. 104. Records management: Transfer of the National Archives.
"Sec. 106. Redistribution of functions.
"Sec. 107. Transfer of funds.
"Sec. 109. General supply fund.
"Sec. 110. Information Technology Fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.

"TITLE II—PROPERTY MANAGEMENT

"Sec. 201. Procurement, warehousing, and related activities.
"Sec. 202. Property utilization.
"Sec. 203. Disposal of surplus property.
"Sec. 204. Proceeds from transfer or disposition of property.
"Sec. 205. Policies, regulations, and delegations.
"Sec. 206. Surveys, standardization, and cataloging.
"Sec. 207. Applicability of antitrust laws.
"Sec. 208. Employment of personnel.
"Sec. 209. Civil remedies and penalties.
"Sec. 210. Operation of buildings and related activities.
"Sec. 211. Motor vehicle identification and operation.
"Sec. 212. Reports to Congress.

"TITLE III—PROCUREMENT PROCEDURE

"Sec. 301. Declaration of purpose.
"Sec. 302. Application and procurement methods.

"Sec. 302A. Simplified acquisition threshold.
"Sec. 302B. Implementation of FACNET capability.
"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.
"Sec. 303C. Encouragement of new competition.
"Sec. 303D. Validation of proprietary data restrictions.
"Sec. 303F. Economic order quantities.
"Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
"Sec. 303H. Severable services contracts for periods crossing fiscal years.
"Sec. 304. Contract requirements.
"Sec. 304A. Multiyear contracts.
"Sec. 304B. Cost or pricing data: truth in negotiations.
"Sec. 304C. Examination of records of contractor.
"Sec. 305. Contract financing.
"Sec. 306. Allowable costs.
"Sec. 307. Administrative determinations and delegations.
"Sec. 309. Definitions.
"Sec. 310. Statutes not applicable.
"Sec. 311. Cooperative agreements for basic, applied, and advanced research.
"Sec. 312. Assignment and delegation of procurement functions and responsibilities.
"Sec. 313. Determinations and decisions.
"Sec. 314. Definitions relating to procurement of commercial items.
"Sec. 314A. Preference for acquisition of commercial items and other nondevelopmental items.
"Sec. 314B. Pricing documentation for commercial items.
"Sec. 314C. Principle of construction with future laws.
"Sec. 314D. Inapplicability of certain provisions of law.
"Sec. 315. Contract goal for small disadvantaged businesses and certain institutions of higher education.

"TITLE IV—FOREIGN EXCESS PROPERTY

"Sec. 401. Disposal of foreign excess property.
"Sec. 402. Methods and terms of disposal.
"Sec. 403. Proceeds; foreign currencies.
"Sec. 404. Miscellaneous provisions.

"TITLE VI—GENERAL PROVISIONS

"Sec. 601. Applicability of existing procedures.
"Sec. 602. Repeal and saving provisions.
"Sec. 603. Authorization for appropriations and transfer of authority.
"Sec. 604. Separability.
"Sec. 605. Effective date.

"TITLE VIII—URBAN LAND UTILIZATION

"Sec. 801. Short title.
"Sec. 802. Declaration of purpose and policy.
"Sec. 803. Disposal of urban lands.
"Sec. 804. Acquisition or change of use of real property.
"Sec. 805. Waiver during national emergency.
"Sec. 806. Definitions.

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"Sec. 901. Definitions.
"Sec. 902. Policy.
"Sec. 903. Requests for data on architectural and engineering services.
"Sec. 904. Negotiation of contracts for architectural and engineering services.
"Sec. 905. Short title.".

(b) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(c) REPEALS OF EXECUTED PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended—

(1) by striking out section 13; and

(2) by striking out the first section 15.

(d) CROSS REFERENCE CORRECTIONS.—Section 3552 of title 31, United States Code, is amended—

(1) by striking out "section 111(h)" and inserting in lieu thereof "section 111(f)"; and

(2) by striking out "759(h)" and inserting in lieu thereof "759(f)".

(e) CONSISTENCY OF TERMINOLOGY WITH CUSTOMARY USAGE.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) ENACTMENT OF POPULAR NAMES OF CERTAIN ACTS.—

(1) BROOKS ARCHITECT-ENGINEERS ACT.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541–544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

(2) BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection.

"(h) This section may be cited as the 'Brooks Automatic Data Processing Act'.".

(3) BUY AMERICAN ACT.—The Act of March 3, 1933 (41 U.S.C. 10a–10c), commonly referred to as the "Buy American Act", is amended by adding at the end the following new section:

"SEC. 5. This Act may be cited as the 'Buy American Act'.".

(4) JAVITS-WAGNER-O'DAY ACT.—The Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), is amended by adding at the end the following new section:

"SHORT TITLE

"SEC. 7. This Act may be cited as the 'Javits-Wagner-O'Day Act'.".

TITLE IX—EFFECTIVE DATES AND REGULATIONS

SEC. 9001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall apply with respect to any contract for which a solicitation for bid or proposal is issued after—

(1) 30 days have expired after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002; or

(2) 270 days have expired after the date of the enactment of this Act;

whichever is earlier.

(b) SPECIFIC EFFECTIVE DATES.—(1) Titles III and VI of this Act, and the amendments made by such titles, shall take effect on the date of the enactment of this Act.

(2) Subtitle D of title I of this Act, and the amendments made by such subtitle (relating to procurement protests), shall apply with respect to any protest filed after the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 9002. REGULATIONS.

Not later than 240 days after the date of the enactment of this Act, the Federal Acquisition Regulation (referred to in section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))) shall be revised, in final form, to implement this Act and the amendments made by this Act.

SEC. 9003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than 180 days after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating compliance with such section 9002.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than 18 months after issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act.

Mr. NUNN. Mr. President, I move that the Senate disagree with the House amendment to the Senate bill, and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer (Mr. AKAKA) appointed Mr. GLENN, Mr. NUNN, Mr. BUMPERS, Mr. SASSER, Mr. EXON, Mr. LEVIN, Mr. PRYOR, Mr. BINGAMAN, Mr. SHELBY, Mr. DORGAN, Mr. ROTH, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. COHEN, Mr. PRESSLER, Mr. MCCAIN, and Mr. SMITH, conferees on the part of the Senate.

CORRECTION ON AMENDMENT NO. 2104 TO H.R. 4426

Mr. NUNN. Mr. President, I ask unanimous consent that amendment No. 2104 to the committee amendment on page 2, line 21 to H.R. 4426, the Foreign Operations Appropriations bill, that was adopted by the Senate on June 29, 1994, be corrected as follows:

Section (c) finding: Subsection 4, line 4: The figure should be 1,200,000,000 and not 1,200,000.

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

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 497, S. 2243, the Fishermen's Protection Act.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2243) to amend the Fishermen's Protection Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2236

(Purpose: To make an amendment in the nature of a substitute)

Mrs. HUTCHISON. Mr. President, on behalf of Senator STEVENS, I send to the desk a substitute amendment, and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for Mr. STEVENS, proposes an amendment numbered 2236.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada has recently announced that it will require all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage off the Pacific Coast of Canada;

(3) this action is inconsistent with international law, including the United Nations Convention on the Law of the Sea, and in particular Article 26 of that Convention, which specifically prohibits such fees, and threatens the safety of United States commercial fishermen who may seek to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada has announced that the license fee may only be paid in two ports on the Pacific Coast of Canada, and must be paid in person or in advance by mail;

(6) significant expense and delay would be incurred by a commercial fishing vessel of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act as presently enacted;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country, provided the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that continuation of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate until Canada rescinds the fee;

(12) the President should immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States vessels in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT.

The Fishermen's Protective Act of 1967 (P.L. 90-482), as amended, is further amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by a government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days of the date of payment of the fee, or within 90 days of the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) The provisions of this section shall remain in effect until October 1, 1995.".

SEC. 3. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking "The amount fixed by the Secretary shall be predicated upon at least 33⅓ per centum of the contribution by the Government.".

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

SEC. 4. TECHNICAL CORRECTION.

(a) Section 15(a) of Public Law 103-238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(b) The amendment made by subsection (a) shall be effective on and after April 30, 1994.

Mrs. MURRAY. Mr. President, 2 weeks ago Canada began collecting a $1,100 fee from United States fishing boats sailing each way through Canadian waters between Alaska and Washington State. The Canadian action was precipitated by a breakdown in the negotiations with the United States over the Pacific Salmon Treaty. In the first week, about 200 boats had been forced to pay the Canadian fee.

Senator STEVENS and I have both already introduced various bills to respond to the fee problem by reimbursing the owners of the boats through the Fishermen's Protective Act. Since that time, we have worked together to refine our bills into this legislation to provide relief to these fishermen as quickly as possible. As I just mentioned, this bill is a bipartisan effort between the Senators from the Pacific Northwest, Alaska, and the administration.

The National Security Council has affirmed its support for financial reimbursement to boat owners through the Fishermen's Protective Act. I have worked closely with the Office of Management and Budget to ensure that it had no objections to this bill.

Last week Vice President GORE met with Canadian Ambassador Chretien about restarting the stalled negotiations over the Pacific Salmon Treaty. The Vice President promised to continue to be personally involved in these important negotiations. The Canadian Ambassador said that he felt that the

elevation of these negotiations is a very positive sign. I hope that the Government of Canada responds quickly to this new commitment by the administration, lifts the fees, and joins us again at the negotiating table.

Mrs. HUTCHISON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2236) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of S. 2243, as passed, will appear in a future edition of the RECORD.)

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

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL LABOR RELATIONS ACT AND RAILWAY LABOR ACT AMENDMENTS OF 1993

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 162, S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send to the desk a cloture motion on the motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar #162, S. 55, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

Edward Kennedy Don Riegle, John Glenn, Paul Simon, Barbara Boxer, Daniel K. Akaka, Carl Levin, Bob Graham, Russell D. Feingold, Howard M. Metzenbaum, Paul Wellstone, Claiborne Pell, Ben Nighthorse Campbell, Carol Moseley-Braun, Jay Rockefeller, Pat Leahy.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed occur at 2:30 p.m., on Tuesday, July 12, and that the mandatory live quorum, as required under rule XXII, be waived.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that if a second cloture vote is needed on the motion to proceed, it occur on Wednesday, July 13 at 10 a.m., and the mandatory live quorum, as required under rule XXII, be waived. I further ask unanimous consent that if cloture is not invoked on Wednesday, the motion to proceed be withdrawn, and the Senate then resume consideration of Calendar No. 471, H.R. 4426, the Foreign Operations appropriations bill under the conditions and limitations of a previous unanimous consent agreement.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees and withdrawals.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CONTINUATION OF EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT—PM-130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), I hereby report to the Congress that I have today exercised the authority granted by this Act to continue in effect the system of controls contained in 15 C.F.R., Parts 768–799, including restrictions on participation by U.S. persons in certain foreign boycott activities, which heretofore have been maintained under the authority of the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 *et seq.* In addition, I have made provision for the administration of section 38(e) of the Arms Export Control Act, 22 U.S.C. 2778(e).

The exercise of this authority is necessitated by the expiration of the Export Administration Act on June 30, 1994, and the lapse that would result in the system of controls maintained under that Act.

In the absence of control, foreign parties would have unrestricted access to U.S. commercial products, technology, technical data, and assistance, posing an unusual and extraordinary threat to national security, foreign policy, and economic objectives critical to the United States. In addition, U.S. persons would not be prohibited from complying with certain foreign boycott requests. This would seriously harm our foreign policy interests, particularly in the Middle East.

Controls established in 15 C.F.R. 768–799, and continued by this action, include the following:

—National security export controls aimed at restricting the export of goods and technologies, which would make a significant contribution to the military potential of certain other countries and which would prove detrimental to the national security of the United States.

—Foreign policy controls that further the foreign policy objectives of the United States or its declared international obligations in such widely recognized areas as human rights, antiterrorism, regional stability, missile technology nonproliferation, and chemical and biological weapons nonproliferation.

—Nuclear nonproliferation controls that are maintained for both national security and foreign policy reasons, and which support the objectives of the Nuclear Nonproliferation Act.

—Short supply controls that protect domestic supplies, and antiboycott regulations that prohibit compliance with foreign boycotts aimed at countries friendly to the United States.

Consequently, I have issued an Executive order (a copy of which is attached) to continue in effect all rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, and all orders, regulations, licenses, and other forms of administrative actions under the Act, except where they are inconsistent with sections 203(b)

and 206 of the International Emergency Economic Powers Act.

The Congress and the Executive have not permitted export controls to lapse since they were enacted under the Export Control Act of 1949. Any termination of controls could permit transactions to occur that would be seriously detrimental to the national interests we have heretofore sought to protect through export controls and restrictions on compliance by U.S. persons with certain foreign boycotts. I believe that even a temporary lapse in this system of controls would seriously damage our national security, foreign policy, and economic interests and undermine our credibility in meeting our international obligations.

The countries affected by this action vary depending on the objectives sought to be achieved by the system of controls instituted under the Export Administration Act. Potential adversaries may seek to acquire sensitive U.S. goods and technologies. Other countries serve as conduits for the diversion of such items. Still other countries have policies that are contrary to U.S. foreign policy or nonproliferation objectives, or foster boycotts against friendly countries. For some goods or technologies, controls could apply even to our closest allies in order to safeguard against diversion to potential adversaries.

It is my intention to terminate the Executive order upon enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1994.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Johnson, a deputy parliamentarian, announced that the Speaker has signed the following enrolled bills:

H.R. 4581. An Act to provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930.

H.R. 4635. An Act to extend the Export Administration Act of 1979.

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-3009. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3010. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the audited financial statements for the Resolution Trust Corporation for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3011. A communication from the Comptroller General of the United States and the Inspector General of the Department of Education, transmitting, pursuant to law, the report of internal controls and compliance with laws and regulations for fiscal year 1993; to the Committee on Governmental Affairs.

EC-3012. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "D.C. General Hospital's Internal Controls Over Procurement Need Improvement"; to the Committee on Governmental Affairs.

EC-3013. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 1824. A bill to improve the operations of the legislative branch of the Federal Branch, and for other purposes (Rept. No. 103-297).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 2457. A bill to direct the Secretary of the Interior to conduct a salmon captive broodstock program (Rept. No. 103-298).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

H.R. 1036. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws (Rept. No. 103-299).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 1614. A bill to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes (Rept. No. 103-300).

S. 2095. A bill to reform the Federal Crop Insurance Program, and for other purposes (Rept. No. 103-301).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

S. 2185. A bill to require the Secretary of the Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes (Rept. No. 103-302).

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. MITCHELL (for himself, Mr. LEAHY, Mr. WELLSTONE, Mr. FEINGOLD, Mr. KENNEDY, Mr. DECONCINI, Mr. METZENBAUM, Mr. SARBANES, Mr. MACK, Mr. LEVIN, and Mr. HELMS):

S. 2260. A bill to provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 2261. A bill to amend section 922 of title 18, United States Code, to make unlawful a person's failure to comply with firearm purchase requirements after moving to a new State of residence; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself and Mr. BRADLEY):

S. 2262. To amend the Elwha River Ecosystem and Fisheries Restoration Act to provide greater flexibility in the expenditure of funds, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GORTON:

S. 2263. A bill to authorize extension of the time limitation for a FERC- issued hydroelectric license; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. LEAHY, Mr. CONRAD, Ms. MIKULSKI, Mr. DECONCINI, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. RIEGLE, Mr. SIMON, Mr. WELLSTONE, and Mr. METZENBAUM):

S. 2264. A bill to provide for certain protections in the sale of a short line railroad, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (for himself, Mr. MATHEWS, Mr. HATFIELD, Mr. NICKLES, and Mr. BENNETT):

S. 2265. A bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy; to the Committee on the Judiciary.

By Mr. BRADLEY (by request):

S. 2266. A bill to amend the Recreation Management Act of 1992, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 2267. A bill to enable all able-bodied Federal prisoners to work; to the Committee on the Judiciary.

By Mr. WOFFORD (for himself, Mr. BRADLEY, Mr. RIEGLE, Mrs. BOXER, Mr. METZENBAUM, Mr. CAMPBELL, Mr. HARKIN, Mr. KENNEDY, Mr. DODD, Mr. KERRY, Ms. MIKULSKI, Mr. LEAHY, and Mr. LEVIN):

S. 2268. A bill to provide for the establishment of a working group on trade-related worker rights and labor standards as part of the General Agreement on Tariffs, and Trade, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 2269. A bill to protect Native American cultures and to guarantee the free exercise of religion by Native Americans; to the Committee on Indian Affairs.

By Mr. BAUCUS:

S. 2270. A bill to authorize the Secretary of the Interior to transfer 40 acres of land on the Northern Cheyenne Indian Reservation, Montana, to Lame Deer High School District No. 6, Rosebud County, Montana, and for other purposes; to the Committee on Indian Affairs.

By Mr. BREAUX:

S. 2271. A bill to provide for the transfer of certain tuna fishing vessels documented in the United States to foreign registry; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI (for himself and Mr. BIDEN):

S. 2272. A bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 2273. A bill to reduce Government spending by $100,000,000,000 each fiscal year until a balanced Federal budget is achieved; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SARBANES:

S. 2274. A bill to provide for the application of a 6-year statute of limitations to certain claims filed by Federal employees under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.); to the Committee on Governmental Affairs.

By Mr. EXON (for himself and Mr. PACKWOOD):

S. 2275. A bill to amend subtitle IV of title 49, United States Code, relating to interstate commerce; to the Committee on Commerce, Science, and Transportation.

By Mr. GLENN:

S.J. Res. 207. A joint resolution designating January 16, 1995, as "National Good Teen Day"; to the Committee on the Judiciary.

By Mr. WOFFORD (for himself and Mr. BOND):

S.J. Res. 208. A joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself and Mr. D'AMATO):

S. Res. 237. A resolution to memorialize D.E.A. agent Richard Fass; considered and agreed to.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. WOFFORD, Mr. SPECTER, Mr. STEVENS, and Mr. NUNN):

S. Res. 238. A resolution to modify certain provisions of Senate Resolution 356 relating to the John Heinz Senate Fellowship Program; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. LEAHY, Mr. WELLSTONE, Mr. FEINGOLD, Mr. KENNEDY, Mr. DECONCINI, Mr. METZENBAUM, Mr. SARBANES, Mr. MACK, Mr. LEVIN, and Mr. HELMS):

S. 2260. A bill to provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China; to the Committee on Finance.

UNITED STATES-CHINA ACT OF 1994

Mr. MITCHELL. Mr. President, last year President Clinton issued an executive order which renewed most-favored-nation trading status for China while setting reasonable and obtainable standards on emigration, illegal prison labor exports, human rights, trades and nuclear nonproliferation as conditions for future renewal.

I supported the President's action in sending a firm signal to the Communist Chinese leaders that the people of the United States strongly believe in fundamental American principles of human rights and fair trade and want our relations with other nations to reflect those values.

While I continue to support the President's goal of promoting international human rights, I disagree with his decision to delink human rights considerations from future renewal of MFN status for China.

I do not believe the Government of China has met the standards set forth in the President's Executive order.

The human rights situation has deteriorated in the last year and there is compelling evidence that China continues to export prison-made products to the United States in clear violation of our laws.

It has been alleged that it is in the best interests of our country to delink China's record on human rights from MFN because it promotes American business with China's 1.2 billion people and the third largest economy in the world. And we are told that last year United States exports to China supported over 150,000 American jobs. Some would conveniently have us believe that we need China's market more than they need ours.

But what is the reality of this market and our trade relationship.

Last year the Communist Chinese Government's exports to the United States amounted to over $31 billion nearly 40 percent of their total exports, while American exports to China totaled only $8.8 billion, less than 2 percent of our total worldwide exports. Our trade deficit with China is second only to our trade deficit with Japan and growing at a faster rate.

China's only trade surplus with a major industrialized trading partner is with the United States. China obviously needs our market much more than we need theirs, because other major trading partners are unwilling to import quantities of low-wage Chinese products.

The administration calculates that each $1 billion of last year's $8 billion net exports to China supports 20,000 jobs, using this calculation it has been optimistically stated that over 150,000 American jobs result from our trade with China. But, by the same argument, each $1 billion of our $23 billion trade deficit with China causes American workers to lose jobs? The AFL-CIO estimates that 460,000 American jobs were lost last year because of our large trade deficit with China. It's not a good deal for America to gain 150,000 jobs and lose 460,000 jobs.

The trade in nonrubber footwear provides a good example of how Chinese imports have affected United States industry. Imports of Chinese nonrubber footwear have increased from 143 million pairs in 1989 to 622 million pairs in 1993, a 335 percent increase. During this same period, U.S. production has dropped from 221 million pairs to 164 million pairs. And American employment has fallen from 77,300 workers in 1989 to 61,500 workers in 1993.

The Chinese footwear industry has overwhelmed the United States companies and workers because the low wages paid in Chinese enterprises enable them to produce shoes at extremely low costs.

In 1993, the customs value of nonrubber footwear imported from China was $6.23 a pair which was about one-half the costs of footwear from all other sources, and approximately one-quarter of the United States costs. Over the past 4 years, the U.S. footwear industry has lost both production and employees. We cannot continue to ignore the devastating impact that these low-cost Chinese imports have on United States industry and jobs.

Now some have suggested that we must grant unconditional MFN status to China because we need their help with respect to the possibility of development by North Korea of a number of nuclear weapons.

My response to that is threefold: First, within days of the President's announcement of his decision on China, the Chinese Government stated that it would not support sanctions against North Korea. There's been no evidence of any cooperation.

Second, in any event, I believe the issue of conditioning MFN because China has failed to meet the conditions of the President's executive order stands on its own merits, and should not be dependent on the North Korean issue one way or the other.

Third and most important, I find it incredible that anyone would suggest that we must make concessions to China to induce it to take actions which are in its obvious self-interest. China, as all nations, will ultimately act out of its self-interest. I have never heard a single person suggest that it is in China's self-interest to have a nuclear-armed North Korea with the capacity to deliver those nuclear weapons within a range that includes China.

I've not heard a single person make that argument, and therefore, why anyone would suggest that we are somehow now compelled to make concessions to China to induce it to do something which is obviously in its self-interest doesn't make any sense.

The experience of recent years has been that each concession to the Chinese Communist regime encourages its intransigence. I believe this will be the unfortunate result of the decision to delink human rights from MFN. It will confirm for the Chinese Communist regime the success of its policy of repression on human rights and manipulation

on trade. It is likely to produce a result that is the opposite of what the President intends.

I therefore intend to offer legislation which supports the intent and requirements of the President's May 28, 1993 executive order by placing conditions on the renewal of MFN trading status for China.

This legislation requires that during the next year goods produced, manufactured, or exported by the Chinese People's Liberation Army, defense industrial trading companies and certain categories of goods exported by Chinese State-owned enterprises may not be granted nondiscriminality MFN trade treatment.

Favorable nondiscriminatory MFN tariff rates would remain in force for goods exported by private and joint venture enterprises.

When enacted into law, this legislation will affect the costs of about $5 billion of China's exports to the United States. It will not affect United States exports to China.

I do not believe the American people want to buy goods produced by the People's Liberation Army [PLA], the same army which massacred hundreds of defenseless Chinese students and workers in Tiananmen Square 5 years ago.

Nor do I believe the American people wish to continue to have their consumer dollars subsidizing the profits of the Chinese military controlled defense industrial trading companies such as China North Industries Corporation [NORINCO], which last year shipped nearly 500,000 military rifles and 993 metric tons of furniture to the United States under most-favored-nation nondiscriminatory tariffs.

Many of these American consumer's dollars that are flowing to the Communist People's Liberation Army and its trading companies are being used to purchase and develop sophisticated weapons for use by the Chinese military.

Also, removing most-favored-nation trade status from goods produced by low-paid Chinese military personnel working in state-owned factories will help level the competitive playing field for the thousands of American workers who are losing their jobs because the companies that employ them are unable to compete against such as unfair advantage.

I'm offering this legislation because I believe the United States has a responsibility and right to ask that Chinese Communist leaders make the significant progress called for in the President's Executive order, to abide by international standards of human rights, and to cease unfair trade practices including the illegal export of prison labor products to our country, before we grant them unconditional renewal of a trade status which is so disproportionately advantageous to the Chinese Communist regime.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1994".

SEC. 2. FINDINGS AND POLICY.

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

(1) In Executive Order 12850, dated May 28, 1993, the President established conditions for renewing most-favored-nation treatment for the People's Republic of China in 1994.

(2) The Executive order requires that in recommending the extension of most-favored-nation trade status to the People's Republic of China for the 12-month period beginning July 3, 1994, the Secretary of State shall not recommend extension unless the Secretary determines that such extension substantially promotes the freedom of emigration objectives contained in section 402 of the Trade Act of 1974 (19 U.S.C. 2432) and that China is complying with the 1992 bilateral agreement between the United States and China concerning export to the United States of products made with prison labor.

(3) The Executive order further requires that in making the recommendation, the Secretary of State shall determine if China has made overall significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expressions of beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, and allowing access to prisons by international humanitarian and human rights organizations;

(D protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive order requires the executive branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Government of the People's Republic of China, a member of the United Nations Security Council obligated to respect and uphold the United Nations charter and Universal Declaration of Human Rights, has over the past year made less than significant progress on human rights. The People's Republic of China has released only a few prominent political prisoners and continues to violate internationally recognized standards of human rights by arbitrary arrests and detention of persons for the nonviolent expression of their political and religious beliefs.

(6) The Government of the People's Republic of China has not allowed humanitarian and human rights organizations access to prisons.

(7) The Government of the People's Republic of China has refused to meet with the Dalai Lama, or his representative, to discuss the protection of Tibet's distinctive religious and cultural heritage.

(8) It continues to be the policy and practice of the Government of the People's Republic of China to control all trade unions and suppress and harass members of the independent labor union movement.

(9) The Government of the People's Republic of China continues to restrict the activities of accredited journalists and Voice of America broadcasts.

(10) The People's Republic of China's defense industrial trading companies and the People's Liberation Army engage in lucrative trade relations with the United States and operate lucrative commercial businesses within the United States. Trade with and investments in the defense industrial trading companies and the People's Liberation Army are contrary to the national security interests of the United States.

(11) The President has conducted an intensive high-level dialogue with the Government of the People's Republic of China, including meeting with the President of China, in an effort to encourage that government to make significant progress toward meeting the standards contained in the Executive order for continuation of most-favored-nation treatment.

(12) The Government of the People's Republic of China has not made overall significant progress with respect to the standards contained in the President's Executive Order 12850, dated May 28, 1993.

(b) POLICY.—It is the policy of the Congress that, since the President has recommended the continuation of the waiver under section 402(d) of the Trade Act of 1974 for the People's Republic of China for the 12-month period beginning July 3, 1994, such waiver shall not provide for extension of nondiscriminatory trade treatment to goods that are produced, manufactured, or exported by the People's Liberation Army or Chinese defense industrial trading companies or to nonqualified goods that are produced, manufactured, or exported by state-owned enterprises of the People's Republic of China.

SEC. 3. LIMITATIONS ON EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) if nondiscriminatory treatment is not granted to the People's Republic of China by reason of the enactment into law of a disapproval resolution described in subsection (b)(1), nondiscriminatory treatment shall—

(A) continue to apply to any good that is produced or manufactured by a person that is not a state-owned enterprise of the People's Republic of China, but

(B) not apply to any good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China,

(2) if nondiscriminatory treatment is granted to the People's Republic of China for the 12-month period beginning on July 3, 1994, such nondiscriminatory treatment shall not apply to—

(A) any good that is produced, manufactured, or exported by the People's Liberation Army or a Chinese defense industrial trading company, or

(B) any nonqualified good that is produced, manufactured, or exported by a state-owned enterprise of the People's Republic of China, and

(3) if nondiscriminatory treatment is or is not granted to the People's Republic of China, the Secretary of the Treasury should

consult with leaders of American businesses having significant trade with or investment in the People's Republic of China, to encourage them to adopt a voluntary code of conduct that—

(A) follows internationally recognized human rights principles,

(B) ensures that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief,

(C) ensures that no convict, forced, or indentured labor is knowingly used,

(D) recognizes the rights of workers to freely organize and bargain collectively, and

(E) discourages mandatory political indoctrination on business premises.

(b) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in the President's Executive Order 12850, dated May 28, 1993.", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b)) and 402(d)(2) (as modified by this subsection) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(c) DETERMINATION OF STATE-OWNED ENTERPRISES AND CHINESE DEFENSE INDUSTRIAL TRADING COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall determine which persons are state-owned enterprises of the People's Republic of China and which persons are Chinese defense industrial trading companies for purposes of this Act. The Secretary shall publish a list of such persons in the Federal Register.

(2) PUBLIC HEARING.—

(A) GENERAL RULE.—Before making the determination and publishing the list required by paragraph (1), the Secretary of the Treasury shall hold a public hearing for the purpose of receiving oral and written testimony regarding the persons to be included on the list.

(B) ADDITIONS AND DELETIONS.—The Secretary of the Treasury may add or delete persons from the list based on information available to the Secretary or upon receipt of a request containing sufficient information to take such action.

(3) DEFINITIONS AND SPECIAL RULES.—For purposes of making the determination required by paragraph (1), the following definitions apply:

(A) CHINESE DEFENSE INDUSTRIAL TRADING COMPANY.—The term "Chinese defense industrial trading company"—

(i) means a person that is—

(I) engaged in manufacturing, producing, or exporting, and

(II) affiliated with or owned, controlled, or subsidized by the People's Liberation Army, and

(ii) includes any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990.

(B) PEOPLE'S LIBERATION ARMY.—The term "People's Liberation Army" means any branch or division of the land, naval, or air military service or the police of the Government of the People's Republic of China.

(C) STATE-OWNED ENTERPRISE OF THE PEOPLE'S REPUBLIC OF CHINA.—(i) The term "state-owned enterprise of the People's Republic of China" means a person who is affiliated with or wholly owned, controlled, or subsidized by the Government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A person shall be considered to be state-owned if—

(I) the person's assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of the person's profits are required to be submitted to a central or provincial government authority;

(III) the person's production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the person as state-owned.

(ii) Any person that—

(I) is a qualified foreign joint venture or is licensed by a governmental authority as a collective, cooperative, or private enterprise; or

(II) is wholly owned by a foreign person,

shall not be considered to be state-owned.

(D) QUALIFIED FOREIGN JOINT VENTURE.—The term "qualified foreign joint venture" means any person—

(i) which is registered and licensed in the agency or department of the Government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, contractual joint venture, or joint stock company with foreign investment;

(ii) in which the foreign investor partner and a person of the People's republic of China share profits and losses and jointly manage the venture;

(iii) in which the foreign investor partner holds or controls at least 25 percent of the investment and the foreign investor partner is not substantially owned or controlled by a state-owned enterprise of the People's Republic of China;

(iv) in which the foreign investor partner is not a person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism; and

(v) which does not use state-owned enterprises of the People's Republic of China to export its goods or services.

(E) PERSON.—The term "person" means a natural person, corporation, partnership, enterprise, instrumentality, agency, or other entity.

(F) FOREIGN INVESTOR PARTNER.—The term "foreign investor partner" means—

(i) a natural person who is not a citizen of the People's Republic of China; and

(ii) a corporation, partnership, instrumentality, enterprise, agency, or other entity that is organized under the laws of a country other than the People's Republic of China and 50 percent or more of the outstanding capital stock or beneficial interest of such entity is owned (directly or indirectly) by natural persons who are not citizens of the People's Republic of China.

(G) NONQUALIFIED GOOD.—The term "nonqualified good" means a good to which chapter 39, 44, 48, 61, 62, 64, 70, 73, 84, 93, or 94 of the Harmonized Tariff Schedule of the United States applies.

(H) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict, forced, or indentured labor" has the meaning given such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(I) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(J) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(d) SEMIANNUAL REPORTS.—The Secretary of the Treasury shall, not later than 6 months after the date of the enactment of this Act, and the end of each 6-month period occurring thereafter, report to the Congress on the efforts of the executive branch to carry out subsection (c). The Secretary may include in the report a request for additional authority, if necessary, to carry out subsection (c). In addition, the report shall include information regarding the efforts of the executive branch to carry out subsection (a)(3).

SEC. 4. PRESIDENTIAL WAIVER.

The President may waive the application of any condition or prohibition imposed on any person pursuant to this Act, if the President determines and reports to the Congress that the continued imposition of the condition or prohibition would have a serious adverse effect on the vital national security interests of the United States.

SEC. 5. REPORT BY THE PRESIDENT.

If the President recommends in 1995 that the waiver referred to in section 2 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has made progress during the period covered by the document, with respect to—

(1) adhering to the provisions of the Universal Declaration of Human Rights,

(2) ceasing the exportation to the United States of products made with convict, force, or indentured labor,

(3) ceasing unfair and discriminatory trade practices which restrict and unreasonably burden American business, and

(4) adhering to the guidelines and parameters of the Missile Technology Control Regime, the controls adopted by the Nuclear Suppliers Group, and the controls adopted by the Australia Group.

SEC. 6. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1995 for the People's Republic of China under section 402(d) of the Trade Act of 1974, the President shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such a waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and

Trade take a similar action with respect to the People's Republic of China.

By Mr. LAUTENBERG:

S. 2261. A bill to amend section 922 of title 18, United States Code, to make unlawful a person's failure to comply with firearm purchase requirements after moving to a new State of residence; to the Committee on the Judiciary.

THE INTERSTATE GUN CONTROL ENFORCEMENT ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Interstate Gun Control Enforcement Act, to ensure that firearm owners cannot evade gun control protections when they move to another State.

The bill would make it unlawful to transport a firearm into a State without complying with any State laws that require a permit to purchase a firearm. The prohibition would apply to individuals who intend to reside in the new State for more than 30 days. Violations would be punishable by up to 5 years in prison and fines of up to $5,000.

Mr. President, the need for this legislation became apparent in light of a horrifying crime that occurred recently in Saddle Brook, NJ. Four people were playing cards at a motel when, without warning, they were shot by a complete stranger. The individual charged in the crime, Henry Levy, apparently didn't know the people he allegedly was shooting. Nor did he have any real provocation to start the assault. Instead, from all indications, the shooting was a result of a delusion.

Levy apparently believed that the people he was shooting were somehow harrassing his daughter. When he began shooting, he reportedly shouted "I hate everybody", and "They are trying to get my family." Yet officials believe there is no evidence that his daughter was being harrassed. Apparently, it was all in his head.

According to officials involved, Henry Levy had a history of mental illness. He was under the care of a psychiatrist and was taking drugs for his ailment. In the past, he had been treated for his psychiatric problems at a hospital. Clearly, if these facts are true—and there seems little dispute about it—Henry Levy is a man who should never have been able to get a gun. Anyone with such a history of mental problems should be kept as far from dangerous weapons as possible. Unfortunately, the system didn't work. Henry Levy got his gun. And the result was a terrible tragedy.

Mr. President, there is no way to reverse the consequences of this shooting for the victims and their families. But what we can and must do is closely evaluate what happened, and then do everything we can to prevent this kind of incident from happening in the future.

While many questions still remain about this shooting, the incident highlights at least one weakness in current law that should be addressed. New Jersey has some of the strongest gun control laws in the Nation. To buy a gun in New Jersey, an individual must obtain a permit to purchase the firearm. To obtain such a permit, an individual must undergo a thorough background check, and law enforcement officers can deny the permit if they conclude that the applicant would pose a threat to public safety. That is a pretty strong law, and it has stopped many dangerous people from obtaining deadly weapons.

However, there is a class of people living in New Jersey who own guns, but who have not been subject to this rigorous background check, people who have moved to New Jersey and brought guns in from other States.

Henry Levy apparently was such an individual. According to media reports, the gun in question was purchased in Arizona, where gun control laws are much weaker than in New Jersey. Therefore, Levy did not undergo the same kind of rigid background check that he would have undergone had he sought a permit in New Jersey.

Levy, unfortunately, is not alone. Many people move into our State, and bring their guns with them, without undergoing the same kind of background check that would be necessary if they bought their gun in New Jersey. The result is that New Jerseyans are being put at risk.

This legislation would address this weakness in current law by making it a Federal crime for an individual to transport a gun across State lines, with the intent to reside in the second State for at least 30 days, if the individual does not apply within 10 days for a permit to purchase, or an equivalent permit. Then, if the application is denied, the individual must relinquish the firearm within 5 business days. These requirements would apply only in those States that require a permit to purchase a firearm.

Mr. President, I recognize that under the new Brady Act, law enforcement officials are supposed to conduct background checks on prospective handgun purchasers. However, the Brady Act doesn't go nearly far enough.

First, under the Brady Act, investigations of prospective handgun purchasers are limited to five business days. This often is insufficient to conduct a thorough investigation. In New Jersey, for example, to obtain a permit to purchase, applicants must undergo in-depth background checks that can take months. Law enforcement officials use this time to contact references, check criminal records, and conduct very thorough investigations.

Second, the Brady Act leaves law enforcement officials with limited authority to reject prospective purchases. So long as an individual is not a member of a class specifically prohibited from receiving firearms, and has not violated other legal requirements, applications may not be denied. By contrast, New Jersey law enforcement officials may reject applications if they determine that granting a permit to purchase "would not be in the interests of the public health, safety or welfare."

This broad discretion to prevent gun transfers to dangerous individuals is especially important in the case of individuals who have a history of mental problems. Under current Federal law, guns may not be transferred to individuals who have been "adjudicated as a mental defective" or "committed to a mental institution." However, many individuals with serious psychiatric problems are not covered. New Jersey's law, unlike Federal law, prevents gun transfers to such individuals, if they pose a threat to public safety.

Mr. President, the people of New Jersey have decided that they want to be protected from mentally unstable people with guns. The problem, however, is that current laws still allow such people to bring guns into New Jersey from other States, where it's much easier to obtain dangerous weapons.

This bill is designed to ensure that when a State establishes requirements for gun purchase permits, those State laws will not be circumvented by individuals who bring guns with them from out-of-State.

Mr. President, if it were up to me, I would go much further than this proposal, and establish many of New Jersey's strong gun laws on a nationwide basis. Unfortunately, as a practical matter, that is unlikely to happen in the near future. The opponents of gun control have too much power, and the votes just are not there, at least not yet.

I plan to continue doing all I can to change that political dynamic, and convince my colleagues to support much tougher gun control laws. But in the meantime, I also intend to pursue more narrow approaches that may have a more realistic chance of adoption. The fact that this bill directly affects only States with permit to purchase requirements should help facilitate its prompt enactment.

Mr. President, I would like to express my appreciation to John Fahy, the prosecutor of Bergen County, NJ, for his assistance in the development of this legislation. I appreciate his cooperation, and I wish him the best of luck in pursuing justice in the Saddle Brook shooting.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 2261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Gun Control Enforcement Act of 1994".

SEC. 2. FAILURE TO COMPLY WITH FIREARM PURCHASE REQUIREMENTS IN NEW STATE OF RESIDENCE.

Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection.

"(v)(1) It shall be unlawful for any person to transport or cause to be transported into a State and thereafter to possess in the State a firearm any part or component of which has been transported in or has been the object of a transaction affecting interstate commerce if—

"(A) the law of the State into which the firearm is transported requires a person to obtain a permit to purchase a firearm; and

"(B)(i) within 10 business days after entering the State with intent to reside in the State for a period of more than 30 days, the person does not submit an application for such a permit, or another permit for which the standards and procedures for approval are equivalent to a permit to purchase; or

"(ii) such an application has been denied, and a period of more than 5 business days has elapsed since the person received notice of the denial.".•

By Mrs. MURRAY (for herself and Mr. BRADLEY):

S. 2262. To amend the Elwha River Ecosystem and Fisheries Restoration Act to provide greater flexibility in the expenditure of funds, and for other purposes; to the Committee on Energy and Natural Resources.

ELWHA RIVER ECOSYSTEM RESTORATION ACT

• Mrs. MURRAY. Madam President, I introduce legislation that is very important to resolving a long-standing natural resource dispute in my State. It is a bill which, if approved, will enable a project to go forward that will protect jobs on the Olympic Peninsula, preserve the treaty rights of certain tribes, and restore the once-magnificent salmon runs to the Elwha River.

Congress passed the Elwha River Ecosystem and Fisheries Restoration Act of 1992—Public Law 102-494—in an effort to end a protracted legal struggle over the relicensing of two small power dams on the Elwha River in, and adjacent to, the Olympic National Park. The struggle arose from the fact that these two dams, installed just after the turn of this century before enactment of the Federal Power Act, cut off salmon runs of tremendous productivity and cultural value from their spawning grounds in the upper reaches of the Elwha watershed. Pursuant to Public Law 102-495, the Park Service, working in conjunction with other Federal agencies and a local native American tribe, was required to complete a study on the procedural options for restoring salmon runs to the river.

In May of this year, the Park Service completed a feasibility study on restoring salmon runs to the Elwha River pursuant to Public Law 102-495, the Elwha River Ecosystem and Fisheries Restoration Act. This study concludes it would be feasible to restore the salmon runs by removing the dams. Such course of action would enable the Federal Government, the Lower Elwha S'Klallam Tribe, and certain private interests to avoid lengthy, contentious, and expensive litigation. The Senate Appropriations Committee has provided $3.5 million in fiscal year 1995 for the Park Service to conduct an environmental impact statement on the acquisition and removal of the two dams in order to restore the Elwha River salmon.

Assuming the EIS is concluded successfully, proceeding with dam removal in future years would force the Federal Government to incur significant costs. However, I believe the costs of such action would be less than exposing the Government to a costly, court-imposed settlement. I am introducing this bill today to repair a flaw in the original legislation that would preclude the Secretary of the Interior from using the financial resources of all agencies under his jurisdiction to address this issue.

Specifically, the bill would strike language in the current law that requires the Secretary to limit his use of funds for Elwha restoration to the agencies under the jurisdiction of the Assistant Secretary for Fish, Wildlife, and Parks. There are other agencies within the Department, such as the Bureau of Reclamation, that have significant expertise in engineering and public works. I believe it is appropriate for the Secretary to have the ability to use this expertise to address this issue; fundamentally, the Secretary would be upholding native American treaty rights the Department is legally responsible for defending.

Madam President, there is another important consideration this bill seeks to address. There is a pulp mill in the town of Port Angeles that draws electric power from the dams in question. Public Law 102-495 provides access to alternate energy sources if the dams are removed. If the EIS is affirmative, and if the Secretary is unable to see this project through, the pulp mill's access to energy would be called into question. If action is forced through litigation to remove the dams—a very real possibility—the jobs at this mill would be threatened.

Therefore, to protect these high-wage jobs, to uphold native American treaty rights, and to restore a cultural resource of immense value, it is very important for the U.S. Senate to ensure the Department of Interior has the resources necessary to implement Public Law 102-495. I urge my colleagues to support this bill and ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION EXPENDITURES.

Section 9 of the Elwha River Ecosystem and Fisheries Restoration Act (Public Law 102-495; 106 Stat. 3178) is amended—

(1) by striking "for expenditure through the Assistant Secretary for Fish, Wildlife, and Parks"; and

(2) by striking "for expenditure through the National Marine Fisheries Service".•

By Mr. DORGAN (for himself, Mr. LEAHY, Mr. CONRAD, Ms. MIKULSKI, Mr. DECONCINI, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. RIEGLE, Mr. SIMON, Mr. WELLSTONE, and Mr. METZENBAUM):

S. 2264. A bill to provide for certain protections in the sale of a short line railroad, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SHORT LINE RAILROAD TRANSFERS LEGISLATION

• Mr. DORGAN. Mr. President, today I introduce legislation that will close a loophole being used by railroad companies to avoid providing compensation for workers who lose their jobs as a result of the company selling short lines. I am pleased that my colleagues Senators LEAHY, CONRAD, MIKULSKI, DECONCINI, FEINGOLD, KOHL, JEFFORDS, RIEGLE, SIMON, WELLSTONE, and METZENBAUM are joining me today as original cosponsors. This bill is similar to legislation that Representative SANDERS has introduced in the House of Representatives. His bill, H.R. 3866, already has over 120 cosponsors.

Under current law, when workers are displaced because their companies abandon lines or merge with another company, the Interstate Commerce Commission [ICC] will require that workers are protected under the transaction. However, in cases where a company sells a short line to another entity, the workers are not protected because of a loophole in the law. Since the law provides for only discretionary authority with respect to this type of short line sales, some companies have taken advantage of the loophole and have created sham transactions to rid themselves of existing obligations to their employees. The result is that thousands of jobs have been lost without any accompanying protections for the displaced workers.

I would like to point out just a couple of examples. In 1986 when the Chicago & North Western [C&NW] decided to sell 965 miles of its lines across South Dakota and Minnesota, a paper company, the DM&E, was created to purchase and operate those lines with $500,000 seed money from the C&NW.

Workers were told their jobs were to be abolished and there would be no conditions imposed to protect them. Some employees affected under this transaction were over 50 years old with 25 or

30 years of service; 2,000 C&NW workers were affected by the sale and D&ME began service with about 100 to 150 workers.

It is interesting to note that when D&ME applied to the ICC for approval of the sale, it informed the agency that it was to be wholly independent of C&NW. Later when Union Pacific Railroad acquired control of C&NW, suddenly DM&E changed its story by claiming that it had been controlled by C&NW since its inception. This is a case of abuse of a section 10901 transaction as employees were left with either no jobs or jobs at lower wages.

Another example involves a 1990 transaction by the Southern Pacific [SP] involving branch lines in Oregon. The SP determined that it could substantially reduce its cost of operations by ridding itself of the expense of operating and maintaining these branch lines while retaining all of the traffic generated by those lines for business on its trunkline system.

The SP contracted with Genesse and Wyoming [G&W], an Eastern holding company of short line railroads, to operate and maintain the branch lines. G&W then created a paper railroad, the Willamette & Pacific, which leased all of SP's branch lines west of its north-south trunklines. Two other independent operators, the Willamette Valley and Mollala Valley, acquired the SP's less desirable lines east of the north-south trunkline. All this was accomplished through the section 10901 loophole.

But there was more to this deal. The leases effectively prohibited, by use of contractual penalties, the three lessees from dealing with any railroad other than the SP and the leases contained economic incentives to maintain or improve the level of traffic flowing to and from the SP. Meanwhile, the jobs of all the SP employees who had operated or maintained equipment used on the branch lines were abolished without the protective conditions normally provided employees in lease cases. Thus, while revenues were preserved for the SP, the new railroads employed far fewer workers, at lower wages, and with few contract protections.

For the SP the end result was that it was able to rid itself of the cost of operating and maintaining 260 miles of branch lines while retaining all the traffic and revenues. In short, because of the misuse of section 10901 the carriers involved in these transactions were allowed to void collective-bargaining agreements, eliminate jobs, evade statutory obligations to employees, and cut workers' wages and benefits.

My legislation would close this loophole and ensure that when companies apply for ICC approval of a short line, the same worker protections that apply in cases of approved abandonments and approved mergers will apply to short lines. Under this bill, railroad companies cannot use the existing loophole to avoid labor protections by setting up phony sales of short lines.

Critics of this legislation will contend that this bill would impose excessive costs to short line transactions by requiring a carrier to provide affected workers 1 year of pay or 6 years of employment. That is not the case. I am not encouraging that level of protection with this legislation. The law does provide up to 6 years of protective payments or assured employment by the selling company in transfers subject to ICC approval.

I want to be clear that this bill does not address what severance pay might be appropriate. It simply addresses when it is required.

Carriers' costs are very sensitive in rural areas like North Dakota and I am mindful of this. Nevertheless, I do think that workers do make a good case that if the ICC is going to provide labor protections for workers affected by mergers, abandonments, and other transfers, then the ICC should provide similar protections for short line sales as well, just as it did prior to the mid-1980's. At that time the ICC was requiring labor protections for short line sales. It has only been in the last decade that protections were not provided in short line sales and the Sanders legislation that I am introducing would restore that situation.

In introducing this legislation I want to make it clear to my colleagues that I hope this bill will serve as a starting point for negotiations between workers and carriers. It is my hope that ultimately, some agreement can be reached where affected workers are assured some protection—which they deserve—and carriers have some assurance that the costs of these protections will not be unreasonable.

While protective levels and their duration may be debated, I feel strongly that it is unreasonable and unfair to allow railroads to create sham transactions to get rid of workers and leave the workers without any protection at all. That is plain unfair, and that's what I want to correct with this legislation.

I urge my colleagues to support this legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT LINE CONSTRUCTION, ACQUISITION, AND OPERATION.

Section 10901 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) the Commission shall, in any order approving an application under this section, require a fair and equitable arrangement for protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title."; and

(2) by striking subsection (e).

SECTION 2. FINANCIAL ASSISTANCE TO AVOID ABANDONMENT AND DISCONTINUANCE.

Section 10905 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(g) No sale or offer of financial assistance shall be approved unless the Commission certifies a fair and equitable arrangement for the protection of the interests of employees who may be affected by such approval no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.".●

● Mr. LEAHY. Mr. President, I am pleased to join Senator DORGAN in introducing this legislation to plug a loophole in the Interstate Commerce Act that railroad companies have been running trains through for the past 12 years. Some railroad companies are forming paper corporations to avoid providing fair and equitable financial arrangements to workers displaced by the sale of a railroad. These financial arrangements, called labor protection benefits, provide railroad workers who lose their jobs with essential support while they make the transition to other work.

More and more railroad companies get around this labor protection requirement by selling off small chunks of their lines to form regional railroads, or short line railroads. Today, short line railroads account for 24 percent of U.S. railroad trackage, up from 6 percent only two decades ago. From 1950 to 1980, 75 new short line railroads were formed. From 1980 to 1988, 190 new short line railroads, almost 24 per year, were formed. That's about 10 times faster than the historical average.

This explosion of short line railroads was created by the Interstate Commerce Commission [ICC].

When Congress passed the Staggers Rail Act of 1980 to promote competition among railroads, it gave the ICC discretion under section 10901 of the act to impose labor protection benefits. It was designed to be available for the sale of small railroads only. In other railroad sales, and when a railroad is abandoned, Congress required the ICC to award labor protection benefits to all employees displaced by the sale or abandonment.

Congress concluded that the ICC, as the independent Federal agency with expertise in railroad sales, should weigh the facts of each sale to decide if labor protection under section 10901 was appropriate. Congress reasoned that the ICC's railroad experience would be the best guide to determine when it was fair and equitable to impose the costs of labor protection benefits in small railroad sales.

Since 1982, the ICC has refused to impose labor protection benefits in any railroad sale under section 10901. In fact, the ICC issued regulations in 1985 that exempt short line sales from virtually any review. Under these regulations, the ICC has made this section available to all nonrail carrier buyers—companies that did not provide rail transportation until after the ICC approved their purchase of a railroad. The regulations require the ICC to automatically approve section 10901 sales after 7 days.

Under this "Alice in Wonderland" backward procedure, the ICC may—but is not required to—review a short line railroad sale after the agency has already approved it and the sale has occurred. The ICC has ruled that when it reviews a section 10901 approval, it may award labor protection benefits only if it finds exceptional circumstances. You may ask what are these circumstances? Who knows? The ICC has never found exceptional circumstances in the hundreds of railroad sales under this law.

The railroad industry knows that the ICC has never imposed labor protection benefits under this law, and many have exploited this hands-off approach.

I am all too familiar with this exploitation. In my home State, the Central Vermont Railway, the CV, may become the latest short line victim under this loophole. The CV has been headquartered in St. Albans, VT since 1843, establishing St. Albans' reputation as the railroad city. Today the railroad is still the heart and soul of this smalltown community and provides almost 200 Vermonters with quality jobs. But this could all change under a proposed deal that was announced just last month.

The owners of the CV, CN North America, and the Grand Trunk Corp. plan to sell CV's assets to Railtex, Inc. of San Antonio, TX. To fit through this loophole and breeze by the ICC, Railtex intends to form a new corporate subsidiary to buy the CV. Although Railtex operates 23 regional railroads and its stock is publicly traded as a rail company, its new paper corporation would claim to be a nonrail carrier under the law. Railtex plans to claim nonrail carrier status while it negotiates with the CV over long-term agreements on prices, schedule, marketing, and other critical factors governing the future operation of the railroad.

After the 7 days, Railtex would then take control of the CV under the ICC's automatic approval process and fire all the CV's employees. Railtex's new paper corporation would hire 70 to 80 new employees, possibly among them some of the workers it had just fired. Employees of Railtex's new paper corporation would be forced to accept limited or no union representation, wage cuts, radically altered pension plans and work rules. And it is unclear what—if any—severance benefits would be offered to the CV's fired workers. What kind of a deal is that for the 178 loyal CV employees and their families?

In the past, the ICC merely rubber stamped its approval of deals like the proposed CV sale. This bill would change that. The legislation introduced today deletes the ICC's discretion in awarding labor protection benefits under section 10901. Under the bill, the ICC would be forced to award labor protection benefits in all railroad sales.

I have no illusions about this legislation. It is not perfect. I have concerns that the imposition of labor protection benefits in all railroad sales may hurt the chances of some small railroads from ever being sold. The added cost of labor protection benefits may scuttle the sale of these railroads and eventually leave to a few lines being abandoned. Abandoned rail lines hurt everyone—the company, the workers and the surrounding community. I hope the Senate Transportation Committee and Surface Transportation Subcommittee will closely examine the potential for any increase in abandoned railroads under this bill.

But even with these concerns, I support this bill because it sends a message to the ICC: Business as usual is unacceptable. The ICC must start doing its job and stop rubber stamping questionable deals. The time has come for the ICC to start considering the impact of short line railroad sales on rail workers and their families.•

• Mr. JEFFORDS. Mr. President, I join Senator DORGAN in introducing S. 2264 because I believe that there is something amiss in the process by which short line railroads are being sold off by main line carriers and then bought up and operated by newly created, nonrail companies. It is my hope that this bill can help to clarify the proper policy which should be applied in these situations.

For the past decade or more, the railroad industry, like many other American industries, has undergone a substantial amount of consolidation and change. This has occurred across the Nation, affecting virtually every region of the country. Recently, the issue has come home to roost in my own State of Vermont in the form of the situation regarding proposed sale of the Central Vermont Railway.

Mr. President, this is a very complex area of law and there clearly is much more that we need to learn about this issue.

When such a sale is proposed, one of the issues to be resolved is whether the labor protective provisions are to be applied. These protections—which call for as much as 6 years of severance pay and benefits continuation—appear to be unique to the railroad industry. Certainly, there is nothing similar in the general body of labor law applicable to other American industries.

The Interstate Commerce Commission is charged with the responsibility of overseeing such short line sales and making the determination whether labor protections should be invoked. It does so pursuant to statutory authority and longstanding interpretive decisions and regulations. However, the range of the ICC's options is very much dependent on the type of filing made by the parties to the sale. If the sale is presented as being from one rail carrier to another—under section 11343 or similar provisions of the act—the Commission has no discretion, it must award full protection at the level mandated by the New York Dock standard. On the other hand, if the filing is made on the basis of the sale being from a rail carrier to a noncarrier—under section 10901—the FCC has much greater discretion. The agency then can first determine whether this is a transaction in which labor protections are at all appropriate. Then, assuming they are deemed appropriate, the ICC can decide what level of protections should be imposed, with an unlimited range of options from zero up through the full New York Dock standard.

Given this procedural reality, and the fact that the ICC has never ordered New York Dock protections on a filing presented under section 10901, it is no surprise that most such sales are presented by the buyer and seller under that section. The cost savings in the deal are simply too large for them to ignore.

The rail unions understandably are of the opinion that the section 10901 filing procedure is being misused by these companies to avoid the labor protections which Congress enacted for the benefit of rail employees. Further, they contend that 10901 was never intended to be used as extensively as is now taking place, so that Congress should amend the act to correct this practice. The bill which we introduce today would do just that by requiring New York Dock protections to be imposed in carier-to-noncarrier transactions as well as those between carriers.

In sponsoring this measure, I am mindful of the fact that the imposition of New York Dock standard protections may have the effect of killing some sales of marginal lines. Often short lines are being sold off precisely because they are barely profitable, or outright money losers, within the main line systems. In some measure, the option of a section 10901 sale is an alternative to the abandonment of these lines by the main line companies. Obviously, given the loss of jobs and negative economic impact on the surrounding communities that go along with abandonments, this is not a result that anyone wishes to see.

It is my hope, Mr. President, that this matter can be given quick attention by Congress, including a thorough investigation of the issues of whether

the current law is being abused, whether the ICC should be stripped of the authority to impose labor protections short of the full New York Dock standard, and whether the New York Dock protections lead to more railroad abandonments, job losses and economic disruption.

In that regard, I am preparing to conduct a field hearing in St. Albans, VT next week to examine these issues as they relate to the proposed sale of the Central Vermont Railway. I hope that my colleagues on the Commerce Committee will follow up on this with their own hearings and investigation. This matter deserves their time and attention.•

By Mr. BRADLEY (by request):

S. 2266. A bill to amend the Recreation Management Act of 1992, and for other purposes; to the Committee on Energy and Natural Resources.

RECREATION MANAGEMENT ACT OF 1992 AMENDMENTS OF 1994

• Mr. BRADLEY. Mr. President, I am pleased today to introduce legislation on behalf of the administration to amend the Recreation Management Act of 1992 to provide the Secretary of the Interior with law enforcement authority to fulfill the Secretary's responsibility for protecting facilities and natural and cultural resources on Bureau of Reclamation lands and the many visitors who use Reclamation recreation resources.

Let me provide some background on the need for these amendments to the Recreation Management Act. Public Law 161 (Act of June, 17, 1902) directs the Secretary of the Interior to examine, survey for, locate, and construct irrigation works for the storage, diversion and development of water for reclamation of arid and semiarid lands in the 17 Western States. This law set aside a special fund within the U.S. Treasury to be known as the "reclamation fund" for use in carrying out these duties. While the Secretary is instructed to restore to public use any of the lands withdrawn and not required for projects, Public Law 161 provides that title to and management and operation of the reservoirs and the works necessary for their protection and operation will remain with the Federal Government unless Congress provides otherwise. The Secretary is authorized to perform any and all acts and to make any necessary rules and regulations to carry out the provisions of Public Law 161.

On October 30, 1992, Public Law 102-575 was enacted as the Reclamation Projects Authorization and Adjustment Act of 1992. Under section 2805(a)(2)(B) of that Act, the Commissioner of the Bureau of Reclamation is directed to make any regulations necessary to insure the protection, comfort, and well being of the public using reclamation lands. Section 2805(a)(2)(C) charges the Commissioner with making the necessary regulations for insuring the protection of resource values.

While the Secretary, in Public Law 161, was given the responsibility for protection of land and physical resources and structures and in Public Law 102-575 responsibility for protection of the visitor and resources, neither public law gave the Secretary or the Commissioner the authority to accomplish the given tasks. This bill and the resulting regulations are an attempt to rectify this inconsistency.

Of the 301 projects that the Bureau of Reclamation [BOR] has completed, the BOR now participates in the management of forty-four. These projects comprise about 600,000 acres and receive over 4 million visits annually. Although the Reclamation program covers the 17 Western States, the BOR directly manages only eight projects. Visitation to these areas vary from a few thousand annually, like Little Wood Reservoir in Idaho, to that of Lake Berryessa, in California, that has a visitation of over 1 million.

As the economics of down sizing and cost tightening filters down to the States and its subdivisions (mostly sheriff's offices), the availability of competent support is harder and harder to assure. While acres managed and visitation often show valid cause for law enforcement, the distances to adequate support is often an added burden. In cases like Lake Berryessa, the local law enforcement offices have told the BOR that they will no longer afford any protection or patrol because the visitation is mainly from outside their jurisdiction and they are too busy taking care of their own constituents.

Recently, several State and local cooperating agencies have informed the BOR that they were becoming financially burdened to the point of no longer being able to afford the operation of their project reservoirs. At the present time, the States or their political subdivisions manage over 1.5 million acres of land and water under agreements with the BOR. As some of these projects are returned to the BOR, they come with visitor facilities and an established visitation that expect management of the project.

To further complicate the matter, many of the Reclamation project sites have concentrations of prehistoric resources. These archeological resources need particular protection from vandalism, inadvertent destruction, and outright theft. A recent case of inappropriate off-road vehicle use became an issue at the American Falls Reservoir, in Idaho, when the BOR asked for law enforcement aid from the National Park Service [NPS]. The BOR found that the NPS could not help the BOR except by using deputy U.S. Marshals. While this particular incident was successfully concluded, through the cooperation of the Marshal's Service, this avenue of operation is neither correct nor expedient.

This legislation addresses the issues of authority, jurisdiction, and techniques of accomplishing the protection responsibilities laid out in Public Laws 161 and 102-575. The bill in no way restricts the operations of either the State or its political subdivisions or that of other Federal agencies in their law enforcement actions. Instead, it supplements these activities with onsite personnel for quicker response in visitor emergencies and a more thorough protection of facilities and natural and cultural resources.•

By Mr. BROWN:

S. 2267. A bill to enable all able-bodied Federal prisoners to work; to the Committee on the Judiciary.

FEDERAL PRISONERS-TO-WORK ACT

• Mr. BROWN. Mr. President, I read an article not long ago written by a Federal prisoner. The article described life in prison as being devoid of any meaning, of any positive influences and of any hope of improvement. He described prisoners watching TV all day, cheering the bad guys and booing the cops. Our criminal justice system basically locks prisoners up for a while, allows the negative influences to take root and grow, and then releases them into society to prey once again.

Today, I am introducing a bill today that would go a long way toward addressing this problem. This bill would enable all Federal prisoners to work.

There is already an existing work program in prison, but due to statutory limits and increasing populations, the numbers of prisoners who work in these programs has decreased from 50 percent to below 25 percent.

With so few prisoners working, inmates are robbed of the dignity that comes with being useful; the inmates miss a golden opportunity to learn a skill, to learn how to take orders, to learn how to live under a schedule, to learn how to interact with others. As a consequence, when inmates are released into society, with empty pockets, no skills and no diligence, they quite naturally fall into predatory criminal behavior again.

The prison work bill would expand the opportunity for work in prisons by enabling Federal prisons to manufacture and sell goods for disaster relief, to recycle and sell products nobody else can recycle because of the costliness, to sell their excess equipment to private companies, to make and sell goods nobody else can because of the labor-intensive nature, and to conduct prison business without all the redtape.

In so doing, we could put our Federal prison inmates to work. Work is the best way to turn someone around and make them a contributing member of society. Imagine this: No longer would prisoners laze around and watch TV; instead, they would be put to hard,

meaningful work. Prisoners would come out of prison with a job skill and some hard-earned money to make the transition back into society.

If you question how well this would work, look at the statistics: 89 percent of the inmates who worked in these programs successfully completed their halfway house stay—in other words, almost 9 out of 10 did not recidivate; 85.5 percent of the inmates who worked in these programs found full-time work while at the halfway house. That makes them 25 percent more likely to find work than other inmates.

The authors of the prison work study stated that:

> Inmates who participated in (prison) work and other vocational programming during their imprisonment showed better adjustment, were less likely to be revoked at the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training programs.

As we hear all the rhetoric about new crime control measures, I hope we can look in our own back yard and make the Federal prison system a place where we don't just bring in a bad criminal one year and release an even worse criminal a few years later.

In addition to putting prisoners to work, we can provide cheap goods to the Government. By selling products to the Government and elsewhere, prison work programs pay for themselves as well as some of the incarceration and security costs. To date, prison workers have manufactured wiring for the Patriot missile, helmets and blankets for Operation Desert Storm, and desks for Federal office buildings. Prison inmates become proud of their labor—I have heard of inmates who felt deeply about their input into Operation Desert Storm. This kind of meaningful work is second to none in turning criminals into productive citizens.●

By Mr. WOFFORD (for himself, Mr. BRADLEY, Mr. RIEGLE, Mrs. BOXER, Mr. METZENBAUM, Mr. CAMPBELL, Mr. HARKIN, Mr. KENNEDY, Mr. DODD, Mr. KERRY, Ms. MIKULSKI, Mr. LEAHY, and Mr. LEVIN):

S. 2268. A bill to provide for the establishment of a working group on trade-related worker rights and labor standards as part of the General Agreement on Tariffs, and Trade, and for other purposes; to the Committee on Finance.

WORKER RIGHTS AND LABOR STANDARDS TRADE ACT OF 1994

● Mr. WOFFORD. Mr. President, today I'm introducing legislation to direct the administration to work to establish a standing committee in the World Trade Organization to examine the relationship between trade and internationally recognized worker rights.

Improvements in worker rights and labor standards internationally are fundamentally related to the success of free trade. Trade is not and should not be viewed as an end in itself. It should be conducted in a way that improves living standards of workers as well as benefit consumers and producers.

And as Secretary of Labor Bob Reich recently stated:

> If a country pursues policies that hold down living standards and limit to a narrow elite the benefits of trade and development, the promise of open commerce is perverted and drained of its rationale.

Former Secretary of Labor Bill Brock once described the relationship of trade and worker rights as follows:

> Those countries which are flooding world markets with goods made by children, or by workers who can't form free trade unions or bargain collectively, or who are denied even the most minimum standards of safety and health . . . are doing more harm to the principle of free and fair trade than any protectionist groups I can think of.

The concept of worker rights and trade being intertwined is long standing in U.S. policy. The earliest congressional attention to the issue came in 1890, when the McKinley Tariff prohibited imports manufactured by convict labor. During the last 10 years, the United States has applied a labor standard to several trade laws: in 1983, to the Caribbean Basin Initiative; in 1984, to the Generalized System of Preferences; in 1985, to the Anti-Apartheid sanctions against South Africa and to the operations of the Overseas Private Investment Corporation; in 1988, to the Omnibus Trade and Competitiveness Act; and most recently the North America Free Trade Agreement.

Addressing international labor standards and worker rights in the General Agreement on Trade and Tariffs is not new either. The commitment goes as far back as the Havana Charter in 1948, which stated "the members recognize that unfair labor conditions, particularly in production for export, create difficulties in international trade and accordingly, each member shall take whatever action may be feasible and appropriate within its territory." And the GATT allows countries to restrict imports made with prison labor.

The U.S. has pursued the issue of improving labor rights in the GATT. In the 1988 Trade Act, Congress enacted into law a provision that made worker rights a principle United States negotiating objective in the Uruguay round of trade negotiations, which were just completed and the results of which we now are reviewing. Specifically, it called upon U.S. negotiators to the GATT "to promote respect for worker rights; to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and to adopt, as a principle of the GATT, that denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade." The Clinton administration had some success in achieving this goal. The legislation I am introducing today would direct them to keep going.

Mr. President, we've had the bipartisan tradition in the United States to pursue improved living standards and democratic values world-wide. This legislation comes out of that tradition. The goal of this legislation is not to impose a single, identical standard for all Nations. Rather, the goal of this legislation is to further the development of a global consensus for the need to safeguard workers and the tools to enforce that consensus.

We have a domestic imperative for pursuing this agenda. American workers cannot afford to tolerate a trading system that puts them in competition with workers who are denied basic rights. In too many circumstances, international trade is an excuse for depressing working standards and denying worker rights here at home or for shutting down plants and moving them abroad, such as that done by Leslie Fay in Northeast Pennsylvania.

We also have a responsibility to workers all around the world. The suffering some adults and children have to endure to make a living is unconscionable. With decent and appropriate labor standards, trade can truly help improve their living standards and promote more democratic economic development.

Mr. President, I ask unanimous consent that the full text of this legislation be printed in the RECORD.

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

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker Rights and Labor Standards Trade Act of 1994".

SEC. 2. ESTABLISHMENT OF WORKING GROUP ON WORKER RIGHTS.

(a) ACTION BY THE PRESIDENT.—The President shall seek the establishment as part of the GATT of a working group to examine the relationship for fundamental, internationally recognized worker rights to the articles, objectives, and related instruments of the GATT.

(b) OBJECTIVES OF WORKING GROUP.—The objectives of the working group described in subsection (a) are—

(1) to explore ways to link the conduct of international trade and respect for fundamental, internationally recognized worker rights;

(2) to examine the economic impact of trade distortions that are attributable to the systematic denial of fundamental, internationally recognized worker rights;

(3) to consider and develop information on the incidence and effects of systematic, trade-distorting worker rights practices and ways to address such practices; and

(4) to establish a procedure for preventing any country or industry from gaining a competitive advantage in international trade through the systematic denial of fundamental, internationally recognized worker rights.

(c) ESTABLISHMENT OF STANDING COMMITTEE ON WORKER RIGHTS WITHIN THE WORLD TRADE ORGANIZATION.—At such time as the World Trade Organization becomes effective, the President shall seek the establishment in the World Trade Organization of a standing committee on worker rights to which the functions and objectives of the working group described in section 3 shall be transferred.

Sec. 4. DEFINITIONS.

For purposes of this Act:

(1) The term "fundamental, internationally recognized worker rights" shall have the meaning as defined in section 502(a)(4) of the Trade Act of 1974.

(2) GATT.—The term "GATT" means the General Agreement on Tariffs and Trade.●

By Mr. INOUYE:

S. 2269. A bill to protect native American cultures and to guarantee the free exercise of religion by native Americans; to the Committee on Indian Affairs.

NATIVE AMERICAN CULTURAL PROTECTION AND FREE EXERCISE OF RELIGION ACT OF 1994

● Mr. INOUYE. Mr. President, I introduce legislation that is fundamental to the sovereignty of the Indian nations and which is in furtherance of the policy established in the "Joint Resolution American Indian Religious Freedom" enacted by Congress in 1978. For, Mr. President, what can be more fundamental to sovereignty than the freedom to practice one's culture, one's religion, and one's traditions?

This measure is intended to protect native American cultures, and guarantees the free exercise of religion by native Americans that President Clinton spoke so eloquently of when he addressed the tribal leaders at the White House on April 29, 1994. This legislation will not only affirm but will give validity and credibility to the first principle that President Clinton stated must guide relationships between the United States and Indian nations—that first principle is one of respect for Indian values, Indian religions, Indian identity, and Indian sovereignty.

As my esteemed colleagues may be aware, during President Clinton's remarks at that historic meeting with Indian tribal leaders, he acknowledged the unique government-to-government relationship the United States has enjoyed throughout our history with the Indian nations of this country. He pledged to fulfill the trust obligations of the Federal Government, and reaffirmed this Nation's commitment to self-determination for tribal governments. He vowed to honor and respect tribal sovereignty. And, he promised to continue his efforts to protect the rights of native Americans to practice their religions as they wished.

The President also stated that the first principle in every relationship between the United States and the Indian nations of this country must be to respect the right of Indian people to remain who they are and to live the way that they want to live. Even more importantly, he acknowledged his understanding that for many native Americans, traditional religious and ceremonies are the essence of native American culture and existence.

The President made it abundantly clear that no agenda for religious freedom will be complete until native American traditional religious practices have received the protection that they deserve. He also stated that legislation is needed to protect those native American religious practices that are threatened by Federal action. And, he acknowledged that a law which protects the rights of native Americans to fully exercise their religion in a manner they choose is long overdue.

Mr. President, the measure I am introducing today will provide that long overdue protection of which President Clinton spoke so passionately.

Mr. President, the meaning of "religion" for native Americans has a substantially different connotation than religions which are based on European concepts. This legislation recognizes the importance of traditional cultural practices and spiritual beliefs to native Americans, and embraces the concept that religion is deeply intertwined with the very fabric of native American cultural identity and ways of life. This legislation further recognizes that because native American traditional cultural practices are so intertwined with religious practices, and because the spiritual beliefs and traditional ceremonial practices of native Americans are such an integral part of life itself, culture and religion cannot be separated.

The legislation also takes into account the inherent differences that exist among native American traditional cultures and respects the diverse customs, ceremonies, and traditions of native American religious practices and spiritual beliefs. The bill addresses native American cultural and religious practices in four areas: sacred sites, prisoner's rights, the sacramental use of peyote, and the use of eagle feathers and other animals and plants within the context of traditional cultural practices.

First, the legislation provides protection of native American sacred sites and puts into place a mechanism for resolving disputes. Native Americans believe that certain locations are most sacred and believe that these sites should be protected. There are currently over 44 sacred sites that are threatened by tourism, development, and resource exploitation.

Second, the legislation extends protection to native Americans for the sacramental use of peyote. Currently, the religious use of peyote, which is central to the ceremonies of the native American church, is protected under the laws of 28 States. But in the remaining 22 States, the religious use of peyote is a crime punishable by law despite Drug Enforcement Agency exemptions for native American church members.

Third, the legislation protects the rights of native American prisoners to the same extent as prisoners of other religious faiths. Many native American prisoners are denied access to spiritual leaders, and denied the opportunity to practice their religions, despite the fact that other prisoners are consistently provided access to priests, ministers, rabbis, and other religious leaders. There are also prison requirements that conflict with native American cultural and religious customs.

Finally, the legislation facilitates native American access to and use of eagle feathers and plants for religious ceremonial purposes. While eagle feathers and parts of other sacred plants and animals are sometimes used in cultural and religious ceremonies, native Americans face criminal prosecution if they are in possession of eagle parts or feathers due to the Bald and Golden Eagle Protection Act. This legislation would permit the use of lawfully obtained eagle feathers.

The bill also provides clear, legally enforceable authority for the protection of native American cultures and the free exercise of religion by native Americans.

In addressing the many problems that face native American communities today, it is imperative that we should first address the issue of spirituality and cultural traditions—the very soul of most native American communities. It is essential for native American people across this country to be free to practice their cultural and religious ceremonies and to preserve their values and traditions for future generations.

As you may recall, on May 25, 1993, I introduced legislation that would provide for the protection of native American religious freedom. Prior to the introduction of that bill, the Committee on Indian Affairs held six field hearings in various regions of the country on the draft bill. Following introduction of the bill, two additional hearings were held here in Washington, DC. In addition to the hearings, the committee has worked steadily with the American Indian Religious Freedom Coalition and the administration to review and refine the bill. Throughout the past year, numerous meetings were held with members of the coalition and administration representatives to identify issues and areas of concern, and to discuss provisions and proposals relating to the bill. I am greatly encouraged by the progress of the past year. It is this progress and the results from the meetings with the administration and

coalition that has guided my decision to introduce a new bill which is a reflection of the progress made over the past year.

Mr. President, it is clear that there must be a rebalancing of governmental interests to assure the protection of native American cultural and religious practices. The legislation I am introducing today would create this balance. The cultural and religious rights of native Americans have not been adequately protected or respected, and as the trustee of the native peoples of this land, I believe that it is incumbent upon the United States to correct this deficiency. I urge careful consideration and swift passage of this important measure in the 103d session of the Congress.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Cultural Protection and Free Exercise of Religion Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Policy.
Sec. 3. Definitions.

TITLE I—PROTECTION OF NATIVE AMERICAN SACRED SITES

Sec. 101. Findings.
Sec. 102. Federal Lands Access.
Sec. 103. Land management decisions; planning, identification, and notice.
Sec. 104. Consultation.
Sec. 105. Administrative Proceeding.
Sec. 106. Tribal authority over Native American sacred sites on Indian lands.
Sec. 107. Application of other laws.
Sec. 108. Confidentiality.
Sec. 109. Criminal sanctions.

TITLE II—TRADITIONAL USE OF PEYOTE

Sec. 201. Findings.
Sec. 202. Traditional use of peyote.

TITLE III—PRISONERS' RIGHTS

Sec. 301. Rights.

TITLE IV—CULTURAL AND RELIGIOUS USE OF EAGLES AND OTHER ANIMALS AND PLANTS

Sec. 401. Cultural and Religious use of eagles.
Sec. 402. Other animals and plants.

TITLE V—JURISDICTION AND REMEDIES

Sec. 501. Jurisdiction and remedies

TITLE VI—MISCELLANEOUS

Sec. 601. Savings clause.
Sec. 602. Severability.
Sec. 603. Authorization of appropriations.
Sec. 604. Regulations.
Sec. 605. Protections.
Sec. 606. Effective Date.

SEC. 2. POLICY.

"It is the policy of the United States, in furtherance of the policy established in the joint resolution entitled "Joint Resolution American Indian Religious Freedom", approved August 11, 1978 (42 U.S.C. 1996), to protect and preserve the inherent right of any Native American to believe, express, exercise and practice his or her traditional culture and religion, including, but not limited to, access to any Native American sacred site, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites."

SEC. 3. DEFINITIONS.

For the purposes of this Act—

"(1) The term "adverse impact" means any action or any potential action which has the effect or which will have the effect of—

"(a) altering, disturbing, desecrating or destroying a Native American sacred site;

"(b) inhibiting, infringing upon or interfering with Native American traditional cultural practices; or

"(c) imposing a burden upon the free exercise of a Native American religion.

"(2) The term "aggrieved party" means any Native American, Indian tribe, Native Hawaiian organization, Native American practitioner or Native American traditional leader as defined by this Act, and to whom the provisions of this Act apply.

"(3) The term "consultation" means, at a minimum, agency-initiated outreach activities which will result in a meaningful process for face-to-face deliberations and conferral with all Indian tribes, Native Hawaiian organizations and Native American traditional leaders that should be consulted and which is conducted in a realistic manner that is cognizant of the cultural values, socioeconomic factors and administrative structures, if any, of the Indian tribes or Native Hawaiian organizations with an interest in the land in question.

"(4) The term "covered federal activity" means—

"(a) any new or reauthorized project, program or activity, or any new phase of existing projects, programs and activities, under the direct or indirect jurisdiction of a federal agency including but not limited to—

"(1) those carried out by or on behalf of the agency, on federal or state lands, or involving navigable waters;

"(2) those activities on federal or state lands, or involving navigable waters, requiring a federal permit, license or approval;

"(3) those taking place on federal or state lands, or involving navigable waters, subject to state regulations pursuant to a delegation or approval by a federal agency;

"(4) those carried out with more than de minimis federal financial assistance;

"(5) renewals, reauthorizations, relicensing, and similar decisions;

"(6) regular and cyclical review of land management plans by agencies;

"(7) programs funded by federal highway funds;

"(8) activities subject to licensing by the Federal Energy Regulatory Commission, or the Nuclear Regulatory Commission;

"(9) the siting of hazardous, low-level nuclear or transuranic waste or toxic waste disposal, and disposal facilities, and the disposal of such materials; or

"(10) those activities that would not be covered federal activities by virtue of section 3(4)(b)(1), if an Indian tribe affirmatively elects to have the provisions of this Act apply to a particular covered federal activity on Indian lands which are subject to the tribe's jurisdiction;

"(b) The term "covered federal activity" does not include:

"(1) Regulations, projects, activities, or programs operated, approved, or sponsored by Indian tribes, including, but not limited to, those projects, activities, or programs which are funded in whole or in part by federal funds pursuant to contract, compact, grant or agreement, or which require federal permits, licenses or approvals, unless the Indian tribe invokes section 3(4)(a)(10);

"(2) ongoing and continuing activities underway prior to enactment of this Act, or activities for which a final commitment has been made prior to enactment of this Act and for which substantial funds have been spent or implementation is substantially underway;

"(3) routine activities that an agency determines through negotiations with Indian tribes or Native Hawaiian organizations to be unlikely to affect Native American sacred sites or traditional cultural practices, and maintenance activities involving structures or projects existing at the time of enactment of this Act or later constructed in compliance with this Act which do not change the size or scale or the existing use of those projects or structures;

"(4) activity on state land with de minimis federal funding and no other federal role;

"(5) any actions on private lands, other than those enumerated in subsection (a), even though those actions are subject to federal permit, license, or approval, or state regulation of private lands under a federal delegation of authority, or conducted with de minimis federal funding; or

"(6) direct federal loans and federal loan guarantees to private entities.

"(5) The term "federal agency" means any agency, department, or instrumentality of—

"(A) the United States; or

"(B) a State, in the case of a covered federal activity described in paragraph (4)(a)(3). The term "governmental agency" does not include an agency, department, or instrumentality of an Indian tribe.

"(7) The term "Indian" means an individual who is a member of an Indian tribe; an Alaska Native, or an individual who meets the definition in section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b)), except that an Indian community need not be served by a local program of the Indian Health Service in order to qualify as an Indian community for purposes of this definition.

"(8) The term "Indian lands" means all lands within the limits of any Indian reservation notwithstanding the issuance of any patent; public domain Indian allotments; all other lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation; all dependent Indian communities; and all fee lands owned by an Indian tribe.

"(9) The term "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. §1601 et seq.)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(10) The term "land" or "lands" mean surface and subsurface land within the jurisdiction of the United States or the respective States, including submerged land of any kind of interest therein, and all water and waterways occupying, adjacent to, or running through the land.

"(11) With respect to the cultural protections provided under this Act, the term "Native American" means any Indian or Native Hawaiian.

"(12) With respect to the cultural protections provided under this Act, the term "Native American practitioner" means any Native American who practices a Native American religion as part of a Native American traditional culture.

"(13) With respect to the cultural protections provided under this Act, the term "Native American religion" means any traditional religion which is practiced by Native Americans, the origin and interpretation of which is deeply embedded or rooted in a Native American traditional culture.

"(14) With respect to the cultural protections provided under this Act, the term "Native American Sacred Site" means any geophysical or geographical area or feature which is sacred by virtue of its traditional cultural or religious significance or ceremonial use, or by virtue of a ceremonial or cultural requirement, including a religious requirement, that a natural substance or product for use in Native American traditional ceremonies be gathered from that particular location.

"(15) The term "Native American traditional culture" means the traditional practices, customs, belief systems, lifeways, ceremonies, and rituals, including religious practices and beliefs, that are integral to and unique aspects of Native American cultural traditions and heritage.

"(16) With respect to the cultural protections provided under this Act, the term Native American traditional leader" means any Native American practitioner who is recognized by an Indian tribe or traditional tribal community or Native Hawaiian community as being responsible for performing duties relating to the cultural traditions, including religious traditions of the tribe or traditional tribal community or Native Hawaiian community or as having a leadership role in an Indian tribe or traditional tribal community or Native Hawaiian community based upon its traditional cultural or ceremonial practices, including religious practices.

"(17) With respect to the cultural protections provided under this Act, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal Polynesian people who, prior to 1778, occupied and exercised sovereignty and self-determination in the area that now comprises the State of Hawaii, and who is recognized as eligible for the special programs and services provided by the United States to Native Hawaiians because of their status as Native Hawaiian or Native Americans.

"(18) With respect to the cultural protections provided under this Act, the term "Native Hawaiian organization" means any organization which is composed primarily of Native Hawaiians, and serves and represents the traditional cultural interests of Native Hawaiians and whose members—

(A) practice a Native American culture, including a Native American religion, or conduct traditional ceremonial rituals, or

(B) utilize, preserve and protect Native American sacred sites.

"(19) The term "public land" means any land as defined in section 3(10) of this Act which is owned by the United States, or the respective States, or political subdivisions thereof, but shall not include Indian lands as defined in section 3(8).

"(20) The term "State" means any State of the United States and any and all political subdivisions thereof, and the District of Columbia.

TITLE I—PROTECTION OF NATIVE AMERICAN SACRED SITES

SEC. 101. FINDINGS.

"The Congress finds that—

"(1) the traditional cultural practices, including religious practices, of Native Americans are integral and inseparable parts of their cultures, traditions and heritages which greatly enhance the vitality of Native American communities and tribes and the well-being of Native Americans in general;

"(2) the European concept that religion is an activity or belief that is separate from all other aspects of daily life, or that religion is separable from culture, is a concept that has no application in the traditional cultures of Native Americans;

"(3) throughout American history, the manifestation of Native American traditional cultures, including the free exercise of Native American religions, has been infringed upon, interfered with, and even prohibited by the Federal Government and the devastating impact of these governmental actions continues to the present day;

"(4) the United States has a unique, government-to-government relationship with Indian tribes and a special historic trust relationship which permits the United States to take measures to protect against interference with the continuing cultural cohesiveness and integrity of Indian tribes and Native American traditional cultures;

"(5) as part of the historic federal-Indian trust relationship it is the intent of the United States to pursue enforceable Federal policies which will protect the Native American community and tribal vitality and cultural integrity, and which will not inhibit, interfere with or infringe upon Native American traditional cultural practices or impose a burden on the free exercise of Native American religions;

"(6) many Native American traditional cultures, including Native American religions, hold certain lands or natural formations in the United States to be sacred, and in order for those sites to be in a condition appropriate for cultural use, including religious or ceremonial use, the physical environment, water, plants and animals associated with those sites must be protected;

"(7) such Native American sacred sites are an integral and vital part of, and inextricably intertwined with, many Native American traditional cultures, including Native American religions, and the practices associated with such traditional cultures;

"(8) the traditional use and gathering, harvesting, or maintaining of natural substances or natural products for cultural purposes, including religious and ceremonial purposes, are an integral and vital part of, and are inextricably intertwined with, many Native American traditional cultures, including Native American religions;

"(9) many of these Native American sacred sites are found on lands which were part of the aboriginal territory of Indians or Native Hawaiians, but which now are held by the United States, or are the subject of federal activities;

"(10) governmental land use decisions have the potential to have an adverse impact on Native American traditional cultural practices, including Native American religions;

"(11) many Native American traditional cultural practices, including religious and ceremonial practices, require a measure of privacy and isolation; and certain traditional cultural ceremonies and activities cannot be performed if non-participants can observe the practices or ceremonies or activities, even from a distance, and in some situations the lack of privacy or isolation inhibits, infringes upon, interferes with, or precludes certain Native American traditional cultural practices, including traditional religious practices;

"(12) some Indian tribes, such as the Pueblos of New Mexico, as well as some aspects of Native Hawaiian culture, have traditional cultural and religious tenets which prohibit disclosure of information concerning their sacred sites and their traditional beliefs and practices, mandate secrecy and impose internal sanctions to enforce those prohibitions, making it impossible for them to identify the manner in which any particular governmental activity would have an adverse impact on their traditional cultures or impose a burden on the free exercise of their religions;

"(13) lack of sensitivity to, or understanding of, Native American traditional cultures, including Native American religions has resulted in the absence of a coherent policy for the protection of Native American sacred sites and the failure to consider the impacts of federal activities upon Native American sacred sites;

"(14) the Supreme Court of the United States, in the case of Lyng v. Northwest Indian Cemetery Protective Association, 485 U.S. 439 (1988) ruled that the free exercise clause of the First Amendment does not restrict the Government's management of its lands, even if certain governmental actions would infringe upon or destroy the ability to practice religion, so long as the Government's action does not compel individuals to act in a manner which is contrary to their religious beliefs;

"(15) the Supreme Court's holding in the case of Lyng v. Northwest Indian Cemetery Protective Association creates a chilling and discriminatory effect on Native American traditional cultures and on the free exercise of Native American religions;

"(16) the Congress has enacted numerous laws which regulate and restrict the discretion of federal agencies for the sake of environmental, historical, economic, and cultural concerns, but has never enacted a judicially-enforceable law comparably restricting agency discretion for the sake of the site-protective requirements specifically associated with the protection of Native American traditional cultural practices, including the free exercise of Native American religions;

"(17) the lack of a judicially-enforceable federal law and of a coherent federal policy to accommodate the uniqueness of Native American traditional cultures, including Native American religions, results in unique and adverse impacts on Native American traditional cultures, burdens the free exercise of Native American religions, and impairs the vitality of Indian tribes, traditional tribal communities, and Native Hawaiian communities; and

"(18) the Congress has the authority to enact laws to assure the protection and preservation of Native American traditional cultures, including the free exercise of Native American religions, based upon the special trust relationship, and pursuant to section 8, Article I of the United States Constitution and the First, Fifth, and Fourteenth Amendments to the United States Constitution.

"SEC. 102. ACCESS TO FEDERAL LANDS.

"(a) IN GENERAL.—Native American practitioners shall be permitted access to federal lands at all times for Native American traditional cultural, ceremonial or religious purposes, including access to gather, harvest, or maintain natural substances or natural products for Native American traditional cultural purposes.

"(b) Federal agencies may take reasonable and narrowly tailored measures to assure that access and use of lands under this Act do not—

"(1) have a direct, significant and negative impact upon specific national security interests or the implementation of the Endangered Species Act; or

"(2) present an immediate threat of serious bodily harm to any person or immediate and serious harm to the environment.

Where other feasible means are available for avoiding adverse impacts on Native American sacred sites, Native American traditional cultural practices, and the free exercise of Native American religions, those means shall be utilized before access is restricted.

"(c) Terms of access may be included in a memorandum of agreement pursuant to section 104(a)(3)(B).

"(d) LIMITATIONS AGAINST VEHICLES.—Paragraph (a) does not authorize the use of motorized vehicles or other forms of mechanized transport in roadless areas where such use is prohibited by law.

"(e) TEMPORARY PROTECTIVE MEASURES.—Upon the request of an Indian tribe, a Native Hawaiian organization or a Native American traditional leader, the Secretary of the department whose land is involved, or a local land manager where such authority has been delegated, may from time to time temporarily close to the general public use of one or more specific portions of Federal land and may take such other reasonable and temporary measures as necessary in order to protect the privacy of traditional cultural, ceremonial or religious activities in such areas by Native Americans. Any such measures shall be taken so as to affect the smallest practicable area for the minimum period necessary for such purposes.

"SEC. 103. FEDERAL LAND MANAGEMENT, IDENTIFICATION OF LANDS, PLANNING AND NOTICE

"(a) IN GENERAL.—Each Federal agency shall manage any lands under its jurisdiction in a manner that complies with the provisions of this Act.

"(b) IDENTIFICATION OF LANDS BY SECRETARY.—

"(1) IN GENERAL.—(A) For the purpose of assuring that a governmental agency properly determines whether a proposed covered federal activity will have an adverse impact on a Native American sacred site and which affected parties should be provided notice of a proposed activity, the head of each land managing agency, in conjunction with the Secretary of the Interior and tribal governments and Native Hawaiian organizations, shall identify land areas with which a tribe or Native Hawaiians have aboriginal, historic, cultural or religious ties.

"(B) For purposes of this section, within 90 days following the date of enactment of this Act, Native Hawaiian organizations shall notify the Secretary of their desire to receive notice of proposed covered federal activities.

"(2) As part of its obligations pursuant to this section, within 90 days following the date of enactment of this Act, the Secretary of the Interior shall contact all Indian tribes, and Native Hawaiian organizations to request a broad geographic description of the lands as to which each Indian tribe or Native Hawaiian organization desires notice of covered Federal activity and, upon receipt of responses from Indian tribes and Native Hawaiian organizations, shall provide such land descriptions to all federal agencies.

"(3) Within 18 months following the date of enactment of this Act, the Secretary shall establish a list of all Indian tribes and Native Hawaiian organizations who have responded and the lands they have identified. Such lists shall not be published but shall be made available to agencies for the purpose of identifying Indian tribes and Native Hawaiian organizations and areas for which notice of covered federal activities shall be provided.

"(4) While the list is being developed, each federal land managing agency shall also research its own sources, including agency contacts with Indian tribes, Native Hawaiian organizations, or Native American traditional leaders and written sources, to collect information as to Native American traditional cultures and religions potentially affected by activities on land which it manages and shall make a good faith effort to identify and notify Indian tribes, Native Hawaiian organizations, and Native American traditional leaders who have an interest in proposed covered federal activities.

"(5) ONGOING IDENTIFICATION.—Nothing in this section shall preclude an agency or a tribal government or a Native Hawaiian organization from continuing to conduct an ongoing identification process, which may supplement the process required by this subsection.

"(c) PLANNING PROCESS.—Each federal agency managing lands under its jurisdiction including, but not limited to, activities pursuant to the National Forest Management Act (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), shall as part of its planning process—

"(1) consult, during the earliest possible part of the planning process, with Indian tribes, Native Hawaiian organizations and Native American traditional leaders who have notified the agency of their interest in the land in question pursuant to subsection (b);

"(2) in addition to the notices required in regard to covered federal activity required by subsection (d), provide for notice of all covered federal activity with the potential to have an adverse impact on land areas specified by an Indian tribe or Native Hawaiian organization, in writing, as land areas that are of direct interest to the Indian tribe or Native Hawaiians, whether or not the agency believes that such activity will or may have an adverse impact on a Native American sacred site;

"(3) ensure that its land management plans are consistent with the provisions and policies of this Act; and

"(4) maintain the confidentiality of specific details of a Native American traditional culture or religion or the significance of a Native American sacred site to that culture or religion in accordance with the procedures specified in sections 107 and 108 of this Act.

"(d) NOTICE AND DOCUMENTATION—DUTY OF AGENCIES.

"(1) NOTICE TO TRIBES OR NATIVE HAWAIIAN ORGANIZATIONS.—Before a governmental agency proceeds on lands identified pursuant to subsection (b) with any covered federal activity that may have an adverse impact on a Native American sacred site, the governmental agency shall consult with potentially-affected Indian tribes, Native Hawaiian organizations and Native American traditional leaders, and after the consultation has occurred and the agency has taken into account the information obtained through that process, formally provide a written notice containing a geographical description of the lands affected by the activity (including information on metes and bounds of the lands in question, where available), a map illustrating the lands affected and a description of the proposed action to each Indian tribe, Native Hawaiian organization, or Native American traditional leader which has been identified pursuant to this section as having an interest in the land affected by the proposed covered federal activity and any other Indian tribe, Native Hawaiian organization or Native American traditional leader known by the agency that may have an interest in the land affected by the proposed covered federal activity.

"(2) The governmental agency shall fully document the efforts made to provide the information to Indian tribes, Native Hawaiian organizations, and Native American traditional leaders as required by this section or any applicable regulations, guidelines, or policies.

"(e) RESPONSE TO NOTICE.—

"(1) IN GENERAL.—Within 90 days of receiving the notice provided under subsection (d), or within the time limit of any comment period permitted or required by any federal law applicable to the covered federal activity, whichever is later, an Indian tribe, Native Hawaiian organization, or Native American traditional leader invoking the protection of this title may provide notice in writing to the government agency that the proposed covered federal activity may have an adverse impact on a Native American sacred site.

"(2) MODIFICATION OF TIME.—Such time period may be extended by the agency at its discretion, including at the request of a noticed party, or may be extended or shortened by an agreement negotiated pursuant to section 104(a)(3)(B).

"(3) NO DUTY TO RESPOND.—Paragraph (1) does not impose a duty upon any Indian tribe, Native Hawaiian organization, or Native American traditional leader to respond to any notice under this section.

"(4) ADDITIONAL INFORMATION.—The Indian tribe or Native Hawaiian organization or its designee acting pursuant to paragraph (1) may also provide the agency with information as to any Native American traditional leaders or practitioners who should be included in the notice and consultation requirements of this section and section 104.

"(f) RESPONSE PERIOD AND LIMITATION ON ACTIVITY FOLLOWING NOTICE.—

"(1) In order to allow a full investigation of a proposed covered federal activity no action to approve, commence, or complete an activity that is subject to this section shall be taken by a governmental agency for a period of 90 days following the date on which notice is provided under subsection (d) to Indian tribes, Native Hawaiian organizations or Native American traditional leaders unless or until—

"(A) the period of consultation required under section 104 has been completed;

"(B) a sacred sites protection agreement pursuant to section 104(a)(3)(B) has been entered into by the affected Indian tribe or tribes or Native Hawaiian organization and the governmental agency; or

"(C) all parties entitled to such notice consent to a shorter time period.

"(2) During the notice and consultation periods under section 103 and section 104, the governmental agencies responsible for the covered federal activity may continue to engage in planning, studies, or other preparatory matters provided that such activities do not constitute a commitment to proceed with the proposed activity or project.

"(3) During the 90 day period following formal notice to Indian tribes, Native Hawaiian organizations and Native American traditional leaders, the governmental agency shall have the continuing duty to seek to consult with Indian tribes, Native Hawaiian organizations and Native American traditional leaders potentially affected by the proposed covered federal activity.

"SEC. 104. CONSULTATION.

"(a) IN GENERAL.—

"(1) EFFECT OF NOTICE.—In order to allow a full investigation of the consequences of a proposed covered federal activity, if an Indian tribe, Native Hawaiian organization or Native American traditional leader responds in writing within 90 days of receiving notice as provided in section 103(e), or within the time limit of any comment period permitted or required by any federal law which is applicable to the covered federal activity, whichever is later, the governmental agency shall immediately discontinue such activity until the agency performs the duties described in paragraphs (3) and (4).

"(2) AFTER ACTION DISCOVERY.—If after a covered federal activity is underway—

"(A) the governmental agency becomes aware that the activity may have an adverse impact on a Native American sacred site, the agency engaged in the activity shall immediately discontinue such activity until the agency performs the duties set forth in paragraphs (3) and (4); or

"(B) an Indian tribe or Native Hawaiian organization that did not receive notice and did not know of the covered federal activity, becomes aware that the activity may have an adverse impact on a Native American sacred site and notifies the governmental agency, the agency engaged in the activity shall immediately discontinue such activity until the agency performs the duties set forth in paragraphs (3) and (4).

"(3)(A) CONSULTATION.—The governmental agency shall consult with any interested party with a direct interest in the Native American traditional culture or religion in question concerning the nature of the adverse impact, and consult about alternatives which can be identified that would minimize or prevent the adverse impact, including any alternatives identified by an Indian tribe, Native Hawaiian organization or Native American traditional leader that has filed a written objection under this subsection.

"(B) NEGOTIATED AGREEMENTS.—(i) Upon the request of an Indian tribe or tribes or Native Hawaiian organization, each federal agency or agencies involved in covered federal activities shall enter into negotiations to identify appropriate land management procedures for addressing that tribe's or that Native Hawaiian organization's interest in the protection and preservation of its sacred sites and to avoid any adverse impact on such sites as may be located on public lands within the jurisdiction of such agencies. Consistent with the public mission of such agencies and the responsibility of the United States to support Indian tribes and tribal members and Native Hawaiians in the preservation of their sacred sites, each federal agency is authorized to enter into sacred sites protection agreements with Indian tribes or Native Hawaiian organizations for the purpose of memorializing the land management procedures that result from consultations and negotiations. Such agreements may supersede the planning provisions of section 103(c), the notice provisions of section 103(d), the consultation provisions of section 103(d)(1) and section 104, and the access provisions of section 102 of this Act as they relate to Indian tribes or Native Hawaiian organizations that are parties to such an agreement if the agreement specifically and explicitly includes a provision overriding those sections of the Act, or any parts thereof. The agreements may also include provision for the delegation by federal agency officials of land management responsibilities to the Indian tribe(s) or Native Hawaiian organization(s) for designated public lands described in the agreement.

"(ii) In the case of Indian tribes, where such a delegation of management functions is included in such agreements, the federal agency and the tribe may also agree to use the procedures and regulations employed under the Indian Self-Determination Act, Public Law 93-638. The agreement may also address the application of all or part of title I of this Act to Indian lands within the tribe's jurisdiction.

"(4) *Response to Comments.*—If there is no resolution of the claims asserted by an aggrieved party pursuant to subsection (3), the governmental agency shall prepare and make available to an Indian tribe, a Native Hawaiian organization or a Native American traditional leader who has been involved in the consultation process, a document responding to the comments received. The document shall—

(i) set forth the adverse impact which has been asserted by the aggrieved party,

(ii) assess whether the interest of the government in proceeding with the action is compelling; and

(iii) assess whether, based on an analysis of the alternatives to the proposed action, including any alternatives offered by an Indian tribe, Native Hawaiian organization or Native American traditional leader that the proposed activity is the least restrictive means of furthering that compelling interest.

Where an agency determines to commence a covered federal activity, notwithstanding notice from an aggrieved party pursuant to section 104(a), it shall issue a written opinion providing the basis for its decision. The issuance of this decision shall constitute final agency action for purposes of judicial review pursuant to section 501, unless the agency establishes additional administrative review procedures under section 105.

"(5) ADDITIONAL INFORMATION.—In any case where the governmental agency is also required to prepare a document analyzing the impact of a covered federal activity or a decision pursuant to the National Environmental Policy Act (43 U.S.C. 4321 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.) or any other applicable law, such agency may incorporate the analysis required by this section into the contents of the document.

"(b) CASES WHERE SECRECY IS REQUIRED.—

"(1) IN GENERAL.—In the case of those Indian tribes or Native Hawaiians whose traditional cultural or religious tenets prohibit disclosure of information concerning their Native American sacred sites or cultural or religious beliefs or practices, and mandate secrecy and internal sanctions to enforce those prohibitions, and where the tribal government of the affected Indian tribe or a Native Hawaiian organization so certifies and invokes this subsection—

"(A) the tribal government or Native Hawaiian organization shall not be required to reveal the location of the Native American sacred site or in what manner the covered federal activity would have an adverse impact on the site or any information concerning their cultural or religious beliefs or practices;

"(B) the tribal government or Native Hawaiian organization shall not be required to explain in what manner any proposed alternative is or is not less intrusive upon the Native American cultural or religious practice or sacred sites which may be adversely impacted than the original proposed covered federal activity; and

"(C) in engaging in consultation and preparing any document required by this Act, the governmental agency shall not be required to include an analysis of adverse impacts upon the sacred site or the use thereof or the Indian tribe's or Native Hawaiian organization's cultural or religious beliefs and practices.

"(2) AFTER CONSULTATION.—If after consultation—

"(A) the governmental agency agrees to pursue a less intrusive alternative proposed by the Indian tribe or Native Hawaiian organization or some other alternative to which the Indian tribe or Native Hawaiian organization agrees; or

"(B) if no reasonable alternative acceptable to the tribe or Native Hawaiian organization is identified, the governmental agency shall be deemed to have met its obligation under sections 104 and 105 to consider and pursue the least intrusive alternative under this Act in regard to the objection raised to the covered federal activity by the Indian tribe or Native Hawaiian organization invoking this subsection.

"(C) RESPONSE TO COMMENTS.—If there is no resolution of the claims asserted by a tribe or Native Hawaiian organization pursuant to this subsection, the governmental agency shall prepare and make available to the tribe or Native Hawaiian organization a document responding to the comments received. The document shall—

(i) set forth the adverse impact which is asserted by the Indian tribe or Native Hawaiian organization;

(ii) assess whether the interest of the government in proceeding with the activity is compelling;

(iii) assess whether based on an analysis of the alternatives the activity is a reasonable means of furthering that compelling interest; and

(iv) assess whether the alternatives identified in 104(b)(2) are reasonable.

Where an agency determines to commence a covered federal activity, notwithstanding notice from an aggrieved party pursuant to 104(a) and (b) it shall issue a written opinion providing the basis for its decision. The issuance of this decision shall constitute final agency action for purposes of judicial review pursuant to section 501, unless the agency establishes additional administrative review procedures under section 105.

"(c) RULE OF CONSTRUCTION.—Where the provisions of subsection (b) have been invoked, those requirements shall control in all circumstances and shall supersede any conflicting provisions in this Act or any other provision of law.

"(d) DISCLOSURE REQUIRED.—Within 30 days of receipt of any written objection under subsection (a) or (b), the governmental agency proposing the covered federal activity which gave rise to that notice shall make available to the aggrieved party, all plats, maps, plans, specifications, socioeconomic, environmental, scientific, archaeological or historical studies, and comments and information in that agency's possession directly relating to said activity. The agency may withhold—

(i) attorney work product prepared in anticipation of litigation; and

(ii) information the release of which would jeopardize the litigating position of the United States on behalf of another tribe.

"(e) SPECIAL RULE FOR PUEBLOS.—In the case of a proposed covered federal activity affecting the management, use, or preservation of public land, or any other activity or violation under this Act involving potential

adverse impacts on any of the Indian pueblos of New Mexico or any of their sacred sites, the only party who may file an objection or participate in consultation under this section, or file an action under section 105 or 501, shall be the governor of the affected pueblo or the governor's designee.

"(f) EMERGENCY PROVISION.—The process required by sections 103 and 104 shall not apply if the governmental agency determines that adherence to the process will—

"(1) have a direct, significant and negative impact upon specific national security interests or the implementation of the Endangered Species Act; or

"(2) present an immediate threat of serious bodily harm to any person or immediate and serious harm to the environment.

"SEC. 105. ADMINISTRATIVE PROCEDURES.

"(a) IN GENERAL.—A governmental agency, shall, by regulation, establish an administrative procedure to implement the requirements of this title.

"(b) EXHAUSTION REQUIREMENT.—An aggrieved party must use a procedure established under paragraph (a) before filing an action in a federal district court pursuant to section 501 of this Act.

"(c) BURDEN ON AGENCY.—

"(1) In the case of any administrative proceeding in which an aggrieved Indian tribe or Native Hawaiian organization objects to the covered federal activity or an action by a state on the grounds that it is or will have an adverse impact on a Native American sacred site, the governmental agency shall have the burden of proving by a preponderance of the evidence that a covered federal activity does not or will not have an adverse impact on a Native American sacred site.

"(2) The governmental agency's determination that a covered federal activity does not pose or will not have an adverse impact on a Native American sacred site, shall constitute a final agency action for purposes of judicial review under section 501 of this Act.

"(3)(A) If a governmental agency determines that a covered federal activity does pose or will have an adverse impact on a Native American sacred site, the governmental agency shall have the burden of proving by a preponderance of the evidence that the covered federal activity—

(i) is in furtherance of a compelling governmental interest;

(ii) is a reasonable means of furthering that compelling governmental interest; and

(iii) in circumstances set forth in section 104(b)(1), the alternatives identified under section 104(b)(2) are not reasonable.

"(B) The agency determination under this paragraph shall constitute final agency action for purposes of judicial review under section 501 of this Act.

"(d) FAILURE OF AGENCY TO MEET BURDEN.—

"(1) The governmental agency shall retain its burden of proof at all stages of any proceeding or decision-making process pursuant to this Title.

"(2) If a governmental agency does not meet its burden of proof under this section, it shall not proceed with the proposed covered federal activity.

"(3) For purposes of this section the phrase 'burden of proof' means the burden of production and the burden of persuasion.

"(e) FOR PURPOSES OF THIS SECTION.—

"(1) a finding of an adverse impact does not require that an aggrieved party be coerced to act contrary to religious beliefs or traditional cultural practices, and may include consideration of disturbing the integrity of a sacred site;

"(2) land management activities, undertakings and actions which have the potential to have an adverse impact on a Native American sacred site, or which make a Native American traditional cultural practice or exercise of a Native American religion more difficult shall be deemed to constitute an adverse impact; and

"(3) government ownership of land, by itself, does not establish a compelling government interest.

"(f) SPECIAL RULE FOR NATIVE AMERICAN PRACTITIONERS.—For purposes of any administrative proceeding conducted under this section, Native American practitioners may elect to provide testimony about their beliefs in camera or in some other protective procedure.

"SEC. 106. NATIVE AMERICAN SACRED SITES ON INDIAN LANDS.

"(a) JURISDICTION OF TRIBES.—Indian tribes may regulate and protect Native American sacred sites located on Indian lands within their jurisdiction. Nothing in this Act shall be construed to alter, increase or decrease the existence or scope of tribal jurisdiction or the application of tribal law regarding protection of or access to Native American sacred sites on Indian lands. Nothing in this Act shall be construed to grant authority to one Indian tribe to regulate Native American sacred sites which are within the jurisdiction of another Indian tribe.

"(b) TRIBAL OPTION.—None of the provisions of title I of this Act shall apply on Indian lands unless the tribe with jurisdiction over those lands affirmatively elects to have those provisions apply to all or any part of the lands affected or potentially affected. Where an Indian tribe elects to have the provisions of title I apply to all or any part of its lands, the Indian tribe shall notify the Secretary of the Interior regarding the lands to be subject to the provisions of title I and the Secretary shall publish the information in the Federal Register.

"(c) DUTY TO NOTIFY.—This section does not relieve a governmental agency of any duty pursuant to section 103 to notify an Indian tribe of a covered federal activity on Indian lands which may result in changes in the character or use of a Native American sacred site.

"(d) NATIONAL SECURITY.—The provisions of this section shall not apply if the President determines that national security concerns are directly affected by a covered federal activity.

"(e) DISPUTES BETWEEN TWO OR MORE TRIBES.—(1) When a governmental agency proposes a covered federal activity on Indian lands of one Indian tribe which may result in changes in the character or use of a Native American sacred site of another Indian tribe, and the Indian tribe whose sacred site is affected and the Indian tribe on whose land the site is located agree and so request, the Secretary of the Interior shall convene a committee of tribal representatives for the purpose of entering into negotiations concerning the nature of any adverse impact on the character or use of a Native American sacred site and alternatives that would minimize or prevent such an adverse impact.

"(2) The committee shall consist of tribal representatives of the affected Indian tribe or tribes and tribal representatives of the Indian tribe upon whose lands the sacred site is located, and committee members shall be selected by the respective Indian tribes.

"(3) The committee shall be convened for the duration of the consultation and negotiation period and shall meet at the call of the Secretary upon the request of the affected Indian tribe or tribes and the Indian tribe upon whose lands the sacred site is located.

"SEC. 107. APPLICATION OF OTHER LAWS.

"(a) IN GENERAL.—Nothing in this title shall be construed to deprive any person or entity of any other rights which might be provided under the laws, regulations, guidelines, or policies of the Federal, State, and tribal governments, including but not limited to the National Historic Preservation Act (16 U.S.C. 470 et seq.), to receive notice of, comment upon, or otherwise participate in the decision-making process regarding a covered federal activity.

"(b) EXISTING PROCEDURES.—To the maximum extent possible, the procedures required by this Act shall be incorporated into existing procedures applicable to the management of federal lands and decision making processes of federal agencies engaged in covered federal activities.

"SEC. 108. CONFIDENTIALITY.

"(a) IN GENERAL.—Notwithstanding any other provision of law, whenever information has been obtained as a result of or in connection with a proceeding pursuant to sections 105 or 501 or consultation pursuant to sections 103 and 104, all references pertaining to specific details of a Native American traditional cultural practice or religion, or the significance of a Native American sacred site, or the location of that sacred site, shall not be released by a governmental agency or court to any party or the general public pursuant to the Freedom of Information Act (5 U.S.C. 552) or any other applicable law.

"(b) SUPPLEMENTATION OF RECORD.—The governmental agency or court shall supplement the record described in subsection (a) to include the general results and conclusions of the administrative proceeding pursuant to section 105 or judicial review process pursuant to section 501 to the extent necessary to provide other interested parties with sufficient information to understand the nature of, and basis for, a decision by the governmental agency or court.

"(c) EXCEPTION.—This section shall not apply where all parties to a proceeding (excluding the United States government) waive its application, and in the case of a Native Hawaiian sacred site, where the information is sought by a Native Hawaiian organization for the purpose of protecting such site.

"(d) OTHER LAW.—Indian tribes or Native Hawaiian organizations seeking to maintain the confidentiality of information relating to Native American sacred sites may also seek redress through existing laws requiring that certain information be withheld from the public, including, but not limited to the National Historic Preservation Act (16 U.S.C. 470w-3) and the Archaeological Resources Protection Act (16 U.S.C. 470hh).

"SEC. 109. CRIMINAL SANCTIONS.

"(a) DAMAGING SACRED SITES.—

"(1) INITIAL VIOLATION.—Any person who intentionally damages, defaces, desecrates or destroys a Native American sacred site located on land as defined in section 3(10) of this Act with knowledge that it is a sacred site, except as part of an approved covered federal activity authorized by a governmental agency with the authority to approve such activity, shall, upon conviction, be fined not more than $10,000, or imprisoned not more than 1 year, or both.

"(2) SUBSEQUENT VIOLATIONS.—In the case of a second or subsequent violation, a person shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(b) RELEASE OF INFORMATION.—

"(1) INITIAL VIOLATION.—Any person who intentionally releases any information

knowing that it is required to be held confidential pursuant to this title shall, upon conviction, be fined not more than $10,000, or imprisoned not more than 1 year, or both.

"(2) SUBSEQUENT VIOLATIONS.—In the case of a second or subsequent violation, be fined not more than $100,000, or imprisoned not more than 5 years, or both.

TITLE II—TRADITIONAL USE OF PEYOTE

"SEC. 201. FINDINGS.

"The Congress finds that—

"(1) some Indian people, such as members of the Native American Church, have used the peyote cactus in religious ceremonies for sacramental and healing purposes for many generations, and such uses have been significant in perpetuating Indian tribes and cultures by promoting and strengthening the unique cultural cohesiveness of Indian tribes;

"(2) since 1965, this religious ceremonial use of peyote by Indians in bona fide religious ceremonies of the Native American Church has been protected by Federal regulation, which exempts such use from Federal laws governing controlled substances, and the Drug Enforcement Administration has manifested its continuing support of this Federal regulatory system;

"(3) the State of Texas encompasses virtually the sole area in the United States in which peyote grows, and for many years has administered an effective regulatory system which limits the distribution of peyote to Indians for ceremonial purposes;

"(4) while 28 States have enacted laws which protect the ceremonial use of peyote by Indians, 22 others have not; as a result of the diverse state laws, Indians from different tribes located in different states, as well as from different tribes within the same state, are treated differently regarding the religious use of peyote. Legislation is therefore needed to assure comprehensive, equal and uniform protection of the religious use of peyote by Indians throughout the United States, without regard to state or reservation of residence, or tribal affiliation;

"(5) the traditional ceremonial use by Indians of the peyote cactus is integral to a way of life, and the use of peyote plays a significant role in combating the scourge of alcohol and drug abuse among some Indian people;

"(6) the United States has a unique, government-to-government relationship with Indian tribes and a special historic federal-Indian trust relationship, which permits the United States to take measures to protect against interference with the continuing cultural cohesiveness and integrity of Indian tribes and cultures; and as part of this relationship it is the intent of the Federal government to pursue enforceable Federal policies which will protect Indian community and tribal vitality and cultural integrity, and which will not inhibit or interfere with the free exercise of Native American religions;

"(7) general prohibitions against the abusive use of peyote, without an exception for the bona fide religious use of peyote by Indians, lead to discrimination against Indians by reason of their religious beliefs and practices;

"(8) the Supreme Court of the United States, in the case of *Employment Division* v. *Smith*, 494 U.S. 872 (1990), held that the First Amendment does not protect Indian practitioners who use peyote in Indian religious ceremonies, and raised uncertainty as to whether this religious practice would be protected under the compelling State interest standard; and

"(9) the lack of adequate and clear legal protection for the religious use of peyote by Indians may serve to stigmatize and marginalize Indian tribes and cultures and increase the risk that they will be exposed to discriminatory treatment.

"SEC. 202. TRADITIONAL USE OF PEYOTE.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a Native American religion is lawful and shall not be prohibited by the Federal Government or any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs.

"(b) REGULATION AUTHORIZED.—This section does not prohibit—

"(1) such reasonable regulation and registration by the Drug Enforcement Administration of those persons who import, cultivate, harvest or distribute peyote, as may be consistent with the purpose of this title;

"(2) military commanders restricting the use or ingestion of peyote by active duty personnel within a reasonable period, but not to exceed 48 hours, prior to the performance of official duties in circumstances where safety or military readiness may be adversely affected by such use or ingestion;

"(3) regulations by the Secretary of Transportation restricting the use or ingestion of peyote by transportation workers in safety sensitive positions, as defined by the Secretary within a reasonable period, but not to exceed 48 hours, prior to the performance of official duties, in circumstances where public safety may be adversely affected by such use or ingestion; or

"(4) regulations by law enforcement administrators restricting the use or ingestion of peyote by sworn law enforcement personnel within a reasonable period, but not to exceed 48 hours, prior to the performance of official duties in circumstances where public safety may be adversely affected by such use or ingestion.

"(c) TEXAS LAW.—This section does not prohibit application of the provisions of section 481.111(a) of Vernon's Texas Health and Safety Code Annotated, in effect on the date of enactment of this Act, insofar as those provisions pertain to the cultivation, harvest or distribution of peyote.

"(d) This section shall not be construed as requiring prison authorities to permit, nor shall it be construed to prohibit prison authorities from permitting access to peyote by Indians while incarcerated within federal or state prison facilities.

"(e) For purposes of this title, the term "Indian" means a member of an Indian tribe as defined in section 3(9).

"TITLE III—PRISONERS' RIGHTS

"SEC. 301. RIGHTS.

"(a) IN GENERAL.—

"(1) ACCESS.—Notwithstanding any other provision of law, Native American prisoners who practice a Native American culture or religion shall have, on a regular basis comparable to that access afforded prisoners who practice Judeo-Christian religions or any other religions, access to—

"(A) Native American traditional leaders who shall be afforded the same status, rights and privileges as religious leaders of Judeo-Christian religions or any other religions;

"(B) subject to paragraph (6), items and materials utilized in cultural or religious ceremonies; and

"(C) Native American cultural or religious facilities.

"(2) MATERIALS.—Prison authorities shall treat items and materials utilized in cultural or religious ceremonies, including traditional foods for cultural or religious diets, identified by a Native American traditional leader, in the same manner as the religious items and materials utilized in ceremonies of the Judeo-Christian religions or any other religions.

"(3) HAIR.—

"(A) RIGHT OF PRISONER.—Except in those circumstances where subparagraph (B) applies, Native American prisoners who desire to wear their hair according to the customs of a Native American culture or religion may do so provided that the prisoner demonstrates that—

"(i) the practice is rooted in Native American cultural or religious beliefs; and

"(ii) these beliefs are sincerely held by the Native American prisoner.

"(B) DENIAL OF REQUEST.—If a Native American prisoner satisfies the criteria in paragraph (3)(A), the prison authorities may deny such request only where they can satisfy the criteria of section 3 of the Religious Freedom Restoration Act (P.L. 103-141).

"(4) DEFINITION OF 'CULTURAL OR RELIGIOUS FACILITIES'.—The term 'cultural or religious facilities' includes sweat lodges, tepees, and access to other secure, out-of-doors locations within prison grounds if such facilities are identified by a Native American traditional leader to facilitate a cultural or religious ceremony.

"(5) DISCRIMINATION PROHIBITED.—No Native American prisoner shall be penalized or discriminated against on the basis of Native American cultural or religious practices, and all prison and parole benefits or privileges extended to prisoners for engaging in cultural or religious activities shall be afforded to Native American prisoners who participate in Native American cultural or religious practices.

"(6) SCOPE OF TITLE.—This title shall not be construed as (i) requiring prison authorities to permit nor shall it be construed to prohibit prison authorities from permitting access to peyote or Native American sacred sites; or (ii) altering applicable requirements for exhaustion of administrative remedies.

"(b) ATTORNEY GENERAL INVESTIGATION.—

"(1) IN GENERAL.—The Attorney General shall investigate, in consultation with Native American traditional leaders and ex-offenders with corrections experience as may be recommended by Indian tribes and Native Hawaiian organizations, and federal and State prison administrators, the conditions of Native American prisoners in the federal and State prison systems with respect to their ability to engage in traditional cultural ceremonies and practices, including the free exercise of Native American religions.

"(2) REPORT.—Not later than 36 months after the date of enactment of this Act, the Attorney General shall submit to the Congress a report containing—

"(A) an assessment of the recognition, protection, and enforcement of the rights of Native American prisoners to practice their cultures or religions under this Act in federal and state prisons where Native Americans are incarcerated; and

"(B) specific recommendations for the promulgation of regulations to implement this Act.

"TITLE IV—CULTURAL AND RELIGIOUS USE OF EAGLES AND OTHER ANIMALS AND PLANTS

"SEC. 401. CULTURAL AND RELIGIOUS USE OF EAGLES.

"(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Director

of the United States Fish and Wildlife Service (hereafter in this section referred to as the 'Director') shall, in consultation with Indian tribes and Native American traditional leaders, develop a plan to—

"(1) ensure the prompt disbursement from Federal repositories of available bald or golden eagles, or their parts, nests, or eggs for the traditional cultural or religious use of Indians upon receipt of an application from an Indian practitioner;

"(2) provide that sufficient numbers of bald or golden eagles are allocated to Indian practitioners to meet the demonstrated need where they are available by reason of accidental deaths, natural deaths, or takings permitted by Federal law;

"(3) simplify and shorten the process by which permits are authorized for the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the traditional cultural or religious use of Indians;

"(4) establish a mechanism for tribal disbursement of dead eagles discovered within the exterior boundaries of their own reservation to Native American traditional cultural or religious practitioners; and

"(5) establish a mechanism for tribal contacts with regional and national offices of the U.S. Fish and Wildlife Service on fish and wildlife resource issues.

"SEC. 402. OTHER ANIMALS AND PLANTS.

"Within two years after the enactment of this Act, the Secretaries of Interior, Agriculture, Commerce and Treasury, and the Administrator of the General Services Administration shall, in consultation with Indian tribes, Native Hawaiian organizations and Native American traditional leaders, establish a joint uniform set of administrative procedures to govern the disposition of surplus wildlife and plants or parts thereof which have been confiscated, gathered or are otherwise under the jurisdiction and control of their respective agencies. To the fullest extent allowed under existing statutory authority, the uniform procedures shall be designed to increase the availability of natural products to Native American traditional cultural and religious practitioners.

"TITLE V—JURISDICTION AND REMEDIES

"SEC. 501. JURISDICTION AND REMEDIES.

"(a) IN GENERAL.—

"(1) An aggrieved part shall have the right to file suit against the United States or a State in the appropriate district court to enforce the provisions of this Act.

"(2) Any appropriate United States district court shall have original jurisdiction over a civil action for—

"(A) equitable relief; or

"(B) damages arising from any violations of this Act.

"(3) Nothing herein shall be construed to deprive Indian tribes of jurisdiction they would otherwise have under section 106 of this Act or any other Federal law.

"(b) FACTUAL FINDINGS.—

"(1) If an action is filed in a United States district court after exhaustion of administrative remedies under section 105, the court shall not defer to agency factual findings except where such findings are based on a formal hearing on the record.

"(2) The court shall review de novo agency legal determinations concerning the extent of any adverse impact, whether the government's interest is compelling and whether a particular alternative is the least restrictive.

"(c) For purposes of an action alleging a violation of the rights protected under title I of this Act and consistent with section 106 of this Act:

"(1) BURDEN ON AGGRIEVED PARTY.—Except as provided in subsection 501(d), the aggrieved party shall have the burden of establishing that the covered Federal activity or an action by a State having an impact upon the management, use or preservation of public land, is or will have an adverse impact on a Native American sacred site.

"(2) BURDEN ON AGENCY.—If the aggrieved party meets its burden of proof under paragraph (1), the agency may proceed with the action only if it is determined by clear and convincing evidence that the covered Federal activity—

"(A) is in furtherance of a compelling government interest; and

"(B) is the least restrictive means of furthering that compelling interest.

"(3) For purposes of decisions pursuant to title I—

"(A) a finding of adverse impact does not require that an aggrieved party be coerced to act contrary to religious beliefs or traditional cultural practices, and may include consideration of disturbing the integrity of a sacred site;

"(B) land management activities, undertakings and actions which have the potential to have an adverse impact on a Native American sacred site, or which make a Native American traditional cultural practice or the exercise of a Native American religion more difficult shall be deemed to constitute an adverse impact; and

"(C) government ownership of land, by itself, does not establish a compelling government interest.

"(d) CASES WHERE SECRECY IS REQUIRED.—In the case of any proceeding in which an aggrieved Indian tribe or Native Hawaiian organization relies on section 104(b), if an Indian tribe or Native Hawaiian organization objects to the covered federal activity or an action by a State on the grounds that it is or will have an adverse impact on a Native American sacred site, the governmental agency shall have the burden of proving by a preponderance of the evidence that the covered federal activity—

"(1) is in furtherance of a compelling government interest;

"(2) is a reasonable means of furthering that compelling interest; and

"(3) the alternatives identified under section 104(b)(2) are not reasonable.

"(e) FAILURE OF AGENCY TO MEET BURDEN.—

"(1) The governmental agency shall retain its burden of proof at all stages of any proceeding or decision-making process pursuant to title I of this Act.

"(2) If a governmental agency does not meet its burden of proof under this section, it shall not proceed with the proposed activity.

"(3) For purposes of this section the phrase 'burden of proof' means the burden of production and the burden of persuasion.

"(f) SPECIAL RULE FOR NATIVE AMERICAN PRACTITIONERS.—Native American practitioners may elect to provide testimony about their beliefs in camera or in some other protective procedure.

"(g) SOVEREIGN IMMUNITY.—Neither the sovereign immunity of the United States nor of any State, including immunity derived from the Eleventh Amendment to the United States Constitution, shall be a bar or defense to any civil action brought pursuant to this section to enforce the provisions of this Act, including any grant of attorney's fees pursuant to subsection (h) of this section, and such immunities are hereby waived.

"(h) ATTORNEY'S FEES.—An aggrieved party who is a prevailing party in any administrative or judicial proceeding brought pursuant to this Act shall be entitled to attorney's fees, expert witness fees, and costs under the provisions of section 504 of title 5, United States Code, and section 2412 of title 28, United States Code.

"TITLE VI—MISCELLANEOUS

"SEC. 601. SAVINGS CLAUSE.

"(a) Nothing in this Act shall be construed as abrogating, diminishing, or otherwise affecting—

"(1) the intent rights of any Indian tribe;

"(2) the rights, express or implicit, of any Indian tribe which exist under treaties, Executive Orders and laws of the United States;

"(3) the inherent right of Native Americans to maintain their cultural integrity and religions;

"(4) the trust responsibility of the United States or any legal obligation or remedy resulting therefrom;

"(5) the right and ability of any Indian tribe upon whose Indian lands a Native American sacred site is located to determine, exclusively pursuant to its own tribal law, whether any other Indian tribe or Native American practitioner shall have a property right in that site or have the authority to limit or prohibit covered federal activities affecting that site;

"(6) any traditional cultural or free exercise of religion claim of any person that does not fall within the scope of this Act;

"(7) the right of Native Americans to obtain protection for the practice of their traditional cultures or religions under any other federal, state or tribal law or constitution; or the authority and responsibility of any governmental agency to provide protection for Native American sacred sites and the practice of Native American traditional cultures and religions under other laws or constitutions, such as the National Historic Preservation Act; and

"(8) the authority of federal land and program managers to provide for notice to and consultation with other religious and cultural groups not encompassed by this Act for the purpose of protection of cultural, religious, environmental and historical sites and resources under other authority.

"(b) This Act is supplemental to the Religious Freedom Restoration Act of 1993, and is not intended to be limited by that Act, or to limit in any way, rights available under that Act, including the application of that Act to activities which may have an adverse impact upon a Native American sacred site, whether or not said activities are explicitly covered by this Act.

"SEC. 602. SEVERABILITY.

"If any title or section of this Act, or any provision or portion thereof, is declared to be unconstitutional, invalid, or inoperative in whole or in part, by a court of competent jurisdiction, such title, section, provision or portion thereof shall, to the extent it is not unconstitutional, invalid, or inoperative, be enforced and effectuated, and no such determination shall be deemed to invalidate or make ineffectual the remaining provisions of the title, section, or provision.

"SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

"There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for expenses of Native Americans for consultations with the Attorney General provided in section 301(b)(1).

"SEC. 604. REGULATIONS.

"(a) The head of each land managing agency, in consultation with Indian tribes and

Native Hawaiian organizations, shall promulgate regulations relating to—

"(1) Federal planning processes pertaining to the management, use or preservation of land; and

"(2) notice to and consultation with Indian tribes, Native Hawaiian organizations, and Native American traditional leaders as required by sections 103 and 104 of this Act.

"(b) The head of each land managing agency shall consult with the Secretary of the Interior to assure maximum possible consistency in regulations promulgated pursuant to this Act.

"(c) The regulations shall be sufficiently flexible to enable consultation to address the unique needs of Indian tribes, Native Hawaiian organizations, Native American traditional leaders and Native American practitioners. Notices and procedures provided for in sections 103 and 104 shall not await completion of regulations.

"SEC. 605. PROTECTIONS.

"(a) The protections of this Act shall be afforded only to bona fide persons who are defined in subsections (7), (11), (12), (16) and (17) of section 3 of this Act, and to members of Indian tribes as defined in section 3(9) of this Act.

"(b) For purposes of determining the bona fide nature of any of the persons defined in section 3, or the bona fide nature of any Native American traditional cultural practice or Native American religion, the Secretary is authorized to consult with Indian tribes, Native Hawaiian organizations, Native American practitioners and native American traditional leaders.

"SEC. 606. EFFECTIVE DATE.

"(a) This Act takes effect on the date of its enactment. Application and enforcement of this Act does not depend upon the promulgation of regulations by any governmental agency. However, with respect to notice and review provisions under sections 103 and 104, agencies shall have a period of six months from enactment to establish applicable procedures.

"(b) Except as provided in section 104(a)(2) and section 3(4)(b)(2), this Act does not require any federal agency to reconsider any final action or decision that it made prior to enactment of this Act or that it made in compliance with the provisions of this Act, although this shall not bar application of the Act to new phases of existing projects.".•

By Mr. BAUCUS:

S. 2270. A bill to authorize the Secretary of the Interior to transfer 40 acres of land on the Northern Cheyenne Indian Reservation, MT, to Lame Deer High School District No. 6, Rosebud County, MT, and for other purposes; to the Committee on Indian Affairs.

NORTHERN CHEYENNE HIGH SCHOOL ACT

• Mr. BAUCUS. Mr. President, I am introducing legislation which is a big step forward for high school students and their families on the Northern Cheyenne Reservation. The passage of this bill gives congressional approval for a land transfer between the Northern Cheyenne Tribe and a recently approved high school district on their reservation in Lame Deer, MT.

Frankly, I cannot think of any school that is more richly deserving. Since the mid-1980's members of the Northern Cheyenne Tribe have actively worked to have a State high school for their reservation. Of seven Indian reservations in Montana, they are the only one that does not have its own high school.

Most of us enjoy the luxury of sending our children to a school in our own neighborhood. But Northern Cheyenne students travel from 45 to 125 miles per day to attend high school. A high school on the reservation will not only decrease the distance students travel to school, but it will increase community and parental involvement and it will help reduce the student dropout rate.

Moreover, the creation of this high school will strengthen the spirit of the community. And it will help sustain the cultural integrity of the Northern Cheyenne Tribe.

Mr. President, I am a strong supporter of the Northern Cheyenne Tribe's efforts to build their own high school. And I urge the Senate to pass this legislation quickly in order that construction may proceed. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

As used in this Act:

(1) SCHOOL DISTRICT.—The term "School District" means the Lame Deer High School District No. 6., Rosebud County, Montana.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 2. NORTHERN CHEYENNE LAND TRANSFER.

(a) CONVEYANCE OF LANDS.—Notwithstanding any other provision of law, the Secretary shall convey by patent to the School District all right, title, and interest of the United States and the Tribe in the lands described in subsection (b) for use by the School District only for the purposes of constructing and operating on the lands a public high school and related facilities.

(b) DESCRIPTION OF LANDS.—

(1) GENERAL LEGAL DESCRIPTION.—The lands described in this paragraph are within the Northern Cheyenne Indian Reservation, as follows: The W½ of SE¼ and the E½ of SW¼ of section 10, township 3 south, range 41 east, M.P.M.

(2) NARRATIVE DESCRIPTION.—Such lands may be described as follows: Beginning at the south ¼ corner of such section 10, thence south 89 degrees 56 minutes west 393.31 feet, on and along the south line of such section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500 feet, on and along such section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east, 2,382.26 feet, thence south 23 degrees 44 minutes 21 seconds east, 622.56 feet, thence south 51 degrees 14 minutes 40 seconds west, 2,177.19 feet, to the true point of beginning containing in all 40.0 acres, more or less.

SEC. 3. PATENT.

The patent issued by the Secretary under this Act shall be issued subject to the following conditions:

(1) Title to all coal and other minerals, including oil, gas, and other natural deposits, within the lands described in section 2(b) shall remain with the Secretary to be held in trust for the Tribe, as provided in Public Law 90-424 (82 Stat. 424).

(2) The lands described in section 2(b) conveyed to the School district may be used only by the School District and only for the purposes of constructing and operating on the lands a public high school related facilities.

(3) If, on the termination of the 8-year period beginning on the date of issuance of the patent, classes have not commenced in a permanent public high school facility established on the lands described in section 2(b) conveyed to the School District, or if such classes commence at the facility during such period, but the facility subsequently permanently ceases operating as a public high school—

(A) all right, title, and interest to the lands described in section 2(b) conveyed to the School District, free and clear of all liens and encumbrances, shall automatically revert to the Secretary to be held in trust for the Tribe; and

(B) the Secretary shall void the patent and the patent shall have no further force or effect.

(4)(A) At any time after the conclusion of any litigation pending as of the date of enactment of this Act (including any trial and, if any, appellate proceedings) that challenges the decision made by the Superintendent of Public Instruction for the State of Montana on November 9, 1993, granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction—

(i) the Tribe shall have the right to request the Secretary to void the patent in accordance with subparagraph (C); and

(ii) if the Tribe makes such request and meets the requirements of subparagraph (C), the Tribe may enter into a lease with the School District pursuant to the Act of August 9, 1995 (69 Stat. 539, chapter 615; (25 U.S.C. 415(a))—

(I) covering the lands described in section 2(b);

(II) of a term of 25 years, with a right to renew for an additional 25-year period; and

(III) under which the lands described in section 2(b) shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities on such lands.

(B) Any lease entered into pursuant to subparagraph (A) shall, notwithstanding subparagraph (A)(II), terminate upon the termination of the period specified in paragraph (3) if, by such date, classes have not commenced in a permanent public high school facility established on the lands described in section 2(b) conveyed to the School District, or if, during such period, such classes commence at the facility, but the facility subsequently permanently ceases operating as a public high school.

(C) If the Tribe seeks and obtains approval of the Superintendent of Public Instruction of the State of Montana, the Tribe may enter into a lease, if the lease is signed by the Tribe and approved by the Secretary. Such lease shall comply with the requirements of this paragraph. At such time as the Tribe enters into a lease under this paragraph, the Secretary shall void the patent, and, subject to the leasehold interest offered to the School District, title to the lands described in section 2(b), free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe.

(C) The Tribe may at any time irrevocably relinquish the right of the Tribe to enter into a lease under this paragraph by resolution of the Northern Cheyenne Tribal Council that explicitly provides for the relinquishment of the right.

SEC. 4. EFFECT OF ACCEPTANCE OF PATENT.

Upon the acceptance by the School District of a patent issued by the Secretary under this Act, the School District, and any party who may subsequently acquire any right, title, or interest in the lands described in section 2(b) by or through the School District, shall be subject to the terms and conditions set forth in paragraphs (1) through (4) of section 3.•

By Mr. DECONCINI (for himself and Mr. BIDEN):

S. 2272. A bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes; to the Committee on the Judiciary.

PATENT PRIOR USER RIGHTS ACT OF 1994

• Mr. DECONCINI. Mr. President, I introduce the Patent Prior User Rights Act of 1994. This bill is the product of many hours of hard work and represents a compromise that I believe is acceptable to all interested parties. The purpose of the bill is to clarify the rights of prior users, vis-a-vis patent holders. Prior users are persons who commercially use or are making serious preparations to use commercially a process that becomes the subject of a patent filed later by another. Currently, the law is unclear about their ability to continue to use the first person's process if another receives the patent on the process.

Mr. President, the problem this bill seeks to address occurs when a legitimate inventor decides for any number of reasons not to secure a patent on a process he or she is using in his or her business. Maybe the inventor decides to hold the process as a trade secret. Maybe the invention involves an adjustment to an existing process. Maybe the inventor can't afford the costs of obtaining a patent, including the associated legal fees. Maybe the inventor did not believe the invention was patentable, or maybe the inventor could not get a patent on the process for some reason. Well, a second inventor can come along and independently invent the process or reverse engineer the product and discover the process. This second inventor can then apply for a patent. Since the first inventor did not publicly disclose the process, in some circumstances, the second inventor can receive a patent on the process. This can result in the inequitable situation where the patent holder can prevent the first inventor from using a process critical to his or her business.

Clearly, a legitimate inventor-patentee should be able to enjoy the rewards for disclosing his or her invention to the public. At the same time, someone who legitimately has been using the invention before the patentee filed his patent application should be allowed to continue its use.

The bill I am introducing today resolves the inequities that might otherwise result from the patenting of technology already in use by others. It will promote sound public policy by clearly defining the rights of prior users as well as patent holders. Prior users will have a legal defense to a patent holder's claim of infringement and will be allowed to continue using the process.

The needs of the patentees, and their right to profit from their efforts, have been considered and accommodated in this bill. Accordingly, before prior user rights may be successfully asserted certain requirements must be met. First, the prior user must, in good faith, have commercially used the process or product in the United States, or made effective and serious preparation to do so. Second, such use must have occurred before the filing date or priority date of the competing patent application, whichever comes first. Third, no prior user right may be based on information obtained, directly or indirectly, from the patentee or the patentee's agents. Fourth, the use of the process must not have been abandoned.

In addition, the scope of the prior user right is significantly limited. Only that subject matter claimed in the patent that has been commercially used or for which there has been effective and serious preparation for its use in the United States before the critical date is protected. Prior user rights may only be assigned in connection with the transfer of an entire business enterprise. However, the right to make or use variations or improvements, including variations in the quantity or volume of such use, are allowed as long as such variations or improvements do not infringe additional claims of the patent.

This bill will create incentives for manufacturers to develop and produce superior processes more efficiently. No longer will manufacturers feel they may be put out of business in the future by developing a process or product and failing to obtain a patent. Prior users will be assured of protection from such challenges and can proceed without fear of later reprisals.

This bill is based on principles widely recognized throughout the world community. It provides U.S. inventors with a right already provided in the United Kingdom, Germany, and the vast majority of industrialized nations. These countries have long recognized the need for prior user rights, and we would be wise now to do the same.

During consideration of legislation I introduced last Congress on the need to harmonize our patent laws, the issue of prior user rights was raised. The research-based university community objected to the idea of prior user rights. Their concern was that such rights could interfere with their ability to license their patents. I believe these concerns have been addressed. By recognizing the needs of prior users and patentees alike, the prior user rights bill clarifies the rights of both parties and seeks to be fair.

I conclude today by urging Senate approval of the Patent Prior User Rights Act. Considerations of fairness, public policy, and the needs of the international economy all strongly support this legislation.

Mr. President, I am hopeful that all concerns about this legislation have been resolved and that this bill can become enacted this year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Prior User Rights Act of 1994".

SEC. 2. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR USE.

(a) IN GENERAL.—Chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 273. Rights based on prior use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'commercially used' means the use interstate or intrastate commerce, including the use of processes, equipment, tooling, and intermediate materials in the design, testing or production of commercial product whether or not such processes, equipment, tooling, and intermediate materials are normally accessible, available, or otherwise known to the public;

"(2) 'effective and serious preparation' means that a person, in the United States, has—

"(A) reduced to practice the subject matter for which rights based on prior use are claimed; and

"(B) made serious plans, and a substantial investment or much of the investment necessary for the subject matter to be commercially used; and

"(3) 'critical date' means the filing date or the priority date, whichever occurs first, of the application for patent.

"(b) IN GENERAL.—A person shall not be liable as an infringer under a patent granted to another with respect to any subject matter claimed in the patent that such person had, acting in good faith, commercially used in the United States or made effective and serious preparation therefor in the United States, before the critical date.

"(c) LIMITATION OF DEFENSE.—Subject to subsection (d), rights based on prior use under this section extend only to the claimed invention that the person claiming rights based on prior use was in possession of prior to the critical date.

"(d) CERTAIN VARIATIONS AND IMPROVEMENTS NOT AN INFRINGEMENT.—The rights based on prior use under this section shall include the right to make and use variations or improvements, including variations in the

quantity or volume of such use. Such variations or improvements may not infringe additional claims of the patent.

"(e) QUALIFICATIONS.—(1) The rights based on prior use under this section are personal and shall not be licensed or assigned or transferred to another except in connection with the assignment or transfer of the entire business or enterprise to which the rights relate.

"(2) A person may not claim rights based on prior use under this section if the activity under which such person claims the rights was—

"(A) based on information obtained or derived from the patentee or those in privity with the patentee; or

"(B) abandoned on or after the critical date, except that for abandonment which occurs after the critical date, rights based on prior use may be used as a defense to infringement for that period of activity which occurred prior to abandonment if such activity would otherwise, in the absence of abandonment, have been allowed under this section.

"(3) The rights based on prior use under this section are not a general license under all claims of the patent, but are restricted in scope to cover only that subject matter claimed in the patent that has been commercially used, or for which there has been effective and serious preparation, in the United States, before the critical date.

"(f) BURDEN OF PROOF.—In any action in which a person claims a defense to infringement under this section the burden of proof for establishing the defense shall be on the person claiming rights based on prior use.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following:

"273. Rights based on prior use, defense to infringement.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.•

By Mr. SARBANES:

S. 2274. A bill to provide for the application of a 6-year statute of limitations to certain claims filed by Federal employees under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.); to the Committee on Governmental Affairs.

FAIRNESS FOR FEDERAL EMPLOYEES ACT

• Mr. SARBANES. Mr. President, I introduce legislation to reverse a very destructive ruling by the General Accounting Office [GAO] to apply a retroactive change in the statute of limitations from 6 years to 2 years for Federal employees to file back pay claims under the Fair Labor Standards Act [FLSA].

GAO's recent action goes against longstanding Federal policy and GAO's own interpretation of the appropriate statute of limitations for overtime pay claims under the FLSA. In fact, beginning with the Transportation Systems Center ruling in 1978, GAO has consistently held that the statute of limitations for Federal employees to file claims under the FLSA is 6 years.

In accordance with this policy, the Office of Personnel Management and other Federal agencies have notified employees through regulations and bulletins, that they must file their FLSA claims within 6 years from the date they accrue. In fact, many agencies continue to advise employees that they have 6 years from the date of injury to file their claims.

The underlying question regarding the appropriate length of the statute of limitation for FLSA claims is one of continuing debate. However, under no circumstances should GAO apply the proposed change retroactively. This action is manifestly unjust to the thousands of employees who have claims pending and who have based their actions on the explicit directions and procedure set forth in official Government documents and publications.

I ask my colleagues, what message do we send to these individuals and I submit to the entire Federal service, if the institutions of the Government they serve, so capriciously and arbitrarily strip them of the rights and due process which they have been previously guaranteed? I would submit it is a very negative and damaging message that may have a serious impact on employee morale and, consequently, recruitment and retention.

Furthermore, as a policy matter, I would assert that this is no way to conduct our Nation's business. For GAO to adopt and retroactively apply this change in the statute of limitation goes against all well established principles of statutory interpretation, administrative law, and due process of law.

Mr. President, the bill I am introducing today requires the Comptroller General of the United States to continue to apply a 6-year statute of limitation to any FLSA pay claims that have been filed before or have arisen before the date of enactment of this legislation. This will preserve the current policy and 20-year history of applying a 6-year statute to back pay claims made by Federal employees.

This legislation is endorsed by the Federal Law Enforcement Officers Association which represents, among others, special agents and investigators at the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the U.S. Marshals Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Secret Service. The bill is also endorsed by all of the major employee organizations including the National Treasury Employees Union, the American Federation of Government Employees, and the Public Employees Department of the AFL–CIO.

Mr. President, there is no credible defense or rationale for GAO to make retroactive changes, without notification, to longstanding Government policy and procedure. If implemented, GAO's decision would not only deprive literally thousands of employees of the due process they have been previously guaranteed but it also threatens to set a dangerous precedent that any Government policy, irrespective of merit, may be subject to such sudden and arbitrary reversal.

I submit that we cannot afford to proceed down such a potentially damaging path. I urge my colleagues to support this measure.•

By Mr. EXON (for himself and Mr. PACKWOOD):

S. 2275. A bill to amend subtitle IV of title 49, United States Code, relating to interstate commerce; to the Committee on Commerce, Science, and Transportation.

THE TRUCKING REGULATORY REFORM ACT

• Mr. EXON. Mr. President, I introduce the Trucking Regulatory Reform Act of 1994. This legislation pursues a comprehensive trucking regulatory reform agenda which is designed to meet the legitimate concerns about the expense of trucking regulation expressed by both Houses of Congress.

This legislation was crafted after close consultations with the bipartisan membership of the Interstate Commerce Commission. It will improve surface transportation efficiency, save taxpayer dollars, protect the public interest, and preserve transportation safety.

On the same day—June 16, 1994—the two Houses of Congress through separate votes outlined policies on surface transportation which if taken together could wreak havoc on transportation safety, efficiency and availability. Almost simultaneously, the Senate voted to preempt State trucking regulations in favor of uniform Federal regulation and the House voted to eliminate funding for the Interstate Commerce Commission, the agency which administers Federal trucking regulation.

These two policies are now on a collision course. If the Senate favors intrastate trucking deregulation, it cannot allow the Interstate Commerce Commission to die.

The legislation I introduce today is a compromise proposal designed to draw the Congress back from the brink of rash and unreasonable action. It is an effort to pursue needed reform in Federal trucking regulation and at the Interstate Commerce Commission while at the same time preserving the much needed safety, dispute resolution and independent functions of the Commission.

This compromise represents fundamental reform in trucking regulation. It also offers the Congress an opportunity to save real money, rather than just shuffle expense from one agency to another.

There are five basic elements of this reform package. Under this proposal:

First, the filed rate obligation would be eliminated for individual truck companies;

Second, entry review would be streamlined and limited to insurance and safety matters;

Third, the ICC would be given exemption authority over any trucking matter under its jurisdiction after a proper showing;

Fourth, the Secretary of Transportation would be required to report to the Congress on the feasibility and efficiency of merging the ICC with the Federal Maritime Commission or other independent regulatory agency; and

Fifth, the Secretary of Transportation and the Interstate Commerce Commission would be required to review the operations of the Commission and report to the Congress whether further efficiencies can be achieved.

This reform proposal builds on the success of the negotiated rates act which this Congress enacted last year ending the nightmare of the undercharge claims from bankrupt trucking companies. The effective administration of that landmark legislation depends on the continued existance of an independent Interstate Commerce Commission.

I am also asking the Senate Appropriations Committee to consider this reform agenda when it takes up the transportation appropriations bill. It is my preliminary estimate that if this reform agenda were adopted, $50 million over 5 years could be saved.

As chairman of the Surface Transportation Subcommittee, an authorizing committee, I do not generally favor legislation on an appropriations bill. However, the harsh, rash, and what could prove to be expensive action of the House of Representatives to defund the ICC without dealing with any Commission functions makes this approach necessary.

I submit that few in this body have a stronger record on deficit reduction. The bill I introduce today will produce meaningful budget savings because it will lead to the elimination ICC functions.

The Congress should not legislate by sniper fire. Bits and pieces of transportation regulation are being shot off with little thought about the overall context or how any one action affects overall transportation policy.

Reason must be restored to the debate on U.S. transportation policy, especially the future role of the ICC. At risk is the world's most efficient, productive and competitive transportation networks. People, goods, and commodities move across our great land with an ease which is the envy of all the nations of the world. Our Nation's transportation system is built on the notion that competition will produce quality service at affordable prices. But that competition is tempered with concern for fairness, the public interest, and the public safety.

I urge my colleagues to build on the success of the negotiated rates act, not be fooled by budgetary sleight of hand and carefully review this compromise proposal.

I ask unanimous consent that the text of the Trucking Regulatory Reform Act be printed in the RECORD.

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

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. PURPOSE.

The purpose of this Act is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

SEC. 4. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;".

SEC. 5. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d), and

(3) by inserting ", or a motor carrier providing transportation of property other than household goods," after "rail carrier" in subsection (f).

(b) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting "and motor carrier" after "rail carrier".

(2) The chapter analysis for chapter 105 is amended by inserting "and motor carrier" after "rail carrier" in the item relating to section 10505.

SEC. 6. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting ", except a motor contract of property other than household goods," after "A contract carrier".

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting "(except a motor common carrier providing transportation of property other than household goods)" after "chapter 105 of this title", and

(2) by striking out "That carrier" in the second sentence and inserting "A carrier subject to this subsection".

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a)(1) (relating to general tariff requirement) is amended—

(1) by inserting "(except a motor common carrier providing transportation of property other than household goods)" after "A motor common carrier" in the second sentence,

(2) by inserting "(except a motor common carrier providing transportation of property other than household goods) after "carriers" in the third sentence, and

(3) by striking the last sentence and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle.".

(d) PROPOSED RATE CHANGES.—Section 10762(c)(2) (relating to rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

"(g) Nothing in this section shall affect the application of the provisions of the negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the 'Trucking Industry Regulatory Reform Act of 1994'.".

SEC. 7. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as through (m), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

"(3) The Commission, pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety fitness requirements under paragraph (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the

safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.".

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking "carrier of property" in paragraph (1) and inserting "carrier of household goods",

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking "carrier holding authority under paragraph (4)(D) of this subsection" in paragraph (4) (as redesignated) and inserting "motor carrier providing transportation of shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds",

(4) by inserting "of household goods" after "No motor common carrier" in paragraph (5) (as redesignated),

(5) by inserting "of household goods" after "No motor common carrier" in paragraph (6) (as redesignated), and

(6) by striking "Notwithstanding the provisions of paragraph (4) of this subsection, the provisions" in paragraph (7) (as redesigned) and inserting "The provisions".

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

SEC. 8. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting "of household goods or passengers" after "motor contract carrier".

(b) HOUSEHOLD GOODS PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section and section 10923 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

"(3) The Commission, pursuant to section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2512), shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety fitness requirements of paragraph (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).".

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking "motor contract carrier of property" in paragraphs (3) and (4) and inserting "motor contract carrier of household goods",

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking "motor carriers of property" in paragraph (5) (as redesignated) and inserting "motor carriers of household goods".

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting "of passengers or household goods" after "contract carrier" in paragraph (1), and

(2) by striking "each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)" in paragraph (2) and inserting "in the case of a motor contract carrier of passengers, the number of persons,".

SEC. 9. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective periods of certificates, permits, and licenses) is amended—

(1) by striking "if a motor carrier or broker" in subparagraph (A) and inserting "if a motor carrier of passengers, motor common carrier of household goods, or broker",

(2) by striking "and" at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

"(B) if a motor contract carrier of property, for failure to comply with section 10701, 10924(e), or 10927(b) or (d) of this subtitle;

"(C) if a motor common carrier of property other than household goods, for failure to comply with section 10701, 10702, 10924(e), or 10927(b) or (d) of this subtitle; and".

SEC. 10. STUDY OF MERGER OF FEDERAL MARITIME COMMISSION AND INTERSTATE COMMERCE COMMISSION.

The Secretary of Transportation shall study the feasibility of a merger of the operations and responsibilities of the Federal Maritime Commission and the Interstate Commerce Commission with respect to the cost savings that might be achieved by such a merger, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall report his findings to the Congress within 6 months after the date of enactment of this Act.

SEC. 11. STUDY OF ADDITIONAL REFORMS.

The Interstate Commerce Commission, in consultation with the Secretary of Transportation, shall prepare and submit to the Congress with six months after the date of enactment of this Act a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations to the Congress on the basis of the study concerning specific statutory functions of the Commission that could be changed to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.●

By Mr. GLENN:

S.J. Res. 207. A joint resolution designating January 16, 1995, as "National Good Teen Day"; to the Committee on the Judiciary.

NATIONAL GOOD TEEN DAY

● Mr. GLENN. Mr. President, I introduce a joint resolution designating January 16, 1995, as "National Good Teen Day." This day will commemorate those positive contributions that our Nation's youth make every day to our society.

The original concept of "Good Teen Day" was created by Mr. Robert Viencek, an English teacher at Salem City Schools in Salem, OH. The Salem City Schools first commemorated this day on January 16, 1992. The first national observance of this day occurred on January 16, 1993.

Despite many negative stereotypes of American teens, the majority of our teenagers aspire to be integral and productive members of our society and will successfully reach that goal. Each of us was once a teenager. Teenagers represent the future of our great Nation and should be recognized for their contributions. Mr. TRAFICANT has introduced similar legislation in the House. Mr. President, I ask that the Senate designate January 16, 1995, as "National Good Teen Day."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

Whereas the Salem City Schools in Salem, Ohio, have proclaimed January 16, 1992, as "Good Teen Day";

Whereas both the Congress and the President have proclaimed January 16, 1993, and January 16, 1994, as "National Good Teen Day";

Whereas there are more than 24,000,000 teenagers in the United States according, to the 1990 census;

Whereas our Nation's teenagers represent an important part of our society, and the many physical and emotional changes and character-building experiences which teenagers go through are an important concern to society;

Whereas it is easy to stereotype teenagers as either those who have problems or those who excel;

Whereas teenagers should not simply be recognized for their intelligence, abilities,

skills, and talents, but also for the good which is inherent in all human beings;

Whereas teenagers are unique individuals, and should be encouraged to develop the good as well as the potential for growth and future success that is within each of them;

Whereas a day should be set aside to focus on the positive qualities of America's youth; and

Whereas teenagers are the future of this great country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1995, is designated "National Good Teen Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day by recognizing the teenagers of the United States and by participating in appropriate ceremonies and activities.●

By Mr. WOFFORD (for himself and Mr. BOND):

S.J. Res. 208. A joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week"; to the Committee on the Judiciary.

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

● Mr. WOFFORD. Mr. President, today I am offering a Senate joint resolution with Senator BOND designating the week of November 6–12, 1994 as "National Health Information Management Week." The purpose of this joint resolution is to recognize the importance that high quality health information plays in keeping America's health care system the best in the world.

Collection and dissemination of health information will be an important component of whatever health reform legislation this Congress passes. Establishing an electronic data network to manage this information will be essential: To reduce administrative costs by eliminating the paperwork burden and standardizing how information is exchanged, to improve the quality of care by making accurate and timely clinical data available online and at the point of service delivery, and to provide consumers with better information for choosing health plans and doctors.

Another important aspect of managing health information is protecting the privacy of personally identifiable health information. The rapid changes expected in information technology over the next few years make it imperative that health reform legislation safeguard the confidentiality of patient medical records.

Because of my commitment to these two aspects of health reform—proper management of health information and protecting personal privacy—I introduced an amendment with Senator DODD that was accepted in the final health reform legislation approved by the Senate Labor and Human Resources Committee. That amendment would establish a private/public sector framework for developing a health care data network to manage health information. The framework for this information infrastructure was based on S. 1494, introduced by Senators BOND and RIEGLE, both of whom I commend for their leadership in the areas of health information management and the simplification of health administration. The amendment I offered to the Labor Committee bill would also establish strong privacy protections to safeguard personal health information that are effective immediately upon enactment of health reform. These protections are drawn from S. 2129, introduced by Senator LEAHY, who I commend for his personal commitment to the privacy issue.

It is my commitment to the proper management of health information that leads me to offer this joint resolution today. Leaders in the field of health information management have demonstrated a commitment to and expertise in managing the growing need for better health care data while at the same time protecting patient confidentiality. The achievements and innovations made by professionals in this field are largely responsible for this country being a world leader in health information technology.

I ask my colleagues to join me and my colleague Senator BOND in cosponsoring this Senate Joint Resolution to designate the week of November 6–12, 1994 as "National Health Information Management Week." This joint resolution will allow us to pay proper recognition to the important role of health information in America's health delivery system and those who manage and safeguard this information.●

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 359

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Illinois [Mr. SIMON], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1478

At the request of Mr. PRYOR, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1478, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and for other purposes.

S. 1570

At the request of Mr. WELLSTONE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1570, a bill to amend title 18, United States Code, to prevent persons who have committed domestic abuse from obtaining a firearm.

S. 1887

At the request of Mr. BAUCUS, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1908

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1908, A bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits.

S. 2030

At the request of Mr. ROTH, the names of the Senator from Utah [Mr. HATCH] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2030, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 2044

At the request of Mr. BURNS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2044, a bill to provide that funds available to the Department of Agriculture for the prescription of final regulations relating to certain law enforcement activities of the Forest Service be utilized instead for the improvement of trails on National Forest System lands for the purpose of improving the access of individuals with disabilities to such lands.

S. 2062

At the request of Mr. INOUYE, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

S. 2074

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2074, a bill to increase the special assessment for felonies and improve the enforcement of sentences imposing criminal fines, and for other purposes.

S. 2111

At the request of Mr. BREAUX, the name of the Senator from Idaho [Mr.

CRAIG] was added as a cosponsor of S. 2111, a bill to foster further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 2257

At the request of Mr. BAUCUS, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Oklahoma [Mr. BOREN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 167

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 167, a bill to designate the week of September 12, 1994, through September 16, 1994, as "National Gang Violence Prevention Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from Georgia [Mr. NUNN], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent".

AMENDMENT NO. 2143

At the request of Mr. WARNER the names of the Senator from Montana [Mr. BURNS], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of Amendment No. 2143 proposed to S. 2182, an original bill to authorize appropriations for fiscal year 1995 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.

At the request of Mr. BROWN his name was added as a cosponsor of Amendment No. 2143 proposed to S. 2182, supra.

At the request of Mr. ROBB his name was added as a cosponsor of Amendment No. 2143 proposed to S. 2182, supra.

SENATE RESOLUTION 237—RELATING TO THE DEATH OF RICHARD FASS

Mr. DECONCINI (for himself and Mr. D'AMATO) submitted the following resolution which was considered and agreed to:

S. RES. 237

"Whereas, Richard Fass, a Drug Enforcement Administration agent was slain in the line of duty in Phoenix, Arizona last night;

"Whereas, to date, 26 DEA agents have been killed in the line of duty;

"Whereas, over 13,000 names have been placed on the Law Enforcement Memorial honoring law enforcement officers from all across the country who have been killed in the line of duty;

"Whereas, the entire law enforcement family shares in the pain and the grief when a fellow officer is lost;

"Whereas, it helps to ease the pain and suffering when fellow officers are present to share the loss;

"Whereas, current law permits active military officers to travel in an official capacity to funerals of fellow colleagues killed in the line of duty;

"Whereas, the nation mourns the loss of this fine, young, and dedicated law enforcement officer;

"Whereas, the Senate sends its condolences to the family of Richard Fass: Now, therefore, be it

"*Resolved by the Senate*, That the Administration should submit legislation to the Congress which authorizes Federal law enforcement officers to be excused from duty without loss or reduction in pay, leave, or credit for service, to attend the funeral of a fellow Federal law enforcement officer who was killed in the line of duty and in the interim, the Attorney General should exercise her authority to permit DEA personnel to attend the funeral or related services of agent Richard Fass."

SENATE RESOLUTION 238—RELATIVE TO THE JOHN HEINZ SENATE FELLOWSHIP PROGRAM

Mr. MITCHELL (for himself, Mr. DOLE, Mr. WOFFORD, Mr. SPECTER, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 238

Resolved, That Senate Resolution 356, agreed to October 7, 1992 (102d Congress, 2d Session) is amended by striking sections 2 through 5 and inserting the following:

"SEC. 2. FINDINGS.

"The Senate finds that—

"(1) Senator John Heinz believed that Congress has a special responsibility to serve as the guardian for those who cannot protect themselves;

"(2) Senator Heinz dedicated much of his congressional career to improving the lives of senior citizens and children;

"(3) it is especially appropriate to honor the memory of Senator Heinz through the creation of a Senate fellowship program which encourages the identification and training of new leadership in child protection, health, welfare, and education policy and which brings experts having firsthand experience in children's issues to the assistance of Congress in order to help advance the development of public policy in issues that affect children; and

"(4) as Senator Heinz was an outspoken advocate for rights of the older Americans, it is fitting to recognize his legacy by fostering the professional development of those who, like Senator Heinz, seek to enhance the quality of life for seniors and by bringing experts with firsthand experience in issues concerning the elderly to the assistance of Congress to help formulate legislation affecting seniors.

"SEC. 3. FELLOWSHIP PROGRAM.

"(a) IN GENERAL.—In order to encourage the identification and training of new leadership in issues affecting children and seniors and to advance the development of public policy with respect thereto, there is established a John Heinz Senate Fellowship Program (referred to in this resolution as the "fellowship program"). The fellowship program shall, in alternate years, provide for the selection of fellows experienced in working with issues relating to children or the elderly.

"(b) SENATE FELLOWSHIPS.—The Heinz Family Foundation, a Pennsylvania nonprofit corporation, shall select Senate fellowship program participants.

"(c) SELECTION PROCESS.—The Heinz Family Foundation shall—

"(1) broadly publicize the availability of the fellowship program;

"(2) develop and administer an application process for Senate fellowships;

"(3) conduct a screening of applicants for the fellowship program; and

"(4) select participants without regard to race, color, religion, sex, national origin, age, or disability.

"SEC. 4. COMPENSATION; NUMBER OF FELLOWSHIPS; PLACEMENT.

"(a) COMPENSATION.—The Secretary of the Senate (referred to in this resolution as the "Secretary") is authorized, from funds made available under section 5, to appoint and fix the compensation of each eligible participant selected under section 3 for a period determined by the Secretary. The period of employment for each participant shall not exceed 1 year.

"(b) NUMBER OF FELLOWSHIPS.—No more than 2 fellowship participants shall be so employed during each calendar year. Any individual appointed pursuant to this resolution shall be subject to all laws, regulations and rules in the same manner and to the same extent as any other employee whose pay is disbursed by the Secretary of the Senate.

"(c) PLACEMENT.—The Secretary, after consultation with the Majority Leader and Minority Leader of the Senate, shall assist with the placement of eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' areas of expertise. Fellows shall be considered as employees of the office or committee in which they are placed.

"SEC. 5. FUNDS.

"The funds necessary to compensate eligible participants under this resolution shall be made available for five years to the Secretary and paid from the contingent fund of the Senate, out of the account of Miscellaneous Items. Not to exceed $71,000 shall be available for each year of the fellowship program.

"SEC. 6. EFFECTIVE DATE.

"The fellowship program shall terminate 5 years from the date of adoption of this section.".

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

GORTON (AND MURRAY) AMENDMENT NO. 2145

(Ordered to lie on the table.)

Mr. GORTON (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by them to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 276, line 16, strike out "$16,470,000" and insert in lieu thereof "$26,870,000".

On page 313, between lines 16 and 17, insert the following:

SEC. 2828. LAND CONVEYANCE, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Seattle, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 5.09 acres, the location of the Naval Reserve Center, Seattle, Washington.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value (as determined by the Secretary) of the portion of the real property to be conveyed under subsection (a) that is described in paragraph (2).

(2) Paragraph (1) applies to the portion of the parcel of real property referred to in subsection (a) that consists of approximately 3.67 acres and was acquired by the United States from a party other than the City.

(c) CONDITION.—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the real property in its condition at the time of conveyance.

(d) REQUIREMENTS RELATING TO CONVEYANCE.—(1) The Secretary may not make the conveyance authorized by subsection (a) until the commencement of the use by the Navy of a Naval Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed. by the Navy of a Naval Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed.

(2) The Secretary may not commence construction of a facility to be the replacement facility under paragraph (1) for the Naval Reserve Center until the Secretary completes an environmental impact statement with respect to the construction and operation of the facility to be the replacement facility.

(e) PAYMENT FOR COMMERCIAL USE.—If at any time after the conveyance under this section the City ceases utilizing the real property conveyed under subsection (a) for public purposes, and uses such real property instead for commercial purposes, the City shall pay to the United States an amount equal to the excess, if any, of—

(1) an amount equal to the fair market value (as determined by the Secretary) of the real property referred to in subsection (b)(2), and any improvements thereon, at the time the City ceases utilizing the real property for public purposes, over

(2) the amount determined by the Secretary under subsection (b)(1).

(f) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)) the amount received from the City under subsection (b)(1) and the amount, if any, received from the City under subsection (e).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary shall use the entire amount deposited in the account referred to in paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

DECONCINI AMENDMENT NO. 2146

Mr. DECONCINI proposed an amendment to the bill S. 2182, supra; as follows:

At the end of title X, add the following:

Subtitle __—Investigations of Sexual Misconduct

SEC. 1081. DIRECTOR OF SPECIAL INVESTIGATIONS.

(a) ESTABLISHMENT.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 143. Director of Special Investigations

"(a) APPOINTMENT.—There is a Director of Special Investigations who is appointed by the Secretary of Defense from among civilians who have a significant level of experience in criminal investigations. The Director reports directly to the Secretary of Defense.

"(b) SENIOR EXECUTIVE SERVICE POSITION.—The position of Director of Special Investigations is a Senior Executive Service position. The Secretary shall designate the position as a career reserved position under section 3132(b) of title 5.

"(c) DUTIES.—Subject to the authority, direction, and control of the Secretary of Defense, the Director of Special Investigations shall perform the duties set forth in this section and such other related duties as the Secretary may prescribe.

"(d) DATA COMPILATION AND REPORTING.—(1) The Director shall obtain, compile, store, monitor, and (in accordance with this section) report information on each allegation of sexual misconduct of a member of the armed forces or of a dependent of a member of the armed forces against a member of the armed forces, against a dependent of a member of the armed forces, or against a civilian not a dependent of a member of the armed forces that is received by a member of the armed forces or an officer or employee of the Department of Defense in the official capacity of that member, officer, or employee.

"(2) The information compiled pursuant to paragraph (1) shall include the following:

"(A) The number of complaints containing an allegation referred to in paragraph (1) that are received as described in that paragraph.

"(B) The number of such complaints that are investigated.

"(C) In the case of each complaint—

"(i) the organization that investigated the complaint (if investigated);

"(ii) the disposition of the complaint upon completion or other termination of the investigation; and

"(iii) the status or results of any judicial action, nonjudicial disciplinary action, or other adverse action taken.

"(D) The number of complaints that were disposed of by formal adjudication in a judicial proceeding, including—

"(i) the number disposed of in a court-martial;

"(ii) the number disposed of in a court of the United States;

"(iii) the number disposed of in a court of a State or territory of the United States or in a court of a political subdivision of a State or territory of the United States;

"(iv) the number disposed of by a plea of guilty;

"(v) the number disposed of by trial on a contested basis; and

"(vi) the number disposed of on any other basis.

"(E) The number of complaints that were disposed of by formal adjudication in an administrative proceeding.

"(3) The Director shall make the information obtained and compiled under this subsection available to the Secretary of Defense, the Secretaries of the military departments, Congress, any law enforcement agency concerned, and any court concerned.

"(e) DIRECT INVESTIGATIONS.—The Director shall investigate each allegation of sexual misconduct referred to in subsection (d)—

"(1) that is made directly, or referred, to the Director, including such an allegation that is made or referred to the Director by—

"(A) a commander of a member of the armed forces alleged to have engaged in the sexual misconduct or to have been the victim of the sexual misconduct;

"(B) an investigative organization of the Department of Defense; or

"(C) a victim of the alleged misconduct who is a member of the armed forces or a dependent of a member of the armed forces; or

"(2) that the Secretary directs the Director to investigate.

"(f) OVERSIGHT AND QUALITY CONTROL OF OTHER INVESTIGATIONS.—(1) The Director shall monitor the conduct of investigations by units, offices, agencies, and other organizations within the Department of Defense regarding allegations of sexual misconduct.

"(2) In carrying out paragraph (1), the Director may inspect any investigation conducted or being conducted by any other organization within the Department of Defense, review the records of an investigation, and observe the conduct of an ongoing investigation.

"(3) The Director may report to the Secretary on any investigation monitored pursuant to in paragraph (1). The report may include the status of the investigation, an evaluation of the conduct of the investigation, and an evaluation of each investigator and the investigative organization involved in the investigation.

"(g) POWERS.—In the performance of the duties set forth or authorized in this section, the Director shall have the following powers:

"(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available in the Department of Defense which relate to the duties of the Director.

"(2) To request such information or assistance as may be necessary for carrying out the Director's duties from any Federal, State, or local governmental agency or unit thereof.

"(3) To require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the Director's duties, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

"(4) To serve subpoenas, summons, and any judicial process related to the performance of any of the Director's duties.

"(5) To administer to or take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the Director's duties, which oath, affirmation, or affidavit when administered or taken by or before an employee designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(6) To have direct and prompt access to the Secretary of Defense, the Secretary of a military department, and any commander when necessary for any purpose pertaining to the performance of the Director's duties.

"(7) To obtain for any victim of sexual misconduct referred to in subsection (d)(1), from any facility of the uniformed services or any other health care facility of the Federal Government or, by contract, from any other source, medical services and counseling and other mental health services appropriate for treating or investigating—

"(A) injuries resulting from the sexual misconduct; and

"(B) other mental and physiological results of the sexual misconduct.

"(h) REFERRALS FOR PROSECUTION.—(1) The Director may refer any case of sexual misconduct described in subsection (d)(1) to—

"(A) a United States Attorney, or another appropriate official in the Department of Justice, for prosecution; or

"(B) to an appropriate commander within the armed forces for action under chapter 47 of this title (the Uniform Code of Military Justice) or other appropriate action.

"(2) The Director shall report each such referral to the Secretary of Defense.

"(i) STAFF.—(1) The Director shall have—

"(A) a staff of investigators who have extensive experience in criminal investigations;

"(B) a staff of attorneys sufficient to provide the Director, the criminal investigators, and the Director's other staff personnel with legal counsel necessary for the performance of the duties of the Director;

"(C) a staff of counseling referral specialists; and

"(D) such other staff as is necessary for the performance of the Director's duties.

"(2) To the maximum extent practicable, the staff of the Director shall be generally representative of the population of the United States with regard to race, gender, and cultural diversity.

"(j) REPORTS TO DIRECTOR.—Each member of the armed forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

"(k) ANNUAL REPORT ON SEXUAL MISCONDUCT.—The Secretary of Defense shall submit to Congress an annual report on the number and disposition of cases of sexual misconduct by members of the armed forces and officers and employees of the Department of Defense.

"(l) DEFINITIONS.—In this section:

"(1) The term 'sexual misconduct' includes the following:

"(A) Sexual harassment, including any conduct involving sexual harassment that—

"(i) in the case of conduct of a person who is subject to the provisions of chapter 47 of this title (the Uniform Code of Military Justice), comprises a violation of a provision of subchapter X of such chapter (relating to the punitive articles of such Code) or an applicable regulation, directive, or guideline regarding sexual harassment that is prescribed by the Secretary of Defense or the Secretary of a military department; and

"(ii) in the case of an employee of the Department of Defense or a dependent subject to the jurisdiction of the Secretary of Defense or of the Secretary of a military department, comprises a violation of a regulation, directive, or guideline referred to in clause (i) that is applicable to such employee or dependent.

"(B) Rape.

"(C) Sexual assault.

"(D) Sexual battery.

"(2) The term 'complaint', with respect to an allegation of sexual misconduct, includes a report of such allegation.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 of such title is amended by adding at the end the following:

"143. Director of Special Investigations.".

SEC. 1082. CRIMINAL FAILURE TO REPORT SEXUAL MISCONDUCT.

(a) OFFENSES.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246;

(2) by inserting after section 2244 the following new section:

"§ 2245. Failure to report sexual misconduct

"(a) FAILURE TO ACT ON ALLEGATION OF CRIMINAL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of criminal sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 10 years, fined under this title, or both.

"(b) FAILURE TO ACT ON ALLEGATION OF CIVIL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of civil sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States, against a dependent of a member of the Armed Forces of the United States, or against a civilian not a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to determine whether to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Special Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 1 year, fined under this title, or both."; and

(3) in section 2246, as redesignated by paragraph (1)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) the term 'criminal sexual misconduct' means engaging in a sexual act or sexual contact in circumstances such that the act or conduct constitutes a criminal offense under this chapter, other Federal law, or State law; and

"(7) the term 'civil sexual misconduct' means engaging in a sexual act, sexual conduct, or other activity of a sexual nature in violation of a statute, rule, order, or other lawful authority that prohibits the activity but does not authorize imposition of a sentence of imprisonment for a violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 2245 and inserting the following:

"2245. Failure to report sexual misconduct.

"2246. Definitions for chapter.".

(c) CONFORMING AMENDMENT.—Section 506(f)(3)(B) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756(f)(3)(B)) is amended by striking out "section 2245(1)" and inserting in lieu thereof "section 2246(1)".

SEC. 1083. PERSONNEL ADMINISTRATION MATTERS.

(a) PERFORMANCE EVALUATIONS AND BENEFITS.—(1) The Secretary of Defense shall prescribe in regulations a requirement that the commitment of an officer or employee of the Department of Defense and a member of the Armed Forces of the United States to the elimination of sexual harassment in the officer's, employee's, or member's place of work or duty and at installations and other facilities of the Department of Defense be one of the factors considered in—

(A) the preparation of the evaluations of the officer's, employee's, or member's performance of work or duties;

(B) the determination of the appropriateness of a promotion of the officer, employee, or member; and

(C) the determination of the appropriateness of selecting the officer, employee, or member to receive a financial award for performance of work or duties.

(2) The Secretary shall submit to Congress an annual report on the implementation of the regulations required by paragraph (1). The report shall contain an assessment of the effects of the implementation of such regulations on the number, extent, and seriousness of the cases of sexual harassment in the Department of Defense. The annual report under this paragraph shall be separate

from the annual report required by section 143(k) of title 10, United States Code, as added by section 1081.

(b) ELIGIBILITY FOR PROMOTIONS AND AWARDS.—The Secretary of Defense and the Secretary of the military department concerned may not approve for presentation of a financial award for performance of work or duties or for promotion any officer or employee of the Department of Defense or any member of the Armed Forces of the United States who—

(1) has been convicted of a criminal offense involving sexual misconduct; or

(2) has received any other disciplinary action or adverse personnel action on the basis of having engaged in sexual misconduct.

SEC. 1084. PROTECTION OF PERSONS REPORTING SEXUAL HARASSMENT.

(a) REGULATIONS OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall prescribe regulations that prohibit officers and employees of the Department of Defense from retaliating or taking any adverse personnel action against any other officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by an officer or employee of the Department of Defense or a member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member. The regulations shall include sanctions for violation of the regulations.

(b) REGULATIONS OF A SECRETARY OF A MILITARY DEPARTMENT.—(1) The Secretary of each military department shall prescribe regulations that prohibit members of the armed force under the jurisdiction of that Secretary from retaliating or taking any adverse personnel action against any officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by any other officer or employee of the Department of Defense or any other member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member.

(2) A violation of the regulations prescribed pursuant to paragraph (1) shall be punishable under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

SEC. 1085. SEXUAL MISCONDUCT DEFINED.

In this subtitle, the term "sexual misconduct" has the meaning given that term in section 143(l) of title 10, United States Code, as added by section 1081.

NUNN (AND OTHERS) AMENDMENT NO. 2147

Mr. NUNN (for himself, Mrs. MURRAY, Ms. MOSELEY-BRAUN, and Mr. ROBB) proposed an amendment to amendment No. 2146 proposed by Mr. DECONCINI to the bill S. 2182, supra; as follows:

On page 1, strike out everything after "Subtitle" down through the end of the amendment and insert in lieu thereof the following:

SEC. . DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) MILITARY DEPARTMENT POLICIES.—(1) Subject to paragraph (2), the Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and complaint procedures to ensure that such regulations are substantially equivalent to the regulations of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy or the Secretary of the Air Force, as the case may be, may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen the regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(b) REQUIREMENTS REGARDING REPORT OF TASK FORCE ON DISCRIMINATION AND SEXUAL HARASSMENT.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment shall transmit the report of the task force to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary of Defense shall transmit to Congress the report of the task force not later than October 10, 1994.

(3) Not later than 45 days after receiving the report, the Secretary of Defense shall—

(A) review the recommendations for action contained in such report;

(B) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(C) submit to Congress a report that—

(i) identifies the approved recommendations and the disapproved recommendations; and

(ii) explains the reasons for each such approval and disapproval.

(4) The Secretary of Defense shall implement the approved recommendations not later than April 1, 1995.

(c) The Advisory Board on the investigative capability of the Department of Defense should consider and include in its report—

(1) whether the Department of Defense should establish a separate unit to oversee all matters related to allegations of discrimination or sexual misconduct in the Department of Defense; and

(2) whether additional data collection and reporting procedures are needed to enhance the ability at the Department of Defense to deal with sexual misconduct.

(d) The Secretary of Defense shall ensure that regulations governing consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination or of sexual harassment.

NICKLES (AND OTHERS) AMENDMENT NO. 2148

Mr. NICKLES (for himself, Mr. THURMOND, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. COATS, Mr. BENNETT, Mr. BROWN, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, Mr. SIMPSON and Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

BROWN AMENDMENT NO. 2149

Mr. BROWN proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. BURDENSHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental cost incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe solely for performing United States obligations for support of NATO.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the burdensharing policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual burdensharing report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following matters:

(1) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of NATO and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(2) A specific enumeration and description of the United States military resources and military personnel assigned to permanent duty ashore in Europe primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such resources and personnel in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military resources and military personnel in Europe that the United States has previously

received from other NATO member nations, set out by country and by type of assistance, including both "in-kind" assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year in which the report is submitted.

(4) A detailed identification of the costs associated with maintaining United States military personnel in assignments to permanent duty ashore in Europe for NATO and the difference in cost that would result from stationing such personnel at military bases within the United States and continuing to assign to such personnel the mission to perform United States obligations under NATO.

(5) A comparison of the defense spending by each NATO member country as a percentage of Gross Domestic Product (GDP) beginning in 1985 and the projected future defense spending as a percentage of Gross Domestic Product through 2000.

(6) A review of all actions taken by the United States to ensure the effective implementation of the United States burdensharing policy set forth in subsection (a).

(d) INCREMENTAL COST DEFINED.—In this section, the term "incremental cost", with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in Europe, includes the cost of transportation to and from duty stations in Europe, any variation in the cost of housing and food as compared to the cost of housing and food for members of the Armed Forces stationed in the United States, and any additional expenditures associated with infrastructure necessary to support United States forces in Europe.

BROWN (AND OTHERS) AMENDMENT NO. 2150

Mr. BROWN (for himself, Mr. SIMON, and Mr. MURKOWSKI) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, add the following new section—

"SEC. . VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

(ii) Prevention of nuclear proliferation;

(iii) Threats to the national security of the United States;

(iv) The protection of the global environment;

(v) The protection of endangered species; or

(iv) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

BROWN AMENDMENT NO. 2151

Mr. BROWN proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the expenses of the National Aeronautics and Space Administration in satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In conducting the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The Secretary and the Administrator shall submit the report not later than February 15, 1995.

BROWN (AND OTHERS) AMENDMENT NO. 2152

Mr. BROWN (for himself, Mr. SIMON, Mr. LUGAR, Ms. MIKULSKI, and Mr. ROTH) proposed an amendment to the bill S. 2182, supra; as follows:

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

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

MCCAIN (AND OTHERS) AMENDMENT NO. 2153

Mr. MCCAIN (for himself, Mr. ROTH, and Ms. MIKULSKI) proposed an amendment to amendment No. 2152 proposed by Mr. BROWN to the bill S. 2182, supra; as follows:

SEC. 1017. ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under the Foreign Assistance Act of 1961 or the Arms Export Control Act to Poland, Hungary, and the Czech Republic.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, or the Czech Republic".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, or the Czech Republic".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, and the Czech Republic".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, or the Czech Republic".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States

Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, and the Czech Republic, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area and Europe.

McCAIN (AND BOND) AMENDMENT NO. 2154

Mr. McCAIN (for himself and Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 22, between lines 9 and 10, insert the following new section:

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN-21 and SSN-22 Seawolf submarines may not exceed $4,673,371,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

DODD (AND LIEBERMAN) AMENDMENT NO. 2155

Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to amendment No. 2154 proposed by Mr. McCAIN to the bill S. 2182, supra; as follows:

On the first page, line 7, strike out "$4,673,371,000" and insert in lieu thereof "$4,759,571,000".

BUMPERS (AND OTHERS) AMENDMENT NO. 2156

Mr. BUMPERS (for himself, Mr. FORD, Mr. BOND, Mr. PELL, and Mr. BRADLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 126, insert after line 21 the following:

SEC. 514. SENSE OF THE SENATE CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) The force structure specified in the Pentagon's Bottom Up Review assumes increased reliance on the reserve components of the Armed Forces;

(b) The mobilization of the reserve components for the Persian Gulf War was handicapped by training, readiness, and equipment shortfalls;

(c) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Reserve units before they could be deployed;

(d) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training;

(e) Funding constraints continue to handicap the readiness and modernization of the reserve components and their inter operability with the active forces;

(f) Now, therefore, it is the Sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it should provide in its annual budget submissions adequate resources to ensure that National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required of them under the Bottom-Up Review.

BUMPERS AMENDMENT NO. 2157

Mr. BUMPERS proposed an amendment to the bill S. 2182, supra; as follows:

Strike line 23 on page 14 and insert in lieu thereof the following: "pedoes, $2,322,539,000, of which no more than $535,300,000 are authorized to be appropriated for procurement of 18 Trident II missiles and 14 Mark-6 guidance systems."

FORD (AND OTHERS) AMENDMENT NO. 2158

Mr. FORD (for himself, Mr. BOND, Mr. NUNN, and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 247, line 6, insert ", at no expense to the Army," after "Marine Corps".

On page 247, line 10, insert "of the Army" after "Secretary".

On page 247, beginning on line 11, strike out "not less than" and all that follows through line 12 on such page, and insert in lieu thereof "84 M1A1 tanks selected by the Secretary of the Army.".

On page 247, beginning on line 20, strike out "may not" and all that follows through line 24 on such page, and insert in lieu thereof "shall transfer not more than one M1A1 tank to the National Guard for each M1A1 tank transferred to the Marine Corps until the Secretary has transferred the total number of tanks required in subsection (b). The tanks transferred to the Marine Corps shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.".

WARNER (AND OTHERS) AMENDMENT NO. 2159

Mr. WARNER (for himself, Mr. THURMOND, Mr. DOLE, Mr. WALLOP, Mr. SMITH, Mr. NUNN, Mr. BIDEN, Mr. KERRY, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. SENATE ADVICE AND CONSENT ON AGREEMENTS THAT MODIFY OR ESTABLISH NEW LEGAL OBLIGATIONS FOR THE UNITED STATES UNDER THE ANTI-BALLISTIC MISSILE TREATY.

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Whenever the President negotiates an international agreement that would substantively modify the ABM Treaty or establish new legal obligations for the United States under the ABM Treaty, the United States shall not be bound by such agreement unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution (which includes a requirement for advice and consent of the Senate).

(b) AGREEMENTS INCLUDED.—Among the international agreements covered by subsection (a) are the following agreements:

(1) Any agreement regarding the succession of the independent states of the former Soviet Union to the commitments of the former Soviet Union under the ABM Treaty.

(2) Any agreement that sets forth a demarcation between theater missile defense systems and antiballistic missile systems for purposes of judging compliance of theater missile defense systems with the ABM Treaty.

(3) Any agreement that imposes the limitations on antiballistic missile systems or components more restrictive than the limitations already set forth in the ABM Treaty.

(c) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

NUNN AMENDMENT NO. 2160

Mr. NUNN proposed an amendment to the amendment No. 2159 proposed by Mr. WARNER to the bill S. 2182, supra; as follows:

On the first page, strike out all after the first word and insert in lieu thereof the following:

SEC. . CLARIFICATION OF SCOPE ABM TREATY LIMITATIONS WITH REGARD TO THEATER MISSILE DEFENSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Anti-Ballistic Missile Treaty limits the development, testing, and deployment of defensive systems capable of intercepting strategic ballistic missiles systems and prohibits the deployment of nationwide antiballistic missile systems.

(2) The ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles.

(3) In November 1993, the United States entered into discussions in the Standing Consultative Commission (SCC) with Russia and

the other independent states of the former Soviet Union to differentiate between strategic missile defenses, which are strictly limited by the ABM Treaty, and antitactical ballistic missile technologies, which are permitted but not technically defined.

(4) The threat of proliferation of ballistic missiles to additional countries is a real threat.

(5) There is a shared interest among nations to be able to counter that threat.

(6) It is necessary that the ABM Treaty be clarified to make it clear that the treaty permits theater missile defenses that are capable of countering theater missiles already deployed.

(7) Executive branch officials have testified before Congress that it would not bypass Congress in clarifying for purposes of the ABM Treaty a differentiation between strategic and theater missile defense systems and that executive branch officials would consult closely with Congress before the United States agrees in the Standing Consultative Committee to such a clarification.

(b) SUBMISSION OF PROPOSED AGREEMENT TO SENATE.—The President shall submit to the Senate the final clarification to the ABM Treaty, agreed upon between or among the nations referred to in subsection (a)(3), that defines theater missile defense systems before the clarification becomes effective so that the Senate can make a determination on whether the agreed clarification would substantively modify the ABM Treaty or establish new legal obligations for the United States in a manner that would require the advice and consent of the Senate under section 2 of article II of the Constitution.

(c) TREATY DEFINED.—In this section, the terms "Anti-Ballistic Missile Treaty" and "ABM Treaty" mean the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

BROWN (AND OTHERS) AMENDMENT NO. 2161

Mr. BROWN (for himself, Mr. SIMON, Mr. ROTH, Mr. LEVIN, Mr. WARNER, Mr. DOMENICI, and Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill add the following new section:

"SEC. . SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries like Poland, Hungary, and the Czech Republic who are making significant progress in working with NATO:

(a) Excess defense articles as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act;

(b) Loan materials, supplies and equipment for research and development purposes;

(c) Leases and loans of major defense equipment and other defense articles;

(d) Cooperative military airlift agreements;

(e) The procurement of communications support and related supplies and services;

(f) Actions to standardize equipment with North Atlantic Treaty Organization members.

DOMENICI AMENDMENT NO. 2162

Mr. DOMENICI proposed an amendment to the bill S. 2182, supra; as follows:

On page 128, between lines 2 and 3, insert the following new section:

SEC. 522. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) REQUIREMENT.—Subsection (a) of section 1058 of title 10, United States Code, as added by section 554(a)(1) of Public Law 103-160 (197 Stat. 1663), is amended—

(b) COMMENCEMENT AND DURATION OF BENEFITS.—Subsection (e) of such section is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, may commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), may commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member may be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(c) HEALTH, COMMISSARY, AND OTHER BENEFITS.—Section (c) is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) HEALTH, COMMISSARY, AND OTHER BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a dependent of a member of the armed forces is entitled to receive on the basis of being a dependent of a member of the armed forces to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of not more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to receive a particular benefit under this subsection is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that dependent or former dependent to such benefit shall be determined under such other provision of law instead of this subsection.".

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

"§ 1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1058 (as added by section 554(a)(2) of Public Law 103-160 (107 Stat. 1066)) and inserting in lieu thereof the following:

"1058. Dependents of members separated for dependent abuse: transitional compensation and other benefits.".

PRYOR (AND ROTH) AMENDMENT NO. 2163

Mr. PRYOR (for himself and Mr. ROTH) proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following new section:

SEC. 1017. PROHIBITION ON GOVERNMENT-TO-GOVERNMENT TRANSFERS OF AIRBORNE SELF-PROTECTION JAMMERS (ASPJ) (AND RELATED SOFTWARE) ABROAD.

Notwithstanding any other provision of law, the Airborne Self-Protection Jammer (ASPJ), or any software or other component thereof, may not be sold or financed under the Arms Export Control Act to any foreign country.

BRADLEY (AND OTHERS) AMENDMENT NO. 2164

Mr. BRADLEY (for himself, Mr. HATFIELD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KERRY, and Mr. BUMPERS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 128, between lines 2 and 3, insert the following new section:

SEC. 522. TERMINATION OF ACTIVITIES UNDER SELECTIVE SERVICE SYSTEM.

(a) TERMINATION OF REGISTRATION REQUIREMENT.—

(1) TERMINATION.—Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) is amended by adding at the end the following new subsection:

"(c) After September 30, 1994, no person shall be required to present himself for and submit to registration under this section.".

(b) TERMINATION OF ACTIVITIES OF SELECTIVE SERVICE SYSTEM BOARDS.—Section 17 of the Military Selective Service Act (50 U.S.C. App. 467) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, after September 30, 1994—

"(1) the President may not appoint a person as a member of a civilian local board, civilian appeal board, or similar local agency of the Selective Service System; and

"(2) any such board established as of that date may not meet.".

HUTCHISON (AND OTHERS) AMENDMENT NO. 2165

Mrs. HUTCHISON (for herself, Mr. SARBANES, and Ms. MIKULSKI) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. ROLL-ON/ROLL-OFF VESSELS FOR THE READY RESERVE FORCE.

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, in order to provide for purchase of up to seven roll-on/roll-off vessels for the Ready Reserve Force of the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), the Secretary of Defense may transfer to the Maritime Administration not more than $43,000,000 out of funds authorized by this Act to be appropriated to the Department of Defense for fiscal year 1995, other than funds for procurement of national defense features for vessels.

(b) USE BY MARITIME ADMINISTRATION.—Funds transferred to the Maritime Administration pursuant to subsection (a) shall be used only for the purpose set forth in such subsection.

BUMPERS AMENDMENT NO. 2166

Mr. BUMPERS proposed an amendment to the bill S. 2182, supra; as follows:

Strike line 21 on page 27 and insert in lieu thereof the following:

"(3) For the Air Force, $12,290,296,000, of which no funds may be appropriated for parts and other costs associated with acquisition of Milstar satellites numbers 5 and 6, and at least $39,500,000 shall be authorized to be appropriated to accelerate development of the Advanced EHF satellite communications system."

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2167

Mr. NUNN (for Mr. LAUTENBERG, for himself, Mr. WOFFORD, and Mr. BRADLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, insert between lines 7 and 8 the following:

SEC. ___. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) STUDY AND REPORT.—(1) No later than 6 months after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, shall conduct a study and submit a report to the Congress on—

(A) the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reduction in force actions; and

(B) any action taken by the Office of Personnel Management under subsection (b).

(2) In conducting the study under this section, the Office of Personnel Management, in consultation with the Department of Defense, shall seek comments from all Federal agencies.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) If, during the 6-month period after the date of the enactment of this Act, the Office of Personnel Management, in consultation with the Department of Defense, determines that a Government-wide interagency placement program for Federal employees affected by reduction in force actions is feasible, the Office of Personnel Management may enter into an agreement with each agency that agrees to participate, to establish such a program. A program established under this subsection shall not be required to be an interagency placement program as defined under subsection (c)(3).

(2) If the Office of Personnel Management makes a determination to establish a program as provided under paragraph (1), the Office shall include in the report submitted under subsection (a) each agency that decides not to participate in the program and the reasons of the agency for the decision.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an "Executive agency" as defined under section 105 of title 5, United States Code, and—

(A) includes the United States Postal Service and the Postal Rate Commission; and

(B) does not include the General Accounting Office;

(2) the term "Federal employees affected by reduction in force actions" means Federal employees who—

(A) are scheduled to be separated from service under a reduction in force pursuant to—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) are separated from service under such a reduction in force; and

(3) the term "interagency placement program" means a program that provides a system to require the offer of a position in an agency to an employee of another agency affected by a reduction in force action, if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is well qualified for the offered position;

(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

(D) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the location of the employee's present or last held position.

THURMOND (AND NUNN) AMENDMENT NO. 2168

Mr. NUNN (for himself and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

Of the funds authorized to be appropriated by section 301(17), the Secretary of Defense may pay not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

REID AMENDMENT NO. 2169

Mr. NUNN (for Mr. REID) proposed an amendment to the bill S. 2182, supra; as follows:

On page 306, between lines 7 and 8, insert the following:

(F) A parcel of property, including any improvements thereon, consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

On page 311, between lines 22 and 23, insert the following:

(f) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the government of Mineral County, Nevada.

GLENN (AND OTHERS) AMENDMENT NO. 2170

Mr. NUNN (for Mr. GLENN for himself, Mr. ROBB, and Mr. WARNER) proposed an amendment to the bill S. 2182, supra; as follows:

At the end of Division A, Title I, Subtitle A, insert the following new section:

"SEC. . JOINT TRAINING, ANALYSIS AND SIMULATION CENTER.

Of the funds authorized to be appropriated for other procurement for the Navy, $10,500,000 shall be available for procurement of command, control, communciations and computer equipment for a Joint Training, Analysis and Simulation Center for the United States Atlantic Command.

COHEN AMENDMENT NO. 2171

Mr. THURMOND (for Mr. COHEN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 371, between lines 6 and 7, insert the following:

SEC. 3159. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention historically to

matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

NUNN AMENDMENT NO. 2172

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

GLENN AMENDMENT NO. 2173

Mr. NUNN (for Mr. GLENN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 370, strike out line 3 and all that follows through page 371, line 6, and insert in lieu thereof the following:

SEC. 3158. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, or any other provision of law, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1).

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, the Director shall notify the Secretary of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles; or

(B) cease appointment of persons under such authority.

(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

FEINSTEIN AMENDMENT NO. 2174

Mr. NUNN (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 59, between lines 9 and 10, insert the following new section:

SEC. 250. STUDY ON BEAMING HIGH POWER LASER ENERGY TO SATELLITES.

(a) STUDY.—(1) The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high power laser energy from ground sources.

(2) In determining the cost, feasibility, and advisability of the system referred to in paragraph (1), the Secretary and the Administrator shall take into account the impact on the environment of the development and utilization of the system and the effect, if any, of the development and utilization of the system on the arms control efforts or obligations of the United States.

(3) In carrying out the study, the Secretary and the Administrator shall consider the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California.

(b) REPORT.—The Secretary and the Administrator shall jointly submit to the congressional defense committees a report on the study required under subsection (a). The Secretary and the Administrator shall submit the report not later than July 1, 1995.

NICKLES AMENDMENT NO. 2175

Mr. THURMOND (for Mr. NICKLES) proposed an amendment to the bill S. 2182, supra; as follows:

On page 27, between lines 9 and 10, insert the following:

SEC. 143. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter above paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting and

it is in the public interest to manufacture such article or perform such service; and

"(8) the sale will not interfere with performance of the military mission of the industrial facility.".

BOXER (AND FEINSTEIN) AMENDMENT NO. 2176

Mr. NUNN (for Mrs. BOXER, for herself, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO SELL OUTSIDE DOD.—The Secretary of Defense may sell in accordance with this section to persons outside the Department of Defense articles and services produced in working-capital funded industrial facilities of the Armed Forces that are not available from any United States commercial source.

(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate up to three facilities referred to in subsection (a) as the facilities from which articles and services produced in such facilities may be sold under this section.

(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

(2) the purchaser agrees to hold harmless and indemnify the United States, except in cases of willful misconduct or extreme negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

(3) the articles or services can be substantially performed by the industrial facility concerned with only incidental subcontracting and that performance is in the public interest;

(4) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

(5) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

(2) In the sale of articles and services under this section, the Secretary shall—

(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

(e) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to sell articles and services in accordance with this section to the commander of each industrial facility designated pursuant to subsection (b) in accordance with regulations prescribed by the Secretary.

(f) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of performance.

(g) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(h) DEFINITIONS.—In this section:

(1) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(2) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

PRYOR AMENDMENT NO. 2177

Mr. NUNN (for Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 188, between lines 6 and 7, insert the following new section:

SEC. 924. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d) is amended—

(1) in subsection (a)—

(A) by striking out "or by closures of United States military facilities" in the first sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(B) by striking out "or by closures of United States military facilities" in the second sentence and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1) is amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy (including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements)"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

PRYOR (AND OTHERS) AMENDMENT NO. 2178

Mr. NUNN (for Mr. PRYOR, for himself, Mr. KENNEDY, Mr. HOLLINGS, Mr. METZENBAUM, Mr. BINGAMAN, Mr. PELL, and Mrs. BOXER) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following new section:

SEC. 1068. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE REQUIREMENT AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE REQUIREMENT AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE REQUIREMENT ON WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended in the second sentence by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 90 days".

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 2179

Mr. NUNN (for Mr. MOYNIHAN, for himself, and Mr. D'AMATO) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TRANSFER OF OBSOLETE VESSEL GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH 7), the Secretary of the Navy may transfer the Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATIONS.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel Guadalcanal 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.

GLENN (AND THURMOND) AMENDMENT NO. 2180

Mr. NUNN (for Mr. GLENN, for himself, and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,236,058,000".

On page 271, line 25, strike out "$45,960,000" and insert in lieu thereof "$51,960,000".

On page 274, below line 25, add the following:

SEC. 2408. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

WARNER AMENDMENT NO. 2181

Mr. THURMOND (for Mr. WARNER) proposed an amendment to the bill S. 2182, supra; as follows:

On page 170, after line 24, insert the following:

SEC. 710. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than July 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of Public Law 102-190 (105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In establishing any managed care system involving the furnishing of pediatric care by the Department of Defense (including the furnishing of pediatric care under the Civilian Health and Medical Program of the Uniformed Services), the Assistant Secretary shall consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

COATS AMENDMENT NO. 2182

Mr. THURMOND (for Mr. COATS) proposed an amendment to the bill S. 2182, supra; as follows

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof "$1,728,086,000".

On page 253, line 11, strike out "$1,007,708,000" and insert in lieu thereof "$1,067,708,000".

NICKLES (AND LOTT) AMENDMENT NO. 2183

Mr. THURMOND (for Mr. NICKLES, for himself, and Mr. LOTT) proposed an amendment to the bill S. 2182, supra; as follows:

On page 158, after line 24, insert the following:

SEC. 655. PAYMENT FOR TRANSIENT HOUSING FOR RESERVES PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a) of this section, the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this section shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

BOXER (AND OTHERS) AMENDMENT NO. 2184

Mr. NUNN (for Mrs. BOXER for herself, Ms. MIKULSKI Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. BRADLEY) proposed an amendment to the bill S. 2182, supra; as follows:

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

SEC. 1068. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces of the United States and submit to Congress a report on the results of the study.

(c) CONTENT OF REPORT.—The report shall contain the following matters:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

NUNN AMENDMENT NO. 2185

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

On page 188, between lines 6 and 7, insert the following:

Subtitle D—Professional Military Education

SEC. 931. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Marine Corps Command and Staff College, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVE DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 932. BOARD OF ADVISORS OF MARINE CORPS UNIVERSITY.

(a) BOARD.—(1) Chapter 609 of title 10, United States Code, as amended by section 931, is further amended by adding at the end the following new section:

"§ 7103. Marine Corps University: Board of Advisors

"(a) IN GENERAL.—A Board of Advisors to the President of the Marine Corps University is constituted annually of—

"(1) the chairman of the Committee on Armed Services of the Senate, or the designee of the chairman; and

"(2) six persons designated by the Secretary of the Navy.

"(b) TERMS.—(1) The persons designated by the Secretary of the Navy shall serve for 3 years each except that any member whose term of office has expired shall continue to serve until the successor to the member is designated.

"(2) Members may be reappointed for one or more successive terms.

"(3) If a member of the Board dies or resigns, the official who designated that member shall designate a successor to serve for the unexpired portion of the term of the member.

"(c) VISITS.—The Board shall visit the Marine Corps University semiannually upon the call of the President of the Marine Corps University. With the approval of the President of the University, the Board, or any of its members, may make other visits to the University in connection with the duties of the Board or to consult with the President of the University.".

(2) The table of sections at the beginning of such chapter, as amended by section 931, is further amended by adding at the end the following new item:

"7103. Marine Corps University: Board of Advisors.".

(b) INITIAL DESIGNATIONS OF MEMBERS.—Of the members of the Board of Advisors of the Marine Corps University initially designated under section 7103(a)(2) of title 10, United States Code, as added by subsection (a)—

(1) two shall be designated for a term of 3 years;

(2) two shall be designated for a term of 2 years; and

(3) two shall be designated for a term of 1 year.

SEC. 933. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

ROTH (AND PRYOR) AMENDMENT NO. 2186

Mr. COATS (for Mr. ROTH, for himself, and Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 52, beginning with line 20, strike out all through page 53, line 20, and insert in lieu thereof the following:

SEC. 246. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a study regarding the desirability of waiving for the F-22 aircraft program the survivability tests required by section 2366(c) of title 10, United States Code, and to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F-22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F-22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F-22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F-22 aircraft program that was not requested at that time.

(4) The sufficiency of the F-22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F-22 aircraft program that the Council considers appropriate on the basis of the study.

DOLE AMENDMENT NO. 2187

Mr. COATS (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE PROCEDURES USED BY DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS WHEN CONDUCTING AN INVESTIGATION INTO THE DEATH OF A MEMBER OF THE ARMED FORCES WHO, WHILE SERVING ON ACTIVE DUTY, DIED FROM A CAUSE DETERMINED TO BE SELF-INFLICTED.

SENSE OF CONGRESS.—It is the Sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review that report and hold hearings related to the procedures employed by Department of Defense investigative Organizations when conducting an investigation into the death of a member of the Armed Services who, while serving on active duty, died from a cause determined to be self-inflicted.

COHEN AMENDMENT NO. 2188

Mr. COATS (for Mr. COHEN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 167, beginning with line 14, strike all through page 170, line 7, and insert the following:

SEC. 708. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who reside within the service area of a base closure site and who have failed to timely enroll in medicare part B due to reliance upon the military treatment facility located at such site.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall report to Congress the results of the study under paragraph (1). Such report shall also—

(1) identify by base closure site the number of military retirees within a 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties;

(2) determine the estimated aggregate amount of the penalties by base closure site;

(3) describe the characteristics of the population that are subject to the penalties, such as age and income level;

(4) address the appropriateness of waiving such penalties;

(5) identify the Department of Defense funds that should be used to pay the penalties if waiving such penalties is not recommended;

(6) outline a program for a special medicare part B enrollment period for affected retirees living near bases already closed and bases which are designated for closure in the future; and

(7) include legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by base-closure actions.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure" means a base closure under a base closure law (within the meaning given such term in section 2825(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2687 note)).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

JEFFORDS AMENDMENT NO. 2189

Mr. COATS (for Mr. JEFFORDS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 158, below line 24, add the following:

SEC. 655. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY.—(1) The Comptroller General shall carry out a study of the offset of the amount of disability compensation from the Department of Veterans Affairs that is received by an individual separated from the Armed Forces by the amount of any of the following benefits:

(A) Separation pay under section 1174 of title 10, United States Code.

(B) A special separation benefit under a special separation benefits program carried out under section 1174a(a) of such title.

(C) A voluntary separation incentive under section 1175 of such title.

(2) In carrying out the study, the Comptroller General shall—

(A) determine the purposes for the availability of the benefits referred to paragraph (1);

(B) determine the justifications for the offset referred to in that paragraph;

(C) assess the effect of the offset by—

(i) determining the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(ii) determining the number of such members who will be provided a benefit referred to in that paragraph, and the average amount of the benefit to be provided;

(iii) determining the number of such members who will be entitled to disability compensation from the Department of Veterans Affairs, and the average monthly amount of the compensation to which the members will be entitled; and

(iv) evaluating the extent, if any, to which the offset affects the capacity of members who are separated from the Armed Forces to meet financial obligations (including obligations relating to housing and medical care) of such members that arise as a result of the service of the members in the Armed Forces or the separation of such members from that service;

(D) determine the extent, if any, to which the offset of disability compensation by the amount of a benefit referred to in subparagraph (B) or (C) of paragraph (1) reduces the effectiveness of the benefits in meeting the purposes determined under subparagraph (A) of this paragraph; and

(E) determine the cost of the repeal of the offset.

(b) REPORT.—(1) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include the recommendations of the Comptroller General on improvements to the provision of the benefits referred to in subsection (a)(1).

(2) The Comptroller General shall submit the report not later than 180 days after the date of the enactment of this Act.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 2190

Mr. NUNN (for Mr. BINGAMAN, for himself, and Mr. DOMENICI) proposed an amendment to the bill S. 2182, supra; as follows:

On page 25, between lines 2 and 3, insert the following:

SEC. 132. RETIREMENT OF BOMBER AIRCRAFT.

No funds authorized to be appropriated by this Act or any other Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B-52H, B-1B, or F-111 bomber aircraft.

THURMOND (AND NUNN) AMENDMENT NO. 2191

Mr. COATS (for Mr. THURMOND, for himself, and Mr. NUNN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 68, following line 20, insert the following:

SEC. 323 EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(1) Section 2701(j) of Title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

MCCAIN AMENDMENT NO. 2192

Mr. COATS (for Mr. MCCAIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 181, after the matter following line 16 and before line 17, insert the following:

SEC. 825. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER THE DEFENSE TECHNOLOGY REINVESTMENT PROGRAM.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 826. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

DOLE AMENDMENT NO. 2193

Mr. COATS (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER AT FORT RILEY, KANSAS.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing at Fort Riley, Kansas, a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). The Secretary shall submit the report not later than May 1, 1996.

HATFIELD AMENDMENT NO. 2194

Mr. COATS (for Mr. HATFIELD) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PUBLIC EDUCATION FACILITY OF THE ARMED FORCES INSTITUTE OF PATHOLOGY.

(a) PURPOSE.—It is the purpose of this section to—

(1) display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

(2) designate a site for the relocation of the public education facility of the Armed Forces Institute of Pathology so that it may serve as a central resource of instruction about the critical health issues which confront all American citizens.

(b) SITE OF FACILITY.—The public education facility of Armed Forces Institute of Pathology shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress finds that—

(A) the National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia); and

(B) the National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of the Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

DOLE AMENDMENT NO. 2195

Mr. COATS (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following:

SEC. 357. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

ROBB (AND McCAIN) AMENDMENT NO. 2196

Mr. NUNN (for Mr. ROBB, for himself, and Mr. MCCAIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 138, between lines 11 and 12, insert the following:

SEC. 634. COST-OF-LIVING INCREASES IN SBP CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RELATED RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new subsection:

"(2)(A) Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section, then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section 1401a.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

BINGAMAN (AND OTHERS) AMENDMENT NO. 2197

Mr. NUNN (for Mr. BINGAMAN, for himself, Mr. DOMENICI, Mr. SASSER, Mr. CRAIG, Mr. KEMPTHORNE and Mr. MATHEWS) proposed an amendment to the bill S. 2182, supra; as follows:

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

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

NUNN AMENDMENT NO. 2198

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

Insert the following at the end of subtitle A of Title V:

SEC. . SELECTION FOR DESIGNATED JUDGE ADVOCATE POSITIONS.

(a) To the extent that selection for the positions described in subsection (b) is not governed by Chapter 36 of title 10, United States Code, the Secretary of Defense shall prescribe regulations to ensure that officers selected to serve in such positions are selected for such service by boards governed, insofar as practicable, by the procedures prescribed for selection boards under Chapter 36 of title 10, United States Code.

(b) The positions referred to in subsection (a) are—

(1) the Judge Advocate General and Assistant Judge Advocate General of the Army,

(2) the Judge Advocate General and Deputy Judge Advocate General of the Navy,

(3) the Staff Judge Advocate to the Commandant of the Marine Corps, and

(4) the Judge Advocate General and Deputy Judge Advocate General of the Air Force.

KERRY AMENDMENT NO. 2199

Mr. NUNN (for Mr. KERRY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. PROVISION OF INTELLIGENCE AND OTHER ASSISTANCE WHERE DRUG TRAFFICKING THREATENS NATIONAL SECURITY.

(a) Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country to damage, render inoperative, or destroy an aircraft in that country's territory or airspace, or to attempt to do so, if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided that the President of the United States prior to the actions described in this subparagraph being taken has determined:

(1) that such actions are necessary because of the extraordinary threat posed by drug trafficking to the national security of that country, and

(2) that the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground, which shall at a minimum include effective means to identify and warn aircraft prior to the use of force.

(b) It shall not be unlawful for authorized employees or agents of the United States to provide assistance, including but not limited to operational, intelligence, logistical, technical and administration assistance, for the actions of foreign countries set forth in subsection (a), nor shall the provision of such assistance give rise to any civil action seeking money damages or any other form of relief against the United States or its agents or employees.

DOMENICI AMENDMENT NO. 2200

Mr. COATS (for Mr. DOMENICI) proposed an amendment to the bill S. 2182, supra; as follows:

On page 208, after line 24, insert the following:

(c) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Joint Committee for the Review of Counterproliferation Programs established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

NUNN (AND BINGAMAN) AMENDMENT NO. 2201

Mr. NUNN (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 208, below line 24, add the following:

(c) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be

appropriated by section 201(4) for a counterproliferation technology project in Program Element 602301E—

(A) $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in confined area outside the United States; and

(B) $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective utilization of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union.

(B) The funds available under paragraph (1)(B) for the program referred to in subparagraph (A) may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional defense committees a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

KOHL (AND OTHERS) AMENDMENT NO. 2202

Mr. NUNN (for Mr. KOHL, for himself, Mr. FEINGOLD, and Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 325, between lines 4 and 5, insert the following:

SEC. 2847. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding after subsection (c) the following:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding and establishment of restoration advisory boards pursuant to this subsection, if the Secretary decides to use this authority. Prescription of regulations shall not be a precondition to establishment of a restoration advisory board or impact restoration advisory boards established prior to the date of enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(4).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (4) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at installations where such committees and boards are in operation.

"(B) A committee or advisory board for an installation is eligible for funding assistance under this subsection only if the committee or board is composed of individuals from the private sector who reside in a community in the vicinity of the installation and who are not potentially responsible parties with respect to environmental hazards at the installation.

"(2) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this subsection only—

"(A) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed or conducted at the installation; and

(B) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(3) The members of a technical review committee or restoration advisory board may employ technical or other experts in accordance with regulations prescribed under subsections (d) and (e)(1) of Title 10, United States Code and added by this section.

"(4)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) 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).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation, the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation.

"(5) Developing environmental restoration strategies for the installation.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary announces a decision to establish restoration advisory boards, the Secretary of Defense shall—

(1) prescribe the regulations required under subsections (d) and (e)(1) of title 10, United States Code, as added by this section; and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as so added.

(e) The Secretary shall report to the Committee on Armed Services of the Senate and the House of Representatives by May 1, 1996, on the establishment of restoration advisory boards and funds expended for assistance for citizen participation.

BYRD AMENDMENT NO. 2203

Mr. NUNN (for Mr. BYRD) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Administration of athletics program

"(a) The position of athletic director for the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Administration of athletics program.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6975. Administration of athletics program

"(a) The position of athletic director of the Naval Academy shall be a position in the

civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall establish and administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Administration of athletics program.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9356. Administration of athletics program

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill such position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall establish and administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to such account all revenue received from the conduct of the athletics program of the Academy and all contributions received for such program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Administration of athletics program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 240 days after the date of the enactment of this Act.

FORD (AND BOND) AMENDMENT NO. 2204

Mr. NUNN (for Mr. FORD for himself and Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 185, between lines 7 and 8, insert the following new section:

SEC. 913. REVISION IN COMPOSITION OF COMMISSION.

(a) REVISION.—Section 952(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is amended—

(1) in the first sentence of paragraph (1), by striking out "seven" and inserting in lieu thereof "eight"; and

(2) in paragraph (2)—

(A) by inserting "(A)" before "The Commission"; and

(B) by adding at the end the following new subparagraph:

"(B) The additional member of the Commission appointed under this paragraph after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 shall have previous military experience and management experience with the reserve components.".

(b) APPOINTMENT.—The Secretary of Defense shall make the appointment required as a result of the amendments made by subsection (a) not later than 15 days after the date of the enactment of this Act.

SARBANES (AND OTHERS) AMENDMENT NO. 2205

Mr. NUNN (for Mr. SARBANES for himself, Mrs. KASSEBAUM, Mr. PELL and Mr. HELMS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 198, line 3, insert before "(f)" the following:

"(3) Funds may not be provided under this section for a fiscal year for any country which was not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Funds may not be used under this section for the provision of military education or training, defense articles, or defense services to any country."

DOLE (AND OTHERS) AMENDMENT NO. 2206

Mr. COATS (for Mr. DOLE for himself, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. COATS, Mr. THURMOND, Mr. SIMPSON, Mr. STEVENS, Mr. DOMENICI, Mr. SMITH, Mr. LOTT, Mr. MACK, Mr. WALLOP, Mr. MCCAIN, Mr. CRAIG, Mr. COCHRAN, Mr. BURNS, and Mr. WARNER) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(3) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(4) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(5) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(6) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(7) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

LEAHY AMENDMENT NO. 2207

Mr. NUNN (for Mr. LEAHY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 26, between lines 13 and 14, insert the following:

(e) ESTIMATES OF TOTAL COST REQUIRED.—(1) Not later than January 15, 1995, the Secretary of Defense shall submit to the congressional defense committees two estimates of the total cost of acquisition of 20 additional B-2 bomber aircraft, including the cost of research, development, test and evaluation and the cost of related military construction.

(2) The Secretary shall assume for purposes of making one of the estimates that such aircraft will be procured at the rate of 2 aircraft in each of fiscal years 1997 and 1998, 3 such aircraft in each of fiscal years 1999 through 2002, and 4 such aircraft in fiscal year 2003. The Secretary shall assume for purposes of making the other estimate that such aircraft will be procured at an annual rate of 2.5 aircraft beginning in fiscal year 1997.

(3) In addition to stating the estimates in terms of estimated total actual cost, the Secretary shall state the estimates in terms of fiscal year 1995 constant dollars.

PRYOR AMENDMENT NO. 2208

Mr. NUNN (for Mr. PRYOR) proposed an amendment to the bill S. 2182, supra; as follows:

On page 110, between lines 19 and 20, insert the following new sections:

SEC. 357. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 358. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services which contract will have a value in excess of $100,000.

"(2) If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of

performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement under subsection (a)(2) to perform a cost comparison study based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410*l* of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410*l* of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

DECONCINI (AND OTHERS) AMENDMENT NO. 2209

Mr. NUNN (for Mr. DECONCINI for himself, Mr. FORD, and Mr. MCCAIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$848,122,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,592,194,000".

On page 21, between lines 15 and 16, insert the following:

SEC. 115. BUNKER DEFEAT MUNITION MISSILES.

(a) AUTHORITY.—The Secretary of the Army may acquire up to 6,000 type classified standard bunker defeat munition weapons.

(b) FUNDING.—Funds authorized to be appropriated for the Army for fiscal year 1994 shall be available for acquisition of bunker defeat munition weapons in accordance with subsection (a) as follows:

(1) Of the amount authorized to be appropriated by section 101(4), $7,761,000.

(2) Of the amount authorized to be appropriated by section 201(1), $2,600,000.

On page 27, line 19, strike out "$5,149,708,000" and insert in lieu thereof "$5,152,308,000".

LOTT (AND OTHERS) AMENDMENT NO. 2210

Mr. COATS (for Mr. LOTT for himself, Mr. SHELBY, Mr. COCRHAN and Mr. HEFLIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Extensive and compelling testimony from uniformed military and Department of Defense leadership has been received which supports a military requirement for twelve Amphibious Ready Groups.

(2) An official Department of Navy report required by the Fiscal year 1993 National Defense Authorization Act clearly stipulates that a seventh LHD is required in order for the Navy to achieve a force structure of twelve Amphibious Ready Groups.

(3) The Department of Navy has identified funds for the purchase of LHD–7 in outyear budget projections.

(4) A significant shortfall in amphibious shipping and amphibious lift exists, both in the FY–95 budget request and in outyear force structure projections.

(5) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(6) Twelve Amphibious Ready Groups are the correct number to sustain forward deployment and contingency requirements of the Navy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should, plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible. Further, the Secretary of Navy should extend the existing contract option on the LHD–7 Amphibious Assault Ship in order to achieve twelve Amphibious Ready Groups.

(c) LHD–7 CONTRACT OPTION EXTENSION.—

(1) The Secretary of Navy is authorized to extend the existing contract option for the LHD–7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of Navy shall immediately begin negotiations to extend the existing contract option for the LHD–7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use such program funds authorized to be appropriated for other Navy programs for such contract. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary Navy shall report to the Congress, after December 31, 1994, but before March 31, 1995, Department of the Navy intentions related to contract execution of the existing contract option for the LHD–7 Amphibious Assault Ship. The report shall include an explanation of the Department's actions related to the attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD–7 Amphibious Assault Ship.

BOND AMENDMENT NO. 2211

Mr. COATS (for Mr. BOND) proposed an amendment to the bill S. 2182, supra; as follows:

On page 371, between lines 6 and 7, insert the following

SEC. 3159. CONDITIONS ON CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND CERTAIN LESSEES AND TRANSFEREES OF DEPARTMENT OF ENERGY PROPERTY.

(a) CONDITIONS.—Notwithstanding any other provision of law, the head of a department or agency of the United States may require as a condition of a contract with an entity described in subsection (b) that such entity certifies to the head of the department or agency the following:

(1) That no officer, director, employee, or agent of the entity has utilized in the preparation of the bid or solicitation for the contract—

(A) any records or systems of records of the Federal Government that are covered by section 552a of title 5, United States Code;

(B) any information or data of the Federal Government that has not been released or otherwise made generally available for preparation of bids or proposals on the contract; or

(C) any commercial information or data of another entity that has not been released or otherwise made generally available for that purpose.

(2) That the entity has returned, destroyed, or otherwise disposed of all documents received from the Federal Government by reason of any earlier * * *

WALLOP AMENDMENT NO. 2212

Mr. WALLOP proposed an amendment to the bill S. 2182, supra; as follows:

On page 219, after line 19, insert the following:

SEC. 1033. DEPLOYMENT OF UNITED STATES FORCES FOR PEACEKEEPING OPERATIONS ON THE GOLAN HEIGHTS.

(a) LIMITATION.—None of the funds authorized to be appropriated for the Department of Defense by this or any other Act may be expended for support of any deployment of personnel of the Armed Forces of the United States to the Golan Heights as part of a multilateral peacekeeping force, as a unilateral peacekeeping force, or in conjunction with a peace agreement between Israel and Syria that results in the withdrawal of the Israeli Defense Force from the Golan Heights until the Secretary of Defense submits to Congress, in consultation with the Joint Chiefs of Staff, a written report on a potential deployment and the limitation in this subsection ceases to be effective by operation of subsection (d).

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) An evaluation of potential risks or threats to United States forces from acts of terrorism, civil unrest, limited armed conflict, or attacks by paramilitary groups presently occurring in south Lebanon, or similar or related potential acts.

(2) An estimate of the size of the United States armed force necessary to deploy for the peacekeeping mission and the types of military equipment and material necessary to deploy for such mission, and an estimate of the near-term and long-term costs of the deployment and of the performance of the peacekeeping mission.

(3) An analysis of the availability of the personnel, funds, equipment, and other resources necessary for performance of the mission.

(4) An assessment of the potential effects of the long-term assignment of a substantial United States armed force to the Golan Heights on United States global war fighting and strategic capabilities outlined in the Bottom-Up Review of the Department of Defense prepared by direction of the Secretary of Defense in 1993.

(5) An analysis of the responsibilities resulting from, and the implications of, a United States deployment on the Golan Heights with regard to sharing strategic intelligence and warning with Israel, Syria, or both Israel and Syria.

(6) An estimate of the likely duration of the deployment and the conditions under which the deployed United States forces would be withdrawn from the Golan Heights.

(7) An evaluation of alternatives that could make the deployment unnecessary.

(c) UNCLASSIFIED VERSION REQUIRED.—The Secretary of Defense shall submit to Congress an unclassified version of any classified report submitted under this section.

(d) CONDITION FOR TERMINATION OF LIMITATION.—(1) The limitation on use of funds in subsection (a) shall cease to be effective at the end of 30 days of continuous session of Congress after the date on which Congress receives a report under subsection (a) unless, within such 30-day period, Congress enacts a joint resolution disapproving deployment of personnel of the Armed Forces of the United States to the Golan Heights.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

JOHNSTON AMENDMENT NO. 2213

Mr. NUNN (for Mr. JOHNSTON) proposed an amendment to the bill S. 2182, supra; as follows:

On page 366, line 5, strike "TRITIUM PRODUCTION." and all that follows through page 367, line 15 and in lieu thereof insert;

"Nuclear weapons council membership. Section 179(a)(1) title 10, United States Code, is amended to read as follows: '(3) Two senior representatives of the Department of Energy appointed by the Secretary of Energy.'"

ROTH AMENDMENT NO. 2214

Mrs. HUTCHISON (for Mr. ROTH) proposed an amendment to the bill S. 2182, supra; as follows:

At an appropriate place in the bill add the following new section

SEC. .

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

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history, and is well suited to help marshal our cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members; and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to out of area crises.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) The security interests of the member countries of the North Atlantic Treaty Organization must not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the U.N. Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

COATS (AND SHELBY) AMENDMENT NO. 2215

Mrs. HUTCHISON (for Mr. COATS for himself and Mr. SHELBY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 75, beginning with line 9, strike out all through page 79, line 13, and insert in lieu thereof the following:

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the level of interest among employees of the Department of Defense referred to in subsection (b) in obtaining credit under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following matters:

(1) An analysis of the issues, to include existing legal rights of the employees described in paragraph (b) above under the Civil Service Retirement and Disability System or the Federal Employees' Retirement System.

(2) An analysis of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full time and part time employees described in paragraph (b) above that are affected by any inequities described in paragraph 2.

(4) The Department of Defense recommendations, if any, to redress any inequities described in paragraph 2, and

(5) The cost to the federal government of any recommendation described in paragraph 4.

GRAHAM AMENDMENT NO. 2216

Mr. NUNN (for Mr. GRAHAM) proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife; but democracy is fragile in some nations of the region.

(2) It is desirable for the Department of Defense to perform a positive role in influencing regional armed forces to make positive contributions to the democratic process and to domestic development programs.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051, participation of developing countries in combined exercises under section 2110, and the training of special operations forces with friendly forces under section 2011.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress, including in particular the testimony of the Commander in Chief, United States Southern Command, and the Commander in Chief, United States Atlantic Command, has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal

immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) The expansion of the military-to-military contact program to the Western Hemisphere will provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need to conduct a comprehensive review of the various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional objectives of the United States.

(11) There is a need to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REPORT REQUIRED.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) carry out a comprehensive review and assessment of the matters referred to in paragraphs (9), (10), and (11) of subsection (a); and

(2) after consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, submit to the Committees on Armed Services of the Senate and House of Representatives a report on regional defense matters.

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following matters:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) An assessment of the contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, and the strategic objectives of the United States.

(6) The changes made or to be made in the programs, organizations, forums, and institutions as a result of the comprehensive review.

(7) Any recommended legislation considered necessary to improve the ability of the Department to achieve its strategic objectives.

(d) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

WELLSTONE (AND OTHERS) AMENDMENT NO. 2217

Mr. NUNN (for Mr. WELLSTONE for himself, Mr. SIMON, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. FEINGOLD, Mr. JEFFORDS, Mr. LEAHY, Mr. KENNEDY, Mr. DURENBERGER, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill S. 2182, supra; as follows:

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

SEC. . GENOCIDE IN RWANDA.

(a) FINDINGS.—The Congress finds that—

(1) since April 6, 1994, elements of the Rwandan government forces, and their allied militias, have organized the massacres of more than 200,000 Rwandan civilians, of both Tutsi and Hutu ethnic origin;

(2) an estimated 2 million Rwandans have been internally displaced, and at least 500,000 have fled to neighboring countries;

(3) on April 26, 1994, the Senate agreed to Senate Resolution 207, deploring the massacres and urging prompt resolution of this crisis;

(4) the potential exists for retaliatory acts to be committed by elements within the Rwandan Patriotic Front against civilians;

(5) on June 8, 1994, the United Nations Security Council expanded and reinforced the United Nations Assistance Mission for Rwanda (UNAMIR) to 5,500 troops with a mandate to protect civilians;

(6) on June 22, 1994, the United Nations Security Council voted unanimously to support the deployment of military forces from France and Senegal for a temporary operation that would contribute to the security and protection of populations at risk in Rwanda.

(b) POLICY.—The Congress—

(1) calls upon the President to acknowledge that acts of genocide have been committed in Rwanda;

(2) urges the President to support the establishment of an impartial commission of experts to examine and analyze the evidence submitted of breaches of the Convention on Genocide, and other grave violations of international humanitarian law, committed in Rwanda;

(3) commends the Department of Defense for logistical help already provided and urges the Secretary of Defense to further expedite all United States military contributions to the humanitarian effort in Rwanda.

(4) implores the President to take the lead in the international community to expedite commitments of the necessary resources for, and to organize the speedy training and deployment of, the reinforced UNAMIR operation, with the mandate of protecting civilian populations at risk in Rwanda;

(5) strongly urges the President and the international community to expedite assistance needed for humanitarian operations in Rwanda, and neighboring states, for the support of Rwandan refugees;

(6) commends France and Senegal for cooperating with the Secretary General towards the fulfillment of the objectives of the United Nations in Rwanda; and

(7) urges France and Senegal pursuant to the United Nations Security Council resolution of June 22, 1994, to maintain the humanitarian character of * * *

* * * * *

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2218

Mr. NUNN (for Mr. LAUTENBERG, Mr. SASSER, Mr. PRESSLER, and Mr. DASCHLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 200, between lines 8 and 9, insert the following:

SEC. 1017. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996, the Department of Defense plans to close or reduce United States military presence at 867 military sites overseas.

(3) Most of the overseas military sites announced for closure are in Europe where the United States has already closed 434 such sites.

(4) When the United States closes military sites in Europe, the United States brings the military personnel home but leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, and most of that was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in such improvements.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure of NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects which are identified on costs of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the congressional defense committees (and one additional copy to each of the Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives) a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraph:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.".

(2) Such section is amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement that contains the following matters:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

DODD (AND OTHERS) AMENDMENT NO. 2219

Mr. NUNN (for Mr. DODD for himself, Mr. LIEBERMAN, and Mr. D'AMATO) proposed an amendment to the bill S. 2182, supra; as follows:

On page 14, line 11, strike out "$1,058,781,000" and insert in lieu thereof "$1,073,781,000".

On page 15, line 9, strike out "$6,602,994,000" and insert in lieu thereof "$6,587,994,000".

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2220

Mr. NUNN (for Mrs. FEINSTEIN for herself, Mr. INOUYE, Mrs. BOXER, Mr. BUMPERS, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. PELL, Mr. WOFFORD, Mr. KERRY, and Mr. COHEN), proposed an amendment to the bill S. 2182, supra; as follows:

On page 47, after line 20, insert the following new section:

SEC. 235. SMALL BUSINESS DEFENSE CONVERSION GUARANTEED LOANS.

(a) AUTHORIZATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (k)", and inserting "paragraphs (1) and (2)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Act of 1992, as subsection (l);

(3) in subsection (l), as so redesignated, by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(4) in subsection (n)—

(A) by striking "(n) There" and inserting "(3) There" and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraphs (1) and (2)";

(5) in subsection (m), by inserting after paragraph (1), the following new paragraph:

"(2) The Administration is authorized to make not more than $1,000,000,000 in loans on a guaranteed basis, in accordance with section 7(a)(21), such amount to remain available until expended.";

(6) by redesignating subsection (o) as subsection (n); and

(7) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

(b) TECHNICAL CLARIFICATION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(c) JOB CREATION AND COMMUNITY BENEFIT.—Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that have substantial potential for stimulating new economic activity in communities most impacted by reductions in Federal defense expenditures.".

(d) AUTHORITY TO TRANSFER APPROPRIATIONS.—Of the amount authorized to be appropriated pursuant to section 201(4), $27,400,000 may be transferred by the Secretary of Defense, to the extent provided in an act appropriation funds for the Department of Defense, to the Small Business Administration for the purpose of providing loan guarantees under section 7(a)(21)(A) of the Small Business Act, such amount to remain available until expended.

KENNEDY (AND OTHERS) AMENDMENT NO. 2221

Mr. NUNN (for Mr. KENNEDY for himself, Mr. BINGAMAN, and Mr. DOMENICI) proposed an amendment to the bill S. 2182, supra; as follows:

SEC. 204. HIGH RESOLUTION IMAGING.

Of the funds authorized to be appropriated pursuant to section 201(3), $10,000,000 shall be available for high resolution imaging of space objects using excimer lasers.

FEINGOLD (AND OTHERS) AMENDMENT NO. 2222

Mr. NUNN (for Mr. FEINGOLD for himself, Mr. BUMPERS, Mr. MATHEWS, and Mr. GRASSLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 186, add the following between lines 14 and 15: "(c) Evaluation of the Uniformed Services University of the Health Sciences.

(1) GAO report.—By June 1, 1995, the Comptroller General of the United States shall submit to the appropriate Committees of the Congress a detailed report that—

i. compares the cost of obtaining physicians from the Uniformed Services University of the health Sciences with other sources of military physicians;

ii. assesses the retention rate needs of the military for physicians in relation to the respective retention rates of Uniformed Services University of the Health Sciences physicians and physicians obtained from other sources and the factors which contribute to retention rates among military physicians obtained from all sources;

iii. reviews the quality of the medical education provided at the Uniformed Services University of the Health Sciences with the quality of medical education provided by other sources of military physicians;

iv. reviews the overall issue of the special needs of military medicine and how these special needs are being met by Uniformed Services University of Health Sciences physicians and physicians obtained from other sources;

v. assesses the extent to which the Uniformed Services University of the Health Sciences has responded to the 1990 report of the Inspector General of the Department of Defense and make recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the Uniformed Services University of the Health Sciences, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military medicine identified in the 1990 report; and,

vi. makes such recommendations as the Comptroller General deems appropriate.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2223

Mr. NUNN (for Mrs. FEINSTEIN, for herself, Mr. BINGAMAN, Mr. ROTH, and

Mr. SASSER) proposed an amendment to the bill S. 2182, supra; as follows:

On page 59, between lines 9 and 10, insert the following:

SEC. 250. ADVANCED THREAT RADAR JAMMER.

(a) LIMITATION REGARDING JOINT DEVELOPMENT PROGRAM WITH CERTAIN FOREIGN ENTITIES.—The Secretary of Defense may not negotiate or enter into any agreement with, nor accept funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) MATTERS COVERED BY REVIEW AND REPORT.—The matters relating to the program referred to in subsection (a) that are required to be covered by the review and report are as follows:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technologies in regions of potential conflict.

(c) INAPPLICABILITY TO MAJOR ALLIES OF THE UNITED STATES.—This section does not apply with respect to a major ally of the United States.

(d) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2224

Mr. NUNN (for Mr. ROCKEFELLER, for himself, Mr. RIEGLE, Mr. DODD, Mr. JEFFORDS, Mr. DASCHLE, Mr. KOHL, Mr. BRADLEY, Mr. KERRY, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. CAMPBELL, and Mr. MATHEWS) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) EPIDEMIOLOGICAL STUDY.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out the study described in paragraph (2).

(2) NATURE OF STUDY.—The purpose of the study referred to in paragraph (1) is to determine the nature and scope of the illnesses and symptoms suffered by the individuals referred in paragraph (3) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War.

(3) INDIVIDUALS COVERED BY STUDY.—Paragraph (2) applies to the following individuals:

(A) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(B) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(C) Where appropriate, individuals who were employees of contractors of the Department in that theater during that period.

(D) Where appropriate, the spouses and children of individuals described in subparagraph (A).

(4) STUDY DESIGN.—The study required under this subsection shall be designed—

(A) to assess the extent, if any, of the association between—

(i) the illnesses and symptoms suffered by individuals referred to in paragraph (3);

(ii) the exposure of the individuals referred to in subparagraphs (A), (B), and (C) of that paragraph to chemical and biological agents, drugs and vaccines, endemic biological diseases, pesticides, toxins, and other potentially hazardous materials; and

(iii) the experiences of such individuals with stress-producing battlefield and wartime conditions;

(B) to identify risk factors for predicting the illnesses or symptoms relating to such exposure that will arise within 3 years of the arrival of an individual referred to in subparagraph (A), (B), or (C) of paragraph (3) in the Southwest Asia theater of operations;

(C) to determine—

(i) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals referred to in paragraph (3), including—

(I) the incidence, prevalence, and nature of the illnesses and symptoms of such individuals before the commencement of the period of the Persian Gulf War and the incidence, prevalence, and nature of the illnesses of such individuals after the end of that period; and

(II) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of that period and of any children conceived by such individuals during or after the end of that period; and

(ii) the incidence, prevalence, and nature of illnesses and symptoms of other individuals or groups of individuals, if any, who may suffer from an illness or symptom as a result of the service or employment of any person or group of persons in the Southwest Asia theater of operations during the Persian Gulf War; and

(D) to evaluate a comparison sample or to evaluation any other matter that the Secretary or the entity determines appropriate to the purposes of the study.

(5) REPORTS.—

(A) INTERIM REPORTS.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report on the results of the study carried out under this subsection.

(B) FINAL REPORT.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study.

(C) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(b) STUDIES OF HEALTH CONSEQUENCES OF ADMINISTRATION OF PYRIDOSTIGMINE BROMIDE.—

(1) IN GENERAL.—The Secretary of Defense shall award a grant under this subsection to one or more non-Federal entities selected for the award under subsection (c). The purpose of a grant is to permit the entity receiving the award to carry out a study or studies to determine the following:

(A) The long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War.

(B) The short-term and long-term health consequences of the administration of pyridostigmine bromide under the chemical nerve agent pretreatment program of the Department of Defense and exposure to pesticides, environmental toxins, and other hazardous substances during battlefield conditions that prevailed in the Southwest Asia theater of operations during the Persian Gulf War.

(2) STUDIES.—The Secretary shall provide that an entity awarded a grant under this subsection shall carry out a study described in paragraph (3) or (4).

(3) RETROSPECTIVE STUDY.—A study referred to in paragraph (2) is a retrospective study on members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War in order to determine the following:

(A) The nature of the undiagnosed and chronic illnesses suffered by such members.

(B) The degree of association between such illnesses and—

(i) use of pyridostigmine bromide over a short period of time (as determined by the Secretary) during the Persian Gulf War;

(ii) use of pyridostigmine bromide over an extended period of time (as so determined) during that war; or

(iii) use of no pyridostigmine bromide.

(C) The degree of association between—

(i) such illnesses;

(ii) each extent of use of pyridostigmine bromide described in subparagraph (B);

(iii) receipt of other vaccinations or medications; and

(iv) exposure to pesticides, organophosphates, or carbamates.

(4) ANIMAL MODEL STUDY.—A study referred to in paragraph (2) is also a study using appropriate animal research models in order to determine whether use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals results in increased toxicity in animals and is likely to have a similar effect on humans.

(5) REPORTS.—

(A) ANIMAL STUDY REPORT.—Not later than January 1, 1996, the Secretary shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the study carried out under paragraph (4).

(B) INTERIM REPORTS ON RETROSPECTIVE STUDY.—Not later than each of July 1, 1995, and July 1, 1996, the Secretary shall submit to the committees referred to in subparagraph (A) an interim report on the results of the study carried out under paragraph (3).

(C) FINAL REPORT ON RETROSPECTIVE STUDY.—Not later than January 1, 1998, the Secretary shall submit to the committees referred to in subparagraph (A) a final report on the results of the study carried out under paragraph (3).

(D) FORM OF REPORTS.—The reports submitted under this paragraph shall be submitted in unclassified form.

(c) SELECTION OF STUDY ENTITIES.—

(1) IN GENERAL.—The Secretary of Defense shall select entities to which to award grants for the studies described in subsections (a) and (b) in accordance with this subsection.

(2) SUBMITTAL OF PROPOSALS.—An entity seeking to carry out a study under a grant under subsection (a) or (b) shall submit to the Secretary the following proposals:

(A) A proposal for a pilot study in order to determine the research design and research instrument to be used in the study.

(B) A proposal for the study.

(3) INDEPENDENT REVIEW.—The Secretary shall ensure that individuals described in paragraph (4)—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining whether or not the proposal—

(i) addresses adequately the purposes of the study; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar studies carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities to carry out the study.

(4) REVIEWING INDIVIDUALS.—Individuals referred to in paragraph (3) are any individuals who, as determined by the Secretary—

(A) are not employees of the Federal Government;

(B) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(C) have no financial relationship with the Department of Defense or with any chemical company or pharmaceutical company whose productions may be addressed in the study.

(5) SELECTION.—The Secretary shall—

(A) select the entities that will carry out the studies described under subsections (a) and (b) from among the entities recommended for such selection under paragraph (3); and

(B) award such entities grants under the appropriate subsection.

(d) PERFORMANCE OF STUDIES.—

(1) PILOT STUDIES.—

(A) IMPLEMENTATION.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the pilot study for such study in accordance with the proposal for the pilot study submitted to the Secretary under subsection (c)(2)(A).

(B) RESPONSE TO RESULTS.—If an entity determines as a result of a pilot study under subparagraph (A) that revisions to the study proposed by the entity are necessary in order to meet the purposes of the study under this section, the entity shall submit to the Secretary a proposal for such revisions to the study.

(C) FINAL APPROVAL.—The Secretary shall—

(i) review any revisions to a proposal to a study that are submitted to the Secretary under subparagraph (B); and

(ii) approve the proposal for the study, as so revised, if the Secretary determines that the proposal meets the purposes of the study under this section.

(2) STUDIES.—An entity to which the Secretary awards a grant for a study under subsection (a) or (b) shall carry out the study in accordance the proposal for the study under this section.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Veterans Affairs, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the Federal Government.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $10,000,000 shall be available for purposes of awarding grants for the studies described in subsections (a) and (b). Such funds shall be available for such purpose until expended.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

SEC. 1069. GRANTS FOR RESEARCH INTO THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) The Secretary of Defense shall award grants to appropriate nongovernmental entities for purposes of permitting such entities to carry out research to determine—

(A) the nature and causes of any illnesses suffered by the individuals referred to in paragraph (2) as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(B) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(C) the appropriate treatment for such illnesses.

(2) The individuals referred to in paragraph (1)(A) are the following individuals:

(i) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(ii) Civilian employees of the Department of Defense who were employed by the Department in that theater of operations during that period.

(iii) Employees of contractors of the Department who were employed in that theater of operations during that period.

(iv) The spouses and children of the individuals referred to in clauses (i) through (iii).

(3) In carrying out research under this section, such entities shall give particular consideration to the following:

(A) Illnesses or other effects associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents.

(B) Endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities).

(C) Illnesses or other effects associated with ingestion of silica or sand.

(D) Assessment of risks to reproductive capacity arising from the illnesses and diseases referred to in subparagraphs (A) through (C).

(E) Pediatric disorders.

(F) Birth deficiencies.

(G) Post-traumatic stress disorder.

(H) Somatoform disorders.

(I) Chronic fatigue syndrome.

(J) Multiple chemical sensitivities.

(b) AWARD PROCESS.—(1) The Secretary of Defense shall award grants under this section in consultation with the Secretary of Health and Human Services.

(2) An entity seeking a grant under this section to carry out the research described in subsection (a)(1) shall submit to the Secretary a proposal for the research.

(3) The Secretary shall ensure that appropriate individuals who are not employees of the Federal Government—

(A) review each proposal submitted to the Secretary under paragraph (2) for purposes of determining that the proposal—

(i) addresses adequately the purposes of the research for which the proposal is submitted; and

(ii) meets the technical, scientific, and peer review requirements that apply to similar research carried out under the direction of the Secretary of Health and Human Services; and

(B) submit to the Secretary recommendations for the selection by the Secretary of one or more entities so determined as recipients of a grant under subsection (a).

(4) The Secretary shall award grants under this section to entities selected by the Secretary for that purpose from among the entities identified in the recommendations under paragraph (3)(B).

(5) In awarding an entity a grant under paragraph (4), the Secretary shall ensure that the entity—

(A) carry out the research covered by the grant in accordance with the proposal submitted to the Secretary under paragraph (2); and

(B) not expose human beings to hazardous agents or materials as a result of the research.

(c) REPORTS.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of any research carried out under a grant awarded under this section.

(2) The Secretary of Defense and the Secretary of Health and Human Services shall submit a report under paragraph (1) on each of March 1, 1995, October 1, 1995, October 1, 1996, and October 1, 1997.

(3) Each report submitted under this subsection shall be submitted in unclassified form.

(d) FUNDING.—(1) Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for purposes of awarding grants under this section. Such funds shall be available for such purpose until expended.

(2) For each fiscal year in which activities under the study under this section will continue, the Secretary of Defense shall provide in the documents submitted to Congress in connection with the budget of the President for the fiscal year a request for such funds as the Secretary determines necessary in order to award grants under this section during that fiscal year.

SEC. 1070. COMPATIBILITY OF HEALTH REGISTRIES

(a) COMPATIBILITY OF HEALTH REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure that—

(1) the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry; and

(2) information on individuals who register with the Department of Defense is provided to the Department of Veterans Affairs for incorporation into Persian Gulf War Veterans Health Registry.

MITCHELL (AND COHEN) AMENDMENT NO. 2225

Mr. NUNN (for Mr. MITCHELL, for himself, and Mr. COHEN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 306, between lines 7 and 8, insert the following:

(F) A parcel of real property, including any improvements thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

On page 311, between lines 22 and 23, insert the following:

(F) In the case of the parcel referred to in subparagraph (F) of that subsection, by conveying without consideration all right, title, and interest of the United States in and to the parcel to the Town of Harpswell, Maine.

REID (AND BRYAN) AMENDMENT NO. 2226

Mr. NUNN (for Mr. REID, for himself, and Mr. BRYAN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 254, between lines 14 and 15, insert the following:

SEC. 2106. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing referred to in paragraph (1) of that subsection is feasible and desirable, the Secretary should—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as project for the construction of a defense access road under section 210 of title 23, United States Code.

LEVIN AMENDMENT NO. 2227

Mr. NUNN (for Mr. LEVIN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 63, after line 25, insert the following:

SEC. 307. AIR NATIONAL GUARD FIGHTER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Bottom-Up Review force structure proposal would accomplish most of the remaining reductions in the total number of Air Force general purpose fighter wings by reducing the Air National Guard and Air Force Reserve fighter force from 10 wings to 7 wings.

(2) The current plan for implementing the reduction referred to in paragraph (1) is to reduce the number of fighter aircraft in each Air National Guard fighter unit from 24 or 18 primary aircraft authorized to 15 primary aircraft authorized and to convert some Air National Guard fighter units to other purposes.

(3) The number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994.

(4) The Commission on Roles and Missions of the Armed Forces established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 111 note; 107 Stat. 1738) is required to submit to Congress a report under section 954(b) of such Act on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(5) The Commission is not expected to submit the report until at least the middle of fiscal year 1995.

(6) The report of the Commission should contain a review of and recommendations on the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to such units and on requirements for resources for training of such units.

(b) REQUIREMENT.—

(1) After submission of the report referred to in paragraph (3), the Secretary of Defense shall review its findings on the role and requirements for general purpose fighter units of the Air National Guard, and shall complete within 30 days a study which recommends the appropriate level of primary aircraft authorized (PAA) for such units, following which, if the Secretary determines changes in that level are appropriate, he may notify the Congress of his determination and he may seek any reprogramming of funds that he considers appropriate to ensure that such changes are implemented.

PRYOR (AND OTHERS) AMENDMENT NO. 2228

Mr. NUNN (for Mr. PRYOR, for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. METZENBAUM, Mr. PELL, Mrs. BOXER, and Mr. RIEGLE) proposed an amendment to the bill S. 2182, supra; as follows:

On page 289, between lines 12 and 13, insert the following:

SEC. 2813. SENSE OF SENATE ON THE ACTIVITIES OF THE SECRETARY OF DEFENSE IN SUPPORT OF COMMUNITIES AFFECTED BY BASE CLOSURES.

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

(1) The closure or realignment of a major military installation can cause severe economic disruption to the host community for the installation.

(2) Communities affected by the closure of a major military installation under a base closure law dedicate significant time, effort, and resources to planning for the economic redevelopment of the installation.

(3) The Federal Government can ease the disruption caused by the closure of a military installation by working cooperatively with the host community for the installation to implement the community's redevelopment plan for the installation.

(4) In recent years, the Federal Government has not always provided sufficient assistance to communities affected by the closure of a military installation under a base closure law in the efforts of such communities to provide for the economic redevelopment of the installation.

(5) In July 1993, the President issued a five-point plan for revitalizing base closure communities which emphasized the economic recovery of communities affected by the closure of a military installation under a base closure law.

(6) In November 1993, Congress agreed to the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, in order to implement the plan referred to in paragraph (5) and to provide other assistance to communities attempting to redevelop military installations approved for closure under a base closure law.

(7) The Secretary of Defense is accepting public comment on the guidelines for implementation of the provisions of law referred to in paragraph (6).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) ensure that the regulations implementing the provisions of subtitle A of title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1909), and the amendments made thereunder, reflect the intent of Congress that, to the maximum extent practicable, the Secretary take into consideration the redevelopment plans of affected communities when taking actions or implementing decisions on the closure of a military installation approved for closure under a base closure law;

(2) ensure that the regulations implementing such provisions reflect the intent of Congress to encourage and promote cooperation and dialogue between the Federal Government and communities affected by the closure of an installation throughout the base closure process; and

(3) develop a system of incentives or awards to encourage Department of Defense personnel to provide greater assistance to

and cooperation with communities affected by the closure of an installation during the ongoing effort of revitalizing the economy of such communities.

GRASSLEY AMENDMENT NO. 2229

Mrs. HUTCHISON (for Mr. GRASSLEY) proposed an amendment to the bill S. 2182, supra; as follows:

On page 190, after line 20, insert the following:

SEC. 1004. SUBMISSION OF FUTURE-YEARS DEFENSE PROGRAM IN ACCORDANCE WITH LAW.

If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program and, after consultation with the Inspector General of the Department of Defense, a certification that such program satisfies the requirements of section 221(b) of title 10, United States Code, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of the 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program together with such a certification, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program and certification are submitted to Congress. If the Secretary submits to Congress the fiscal year 1996 future-years defense program, together with such a certification, during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program and certification.

BUMPERS AMENDMENT NO. 2230

Mr. NUNN (for Mr. BUMPERS) proposed an amendment to the bill S. 2182, supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC. 4. Limitation on obligation of funds for Mark-6 guidance sets for Trident II missiles.

(a)—LIMITATION. Until the certification in subsection (b) has been provided to the congressional defense committees, funds appropriated for fiscal year 1995 for the Navy may not be obligated to procure more than 14 Mark-6 guidance sets for Trident II missiles.

(b)—CERTIFICATION. Before the Secretary of Defense may obligate funds for Mark-6 guidance sets in addition to the 14 sets authorized in subsection (a), he shall certify to the congressional defense committees that failure to procure such additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

MCCAIN (AND OTHERS) AMENDMENT NO. 2231

Mrs. HUTCHISON (for Mr. MCCAIN, for himself, Mr. GLENN, and Mr. THURMOND) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. XXXX—SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate would consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of the Defense only if:

(1) the project is consistent with past actions of the Base Realignment and Closure process;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

NUNN (AND OTHERS) AMENDMENT NO. 2232

Mr. NUNN (for himself, Mr. THURMOND, Mrs. BOXER, Mr. BOREN, Mr. BUMPERS, Mr. CAMPBELL, Mr. DECONCINI, Mr. D'AMATO, Mr. DASCHLE, Mr. FAIRCLOTH, Mr. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HATFIELD, Mr. JOHNSTON, Mr. KEMPTHORNE, Mr. NICKLES, Mr. PRESSLER, Mr. SASSER, Mr. SPECTER, Mr. STEVENS, mr. WELLSTONE, and Mr. WALLOP) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, line 21, strike out "$393,550,000" and insert in lieu thereof "$396,750,000".

On page 249, in the table below line 24, strike out "$5,300,000" in the "Amount" column with respect to the item relating to Fort Knox, Kentucky, and insert in lieu thereof "$8,500,000".

On page 252, line 15, strike out "$1,668,086,000" amd insert in lieu thereof "$1,671,286,000".

On page 252, line 18, strike out "$393,550,000" and insert in lieu thereof "$396,750,000".

On page 254, line 22, strike out "$224,180,000" and insert in lieu thereof "$239,265,000".

On page 254, in the table below line 25, above the line relating to California insert

Arizona, Yuma Marine Corps Air Station, $15,085,000.

On page 258, line 2, strike out "$1,492,264,000" and insert in lieu thereof "$1,507,349,000".

On page 258, line 5, strike out "$224,180,000" and insert in lieu thereof "$239,265,000".

On page 262, line 1, strike out "$398,904,000" and insert in lieu thereof $412,004,000".

On page 262, in the table below line 4, insert:

(a) after the item relating to Eielson Air Force Base, insert

Elmendorf Air Force Base, $5,000,000.

(b) after the item relating to Peterson Air Force Base, insert

United States Air Force Academy, $3,600,000.

(c) after the item relating to Pope Air Force Base, insert

North Dakota, Ellsworth Air Force Base, $4,500,000.

On page 264, line 1, strike out "$163,348,000" and insert in lieu thereof "$172,310,000".

On page 264, in the table below line 3, after the item relating to Edwards Air Force Base, insert

Los Angeles Air Force Base, 50 units, $8,962,000.

On page 266, line 1, strike out "$1,572,801,000" and insert in lieu thereof "$1,594,863,000".

On page 266, line 5, strike out "$398,904,000" and insert in lieu thereof "$412,004,000".

On page 266, line 24, strike out "$234,393,000" and insert in lieu thereof "$243,355,000".

On page 268, line 18, strike out "$397,700,000" and insert in lieu thereof "$413,700,000".

On page 268 in the table below line 20, after the item relating to Eglin Auxiliary Field No. 9, Florida insert

Fort Bragg, North Carolina, $16,000,000.

On page 270, line 21, strike out "$3,230,058,000" and insert in lieu thereof "$3,246,058,000".

On page 270, line 24, strike out "$136,700,000" and insert in lieu thereof "$152,700,000".

On page 276, line 15, strike out "$146,447,000" and insert in lieu thereof "$180,312,000".

On page 276, line 16, strike out "$16,470,000" and insert in lieu thereof "$37,870,000".

On page 276, line 18, strike out "$6,955,000" and insert in lieu thereof "$17,355,000".

On page 276, line 21, strike out $224,053,000" and insert in lieu thereof "$240,003,000".

On page 276, line 23, strike out "$28,190,000" and insert in lieu thereof $43,840,000".

On page 277, line 10, strike out "$286,693,000" and insert in lieu thereof "$287,958,000".

NUNN AMENDMENT NO. 2233

Mr. NUNN proposed an amendment to the bill S. 2182, supra; as follows:

On page 14, line 12, strike out "$723,909,000" and insert in lieu thereof "$693,909,000".

On page 14, line 15, strike out "$840,361,000" and insert in lieu thereof "$870,361,000".

On page 18, line 5, insert before "Funds" the following: "(a) LEASE AUTHORIZED.—".

On page 18, after line 24, insert the following:

(b) WAIVER AUTHORITY.—Section 1024(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1460) is amended by striking out "section 1439(b)(2)" and inserting in lieu thereof "section 1439".

On page 27, line 4, strike out "set forth in title VI of" and insert in lieu thereof "and requirements set forth in".

On page 106, strike out lines 15 through 21, and insert in lieu thereof the following: of section 2535 of title 10, United States Code, is amended by striking out subparagraph (G) and inserting in lieu thereof the following:

On page 106, line 25, strike out "transfer," and all that follows through "training school" on page 107, line 1, and insert in lieu thereof "transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school".

On page 107, line 6, strike out "SEPTEMBER 30," and insert in lieu thereof "DECEMBER 31,".

On page 107, line 8, strike out "September 30," and insert in lieu thereof "December 31,".

On page 123, line 13, strike out "of an Alaska Native" and all that follows through "a person in," on line 15 of such page, and insert in lieu thereof "or recognition of an individual referred to in subsection (c) in".

On page 123, line 16, strike out "person" and insert in lieu thereof "individual".

On page 123, line 22, strike out "(1) Subsection (b)(5) applies to an Alaska Native" and insert in lieu thereof "Subsection (b)(5) applies to a member of the Alaska Army National Guard".

On page 123, line 25, strike out "Alaska." and insert in lieu thereof "Alaska, by paved road.'.".

On page 124, strike out lines 1 through 4.

On page 252, line 15, strike out "$1,668,086,000" and insert in lieu thereof $1,731,286,000".

On page 270, line 21 strike out $3,230,058,000" and insert "$3,252,058,000".

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. TECHNICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(5)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6) Section 1141 is amended by striking out "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "after November 29, 1993,".

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2399 is amended—

(A) in subsections (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (e)(3)(B), by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for";

(C) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(D) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(10) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(11)(A) Sections 2540 and 2541, as added by section 822(a) of Public Law 103–160 (107 Stat. 1705), are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(12) Section 2865(a)(4) is amended by adding a period at the end.

(13) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(14) Section 9511 is amended by striking out "In this subchapter" and inserting in lieu thereof "In this chapter".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(3) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(4) Section 931(c)(1) (107 Stat. 1734) is amended by inserting closing quotation marks before the period at the end.

(5) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(6) Section 1433(d) (107 Stat. 1835) is amended by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (b)(1)".

(7) Section 1606(b)(4) (107 Stat. 1847) is amended by striking out "section 1604(e)" and inserting in lieu thereof "section 1605(e)".

(8) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(9) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(c) OTHER LAWS.—(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

DOLE AMENDMENT NO. 2234

Mrs. HUTCHISON (for Mr. DOLE) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place insert the following new section:

SEC. . MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom-Up Review to properly size and structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Bottom-Up Review itself cites the need for the Armed Forces of the United States to be large enough to prevail in two major regional conflicts, similar in nature to the 1991 war against Iraq, "nearly simultaneously;"

(3) Whereas the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf;

(4) Whereas the United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq;

(5) Whereas the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades;

(6) Whereas the Bottom-Up Review recognizes that approximately 100,000 members of the United States Armed Forces will be stationed in Europe;

(7) Whereas the Bottom-Up Review recognizes that sizable numbers of U.S. forces could be involved in peace enforcement and intervention operations at any one time;

(8) Whereas the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses;

(9) Whereas military planners calculate that the number of U.S. forces needed to help defeat an invasion of South Korea by North Korea may exceed 430,000 U.S. military personnel;

(10) Whereas the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously;

(b) SENSE OF CONGRESS.—It is the Sense of Congress:

(1) that the force structure identified in the Bottom-Up Review may not be used to limit the size or structure of the force United States military commanders may request in preparation for a major regional contingency on the Korean peninsula;

(2) and that the Chairmen and Ranking members of the House and Senate Committees on Armed Services and Chairman and Ranking members of the House and Senate Appropriations Subcommittees on Defense should receive regular briefings from the Department of Defense on the situation on the Korean peninsula;

(3) and that the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and for other military operations.

ROBB AMENDMENT NO. 2235

Mr. NUNN (for Mr. ROBB) proposed an amendment to the bill S. 2182, supra; as follows:

On page 138, between lines 11 and 12, insert the following:

SEC. 634. REQUIREMENT FOR EQUAL TREATMENT OF CIVILIAN AND MILITARY RETIREES IN THE EVENT OF DELAYS IN COST-OF-LIVING ADJUSTMENTS.

(a) CIVIL SERVICE ANNUITIES.—(1) Section 8340 of title 5, United States Code, is amended—

(A) in subsection (b), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (h)"; and

(B) by adding at the end the following new subsection:

"(h)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(2) Section 8462 of title 5, United States Code, is amended—

(A) in subsection (b)(1), by striking out "Except as provided in subsection (c)" and inserting in lieu thereof "Except as provided in subsections (c) and (f)"; and

(B) by adding at the end the following new subsection:

"(f)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 is to take effect, then, notwithstanding subsection (b)(1) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier of the two dates.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of the retired pay of members and former members of the uniformed services taking effect under section 1401a of title 10 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier of the two months.

"(3) For purposes of this subsection, a cost-of-living adjustment of the retired pay of members and former members of the uniformed services under section 1401a of title 10 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and section 1401a(b)(1) of title 10, the cost-of-living adjustments under this section and under section 1401a of title 10 would take effect on the same date.".

(b) UNIFORMED SERVICES RETIRED PAY.—Section 1401a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting (except as provided in subsection (i))" after "Effective on December 1 of each year"; and

(2) by adding at the end the following new subsection:

"(i)(1) Whenever, by law, there is a difference between the date on which a cost-of-living adjustment under this section is to take effect and the date on which a corresponding cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 is to take effect, then, notwithstanding subsection (b) and any other provision of law, the date on which the cost-of-living adjustment under this section takes effect shall be the earlier (or earliest) such date.

"(2) Whenever, by law, there is a difference between the first month for which a cost-of-living adjustment taking effect under this section is payable and the first month for which a corresponding cost-of-living adjustment of annuities of retired employees of the United States taking effect under section 8340 or 8462 of title 5 is payable, then the first month for which the cost-of-living adjustment under this section is first payable shall (notwithstanding the effective date provided for such adjustment in subsection (b)(1) of this section or in any other law) be the earlier (or earliest) such month.

"(3) For purposes of this subsection, a cost-of-living adjustment of annuities of retired employees of the United States under section 8340 or 8462 of title 5 corresponds to a cost-of-living adjustment under this section when, without regard to any provision of law other than subsection (b)(1) of this section and sections 8340(b) and 8462(b)(1) of title 5, the cost-of-living adjustments under this section and under sections 8340 and 8462 of title 5 would take effect on the same date.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1998.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

STEVENS AMENDMENT NO. 2236

Mrs. HUTCHISON (for Mr. STEVENS) proposed an amendment to the bill (S. 2243) to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada has recently announced that it will require all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage off the Pacific Coast of Canada;

(3) this action is inconsistent with international law, including the United Nations Convention on the Law of the Sea, and in particular Article 26 of that Convention, which specifically prohibits such fees, and threatens the safety of United States commercial fishermen who may seek to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada has announced that the license fee may only be paid in two ports on the Pacific Coast of Canada, and must be paid in person or in advance by mail;

(6) significant expense and delay would be incurred by a commercial fishing vessel of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act as presently enacted;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country, provided the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that continuation of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate until Canada rescinds the fee;

(12) the President should immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States vessels in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT.

The Fishermen's Protective Act of 1967 (P.L. 90-482), as amended, is further amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994 in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days of the date of payment of the fee, or within 90 days of the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) The provisions of this section shall remain effect until October 1, 1995.".

SEC. 3. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking "The amount fixed by the Secretary shall be predicated upon at least 33⅓ per centum of the contribution by the Government.".

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

SEC. 4. TECHNICAL CORRECTION.

(a) Section 15(a) of Public Law 103-238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(b) The amendment made by subsection (a) shall be effective on and after April 30, 1994.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a markup on Thursday, June 30, 1994, beginning at 3:40 p.m., in 485 Russell Senate Office Building on S. 1757, the American Health Security Act; S. 1936, the Indian Integrated Resources Management Planning Act; S. 2067, to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services and for other purposes; Indian education amendments to S. 1513, Improving America's Schools Act; and, for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and administration will meet at 9:30 a.m., in SR-301, Russell Senate Office Building, on Thursday, July 28, 1994. The committee will hold a hearing to receive testimony on Senate Resolution 230, introduced by Senator WOFFORD, to designate and assign two permanent Senate offices to each State.

Senators who wish to testify or submit a statement for the hearing record are requested to have their staff contact Gail Martin, chief clerk (x40299) or Mark Mackie, minority counsel (x43448).

For further information regarding this hearing, please contact Ms. Martin.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. PRESIDENT. I ask unanimous consent that the Committee on Finance be permitted to meet today, Friday, July 1, 1994, at 11:45 a.m., to consider the Health Security Act of 1994.

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

ADDITIONAL STATEMENTS

TELECOMMUNICATIONS: THE NEW FRONTIER

• Mr. DASCHLE. Mr. President, we are standing at the threshold of a new frontier. This frontier is being defined and redefined by the rapid development and deployment of telecommunications technology. Change is rapid and dramatic not only because of the technology itself, but also because of its potential to touch tangibly each and every American through the development of what is commonly referred to as the "information highway."

As a nation, we are benefiting from the advantages of universal telecommunications service, and this concept continues to serve as the compass leading to a better future. Telecommunications has the power to change the way we learn, work, and play, and, by means of these changes, to improve our lives. What's more, this technology offers rural Americans the chance to level the playing field in business, health care, and education like never before. Already we have seen many examples of advanced communications technologies providing a host of benefits to rural America.

I would like to applaud the efforts of all those who have offered proposals and suggestions for enhancing the development of the information highway. In particular, Senator HOLLINGS, chairman of the Senate Commerce Committee, deserves great credit for putting this issue on our legislative radar screen. And Senators BREAUX and PACKWOOD have focused on issues that merit further attention in this debate.

I believe those interested in our Nation's telecommunications future share the same goals—universal service, open access to networks, and increased competition in the marketplace. The question we all must ponder is how to most effectively, and fairly, achieve them. I am hopeful that we can work together to craft and enact a proposal that will further these objectives.

Increasing competition within the phone, cable, and other communications networks is one of the most fundamental steps we can take to expedite the construction of the information highway. While almost everyone seems to agree on this point, significant differences arise when the discussion falls to how best to accomplish this goal.

The issue of relative market power and the quality of the telecommunications "playing field" is an important issue that deserves serious reflection. Nevertheless, it is imperative that we move quickly to open the doors to increased competition in all markets. Senators BREAUX and PACKWOOD have taken this issue head on by proposing that all competitors be treated equally from the start under the rules governing entry into other markets. I believe there is merit to their basic argument. My objective is to achieve competitive balance as part of any final legislative determination.

In my view, the Breaux-Packwood proposal makes the most progress toward opening markets and increasing

competition. The Hollings bill, meanwhile, makes a particularly strong contribution toward the goal of universal service. It is my hope that the Senate can work together in a bipartisan effort to craft a compromise that draws on the strengths of all proposals that have been offered.

To this end, I would like to commend the House of Representatives on their success in passing comprehensive and bipartisan telecommunications legislation earlier this week. Their decisive action has shown that it is possible, through careful consultation and compromise, to craft legislation in this area that is considered workable by a broad range of interests.

Congress' job is to set the policy that will allow and enhance the rapid development of the information highway and enable us to bring advanced telecommunications technology into more homes, schools, hospitals, and small businesses than ever before. I look forward to constructive debate on these issues, and am hopeful that we can work together to formulate a policy that is fair, judicious, and sensitive to the legitimate concerns of all parties involved. We have an enormous challenge ahead of us. I am confident, however, that we are up to the task, and I pledge my commitment to this effort.●

PROPERTY RIGHTS TYRANNY

● Mr. CRAIG. Mr. President, we in this great Nation have held certain truths to be self-evident since the Declaration of Independence was signed in 1776. This hallowed document often stands in the shadow of the other great treatise of our founding, the Constitution. But there is a cause across the West and spreading to every State in the Union which makes it necessary to pull the Declaration back into the glaring light of public scrutiny. That cause is private property rights.

As we celebrate our Declaration of Independence from the tyranny of England this Fourth of July, the truths Thomas Jefferson and others declared to be self-evident should ring out across the country.

All of us are created equal. That principle remains as profound as the day Jefferson wrote it. But there is one group of people in Idaho, and across this Nation who are not treated equally. Private property owners are the victims of an increasing tyranny. Where our forefathers experienced the tyranny of the sovereign, property owners across the Nation feel the tyranny of the bureaucracy today.

Listen to the petitions against King George of England:

> He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance.

I find it a disturbing truth that this statement used to describe the causes of our revolution more than 200 years ago also exposes the unchecked growth of the Government bureaucracy and the torrent of new regulations we see today.

The evidence is overwhelming and is being added to relentlessly. The Supreme Court announced a decision just last week in the Dolan versus City of Tigard, OR, case. The court ruled the city went too far in trying to force a plumbing shop owner to give up 10 percent of her land. The city, claiming benevolence, demanded the property for a greenway and bike path project or Mrs. Dolan would not get a building permit to expand her shop and contribute more to the local economy. This is just the latest in a series of government encroachments being documented in the Federal courts across this country.

The British king was also accused of granting his Parliament in London the powers of lawmaking rightly belonging to the legislative assemblies in the colonies. The Declaration states, "He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; * * *"

This startling statement also describes scores of innocent landowners threatened today with fines and court orders until they give portions of their land to the government in the name of preservation. This insidious form of government coercion, whether by the City of Tigard, or by gun-toting Federal Fish and Wildlife Service agents is nothing short of a grievous violation of the principles we've esteemed for more than two centuries.

Our Declaration of Independence also condemns King George: "For imposing Taxes on us without our Consent." And yet, private farm and rangeland is taken out of production with no compensation under wetlands, or endangered species regulations. I say to the patriotic Americans everywhere in this great country, this defines taxation without representation, one of the most important core issues in our revolution.

Another of the self-evident truths is that all are endowed with certain "unalienable Rights": Life, Liberty, and the pursuit of Happiness.

As I travel across my State I see countless loggers and their families being systematically denied the pursuit of happiness. They are the good, decent, hardworking Americans in the forests of Idaho and other parts of the country whose livelihood has been stolen from them.

The Congress voted to protect plants and animals under the Endangered Species Act. The unelected bureaucrats have extended that protection beyond the scope of what Congress intended. As a result, owls are valued more highly than people who have the explicit right to pursue their own happiness.

In a similar scenario, farmers are afraid to allow parts of their land to lie fallow for regeneration. They fear a puddle might form somewhere, leading Federal agents to come and declare that land unusable by humans. These farmers are good stewards of the land, who because of the poor stewardship of the Government and the hopeless intrusion into liberty, live in fear that any given day they'll hear a knock at their door and be handed a paper which could put them off their land.

The Congress voted to protect navigable waterways from pollution. The unelected bureaucrats say that includes the low spots in all farmers' fields. The end result threatens the livelihood of people who work the land and could come to threaten our precious food supply and the pursuit of happiness for many, many other Americans.

The same men who meticulously documented the tyrannies of their day wrote a prescription for the tyrannies of ours:

> * * * That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government * * *

The Senate Private Property Rights Caucus begins the process of altering the increasingly regulatory nature of our Government. Just as the Declaration of Independence documented the oppression of King George, we seek to illustrate the tyranny of the bureaucracy. The Caucus signals a break with big government infringements and a return to the practices of life, liberty and the pursuit of happiness.

The goals of the Caucus are best summed up in the Declaration,

> That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed * * *

It's time to take back the power seized by bureaucrats and return it to the hands of the people. We seek to sow again the seeds of democracy in this great land on the anniversary of our defining moment in history.●

A VICIOUS CIRCLE

● Mr. SIMON. Mr. President, recently, Elizabeth Bettendorf wrote an article for the State Journal-Register about spousal abuse.

It is a well-written article that opens the eyes of any sensitive reader.

Among other things, she points out that in Sangamon County, where Springfield, IL is located, in 1993, there were 1,161 orders of protection issued by the courts for domestic situations. In the State of Illinois, there were 42,964.

I ask to insert into the RECORD her article, as well as a column I wrote that also mentions the statistics from her article.

[From the State Journal-Register, June 26, 1994]

LOVE AND RAGE

(By Elizabeth Bettendorf)

In the flash of the Polaroid camera, the bruises on Ann Tavender's body turn the deep, furious purple of overripe plums. On her neck, chest, upper bicep and right eye, welts bulge and darken as the blood clots beneath her pale flesh.

Strands of dark hair trickle above the swollen crescent beneath her eye, and her gaze droops downward as if she is embarrassed, startled by the click of the shutter.

Around her neck, bruises have blossomed into the shape of fingerprints where she says her abuser tried to choke her after she refused to have sex with him and another woman. She says she met him after her divorce, after she lost her job as a waitress at a country club and moved into a cheap motel.

"You're dead, bitch," was his parting promise as Tavender gunned her 1984 Grand Marquis out of the parking lot of an apartment building.

Nine months later, Tavender, armed with a hard-earned order of protection, is a nonresidential client at the Sojourn Shelter and Service, a Sangamon County-based haven for abused women and their children.

"I had black eyes all the time," she says, studying the four snapshots taken shortly after she was released from the hospital. "I think he thought the bruises were like an owner's mark that showed he was a man."

In the shadow of the recent made-for-TV arrest of ex-football star O.J. Simpson, accused of fatally stabbing his former wife and her companion, the picture of domestic violence becomes even more blurred, almost baffling.

"The thing about O.J. is that people are suddenly aware that domestic violence can exist at any level of society and that it can be fatal," explains Alice Nathan, director of Sojourn Shelter and Service. "Though the majority of our cities are lower-income, just about every profession in this community—doctors, lawyers, business owners—have been here as clients."

Founded in 1975, the shelter, now in a Victorian medical clinic turned apartment house, features dormitory-style rooms where clothes packed in a hurry are stacked in plastic garbage bags.

Its a serene place, with a farmhouse-style kitchen where a pot of coffee seems to perpetually simmer, and where children watch "101 Dalmatians" in the rose-colored parlor while their mothers sleep on the sofa.

The address is a well-kept secret, revealed only to clients or those on official business.

"They helped me get housing and furniture and sent me to different agencies to get help with my utilities," says Sherri Spencer, who fled West Virginia after her relationship turned violent.

Spencer is a gregarious, soft-hearted women who smells of Ciara cologne and whose fingernails are gnawed to nubs. She says her father, a construction company owner, used to punch her mother's face so badly that often the children didn't recognize her. Once, she says, at a gas station on North Grand Avenue, he banged his wife's head repeatedly against a wall until she started bleeding.

Sherri herself was kicked so hard by a man when she was nine months pregnant that her water broke. She eventually ended the relationship, and last year, while living in West Virginia, began dating a cafeteria cook she had known as a teenager. After they were engaged in March, he, too, turned mean without warning, she says.

"At first he seemed so nice—he bought me a crock pot and shower curtain for my apartment," she recalls. "He didn't drink, smoke or mess with drugs. One day we were shopping for rafts for the children in the Big Lots store, and right there, in front of everybody, he punched me in the face because he didn't like something I said."

Sherri, who first stayed at the shelter several years ago, packed her few belongings into a U-Haul trailer and headed back to Springfield and Sojourn, where she is now living. She plans to enroll in nursing school this fall so she can get off public aid and support her three children.

"I want to get out of the system," she says. "I want to support my family, but I can't do it on $4.25 an hour."

Between July 1, 1992, and June 30, 1993, the shelter's handful of volunteers and 15-person staff offered solace, support and education to 516 women, three men and 309 children. About half the adult clients appeared in court with Sojourn legal advocates to seek orders of protection. More than 70 percent of the clients were white and between the ages of 18 and 44. Forty-seven percent identified their husbands as their abusers; 20 percent said they had been sexually abused.

Sojourn's 13-member board of directors, comprising police officers, battered women, politicians, business owners and professionals, regularly deals with domestic violence issues that linger despite public education and tougher laws.

With an operating budget last year of $443,000—made up of federal grants and programs, United Way funding, contributions and other sources—Sojourn seeks to derail the disruptive cycle of its clients' lives.

By helping women navigate the county's web of social service agencies, offering wisdom about domestic violence, or just lending a shoulder to lean on, primary advocate Marilyn Hume does just that.

At Sojourn's regular group meetings, where topics range from manipulation to legal rights, Humes occasionally asks women who have not yet left violent husbands or boyfriends to sketch detailed pictures of their houses so they can safely escape.

"I tell them I want to know every window and door," Humes says. "Can you get from one room to another without getting hurt? If it's not safe—and a large majority of these women don't even have phones—bide your time. Wait until he falls asleep or passes out. Then pray like hell he doesn't catch you."

Brenda Davis wasn't so lucky. She says her abuser barged into her bedroom at 6 a.m., ripped her nightgown from her small, wispy body and raped her repeatedly. Her injuries were so severe that she says she couldn't urinate for two weeks.

"Over and over and over," she says in her soft, southwestern twinged accent, a pack of Marlboros beside her on the sofa. "I kept crying for help, but no one heard me. When he got up, I was bloody, but he wouldn't let me take a shower. He threw me on the kitchen floor, and he raped me again. When I locked myself in the bathroom, he punched in the door and came after me."

Davis' worry-grooved face is feathered with tears and mascara. She can't help crying when she talks about her physical abuse because she says it's all she has ever known.

At Sojourn she can quilt together the pieces of a life that has been turbulent and repetitive. An Army veteran and skilled mechanic who has worked as a waitress and supervised a housekeeping crew, Davis wears a black and electric-pink T-shirt emblazoned with the proclamation: "I Suffer From P.M.S: Putting Up With Men's S---."

Davis, who has four children, says she can no longer count on both hands the number of times she has been punched, kicked or slapped with such fury that she wanted to die. Once, locked in a bedroom and threatened with a rifle, she jumped from a second-story window and broke her ribs.

Her oldest daughter, now 20, is involved in a violent relationship too, Davis says.

At 42, she has been married three times and lived with a man for eight years. All of her relationships started out the same way—sweetly.

One husband, "a real romantic," served her filet mignon by candlelight on their first date and regularly sent her roses. He, too, turned violent, she says.

Sherri Spencer recalls being hurled down on the bed and straddled on a second date because the man was wildly jealous that she had spent the evening with a girlfriend.

"He said: 'You will not go out without me again,' Spencer recalls."It was like a compliment, I thought: 'He cares, he really cares. He really, truly loves me.'"

When Kim Daugherty, a petite, brown-eyed convenience store clerk, met Jim Shaw at a Fourth of July Eagles Club dance, "he treated her like a queen," recalls her mother, Barbara Crenshaw.

First came the opal and ruby necklace, the gold chain and watches, then the Saturday night games of Uno with Kim and her three children. The couple bowled twice a week, played on a dart team and even won a trip to Las Vegas.

"He didn't even drink in front of the kids," muses Crenshaw. But then Shaw turned jealous and Kim tried to break off the relationship.

On May 31, Shaw shot Kim in the head outside a Southern View Tavern and then turned the .25 caliber handgun on himself.

He died; she didn't.

Today, Kim, 28, is semi-conscious at Memorial Hospital, the bullet still lodged on the left side of her brain. Her left arm is paralyzed, and she is fed through a tube. Her beautiful long, brown hair was so matted and tangled with blood that the nurses had to cut it off, Crenshaw says.

About a week and a half before the shooting, Crenshaw says Shaw showed up at the apartment that Crenshaw and Daugherty share in Chatham Hills, demanding to see Kim, who wasn't at home.

"He pushed his way through the front door, pushed my son on the couch and threw the phone at him and started looking through the rooms of the apartment," recalls Crenshaw, who is caring for her grandchildren while her daughter is in the hospital. "My youngest grandaughter started screaming and screaming. She was very upset. I know he scared her to death."

Perhaps the most overlooked victims in the pattern of domestic violence are the children. O.J. Simpson's young son and daughter—usually mentioned only in passing—are living with the maternal grandparents while their father's fate is decided.

At the east end of Sojourn's grassy back yard—littered with tricycles, Hula-Hoops, a yellow and red play-house, a Weber grill—there is a spacious outbuilding-turned-classroom, where children may play Chutes and Ladders or draw on a green chalkboard easel. Julie Alberts, the shelter's children's coordinator, regularly deals with the burden of despair, fear and guilt lugged around by children who grow up in violent homes.

"Kids are affected in a lot of ways," she says. "Most have real low self-esteem, can't make decisions or resolve conflict in a nonviolent way. Their stress is so outrageous that many kids can't describe how they feel because they're too afraid to talk about it."

Alberts, who encourages the children to paint and draw pictures of their fears, produces a stack of artwork created over the years by kids who stayed at the shelter. The images are so profoundly disturbing "that no child should ever have to endure this," says Alice Nathan.

In one picture, scratched tensely on a sheet of typing paper, a black Magic Marker stick figure shoots his wife in the head with a gun. Blood-red droplets cluster on the page like cherries.

"No No!" she cries.

In another, a farmer wearing a wide-brimmed hat and blue jeans drives a sickle into the ground. Behind him, a car has run over his wife in the driveway. She is frowning, and her dark hair is flattened.

"The boy who drew this became violent toward his mother, also," says Alberts grimly.

Often the children have been injured when they tried to intervene to protect their mothers, says Alberts, who tries to give them a sense of control.

"We teach them to dial 911, to curl up in a ball and put their heads in their stomachs," she says. "Yes, they're probably going to get hurt, but not as badly."

Why such a damning cycle of abuse continues in certain families is a perplexing question, but not one without answers. Not unlike an alcoholic in the final stages of liver disease, "many women know it they stay in the relationship, they will die from the abuse—but if they try to leave it they will die also," says Nathan. "It's not a simple situation at all."

Often, despite the perpetual violence, there is still an attraction between a couple. And many women are simply reluctant to venture out on their own again.

"There are so many reasons for staying in an abusive relationship—psychological, sociological, economic, or just plain survival," Nathan explains. "Sometimes, a woman has nowhere to go because her family says, "You've made your bed, now lie in it.' What if he's threatened to hunt her down and kill her? Or what if he tries to leave and take the kids? In so many households, the belief is still that the husband is the boss and the wife is submissive and that it's OK to hit a woman."

The Springfield Police Department maintains a pro-arrest policy in domestic violence situations, according to Deputy Chief of Investigations Jim Cimarossa.

In 1993, the department fielded more than 1,600 reports involving orders of protection, battery and domestic disturbances (a category that can include "someone shouting at their neighbor over the fence, Cimarossa says).

According to the Illinois State Police, 1,161 orders of protection—all involving domestic situations—were filed in Sangamon County in 1993. In all of Illinois, 42,964 orders were filed in the same period, mostly by women.

Jennifer Florence, a Sojourn client, knew all about orders of protection. She is buried in the shade of a tall pine tree amidst a cluster of graves called God's Garden at Oak ridge Cemetery.

More than a week after her June 14 funeral, parched bouquets of yellow carnations and baby's breath tied with dark red velvet ribbon are still strewn over the freshly turned earth. A single wilted red rose pokes up from the head of the grave, and a pink tissue is still crumpled in the same place it was tossed the day of the funeral.

Florence, a 31-year-old secretary, was 4½ months pregnant at the time of her death. She left behind three small children. Terrell, 10, Titus, 3, and Tiffany, 23 months.

On June 9, as she lay dying from gunshot wounds in her legs and chest, Tony Shoultz, her longtime boyfriend and father of her children, was arrested in a stairwell at the Union Baptist Church on Monroe Street.

Their tempestuous relationship can be traced to 1984, when Shoultz allegedly pushed and threatened her in front of their infant son. Florence obtained her first order of protection against Shoultz then. She obtained her final order of protection last fall.

Shoultz has been charged with first-degree murder and with the intentional homicide of an unborn child. He pleaded not guilty Thursday.

Jennifer's death cannot be undone, says her mother, June Florence.

"Jennifer was a beautiful person and full of love, but Tony didn't allow her to function at all," she says. "She tried to get away from him a million times. He beat her, held guns to her head and knives to her throat. But he always lured her back with kisses, flowers and I'm sorry.'"

Jennifer spent her last day on earth in the company of her mother, who picked her up at a drugstore near Sojourn and drove her to the family's home on 14th street. There they talked and ate a breakfast of eggs, waffles, sausage and coffee.

"I noticed that Jennifer looked like she was getting sick," June recalls. "She was thin and little incoherent, and well, when it's your child you know something's wrong. All day she kept saying, 'Mom, I have to go.' Looking back. I think God was already calling her. Tony had pulled her into this circle and she couldn't get out."

BRENTWOOD SLAYINGS AWAKEN NATION TO DOMESTIC VIOLENCE

Out of the tragedy that surrounds the O.J. Simpson charges, something good may emerge.

Just as the Clarence Thomas/Anita Hill hearings made us much more sensitive to the problems of sexual harassment, so the deaths of two people who may have been killed by a celebrity can awaken us to the problems of domestic violence.

The problem is much more widespread than most of us knew.

In Sangamon County, Ill., where Springfield, the state capital, is located, 1,161 orders of protection involving domestic situations were issued by the courts last year, according to an excellent article on the problem by Elizabeth Bettendorf in the State Journal-Register of that city.

Statewide there were 42,964 orders. And a much higher number of cases of spousal abuse never reached the courts.

Years ago a respected attorney startled me in a conversation when he said, "You have to beat up your wife once in a while to keep her respect." When I related this to a friend, he told me of an engineer who told him that he occasionally batters his wife "to maintain authority in the home." I am sure neither of these cases reached the courts.

The Nicole Simpson case made headlines and riveted the nation to the O.J. Simpson car surveillance. But when Jennifer Florence of Springfield, Ill., a 31-year-old secretary and mother of three, was killed—and there have been thousands like her—it did not register on the national television screen.

What can be done? Let me suggest four steps:

1. Bring the problem out into the open. If you or a friend or a relative are involved in an abuse situation (almost always men attacking women or abuse of children), don't hide it. Hidden problems tend to grow. Physical abuse within a domestic situation is not normal behavior.

2. Men and women brought up in homes were there has been physical abuse of spouses or children are likely to abuse their spouses and/or children. If that was your experience, you may need professional help.

3. Don't abuse your children. It is conduct they are likely to pass on to their children.

4. If you are in a home situation where you are either abused or are the abuser, seek help. Inquire from a social agency or a religious leader or your physician or the police where you can go for help. You must protect yourself and others.

5. Women should find the phone number and address of a center for abused spouses where they can go if violence erupts. In an emergency, call that center if you do not have transportation.

6. Judges need to become more sensitive on these matters. Part of the crime bill that may emerge from Congress is a Violence Against Women provision that Sen. Joe Biden, D-Del., is the chief sponsor of and I am cosponsoring. It includes a provision I inserted to offer sensitivity training for the judges of the nation, who are overwhelmingly male and often not as understanding of domestic abuse cases (as well as rape and other problems women have) as they should be.

Finally, there are centers for women who face these special problems. They need support from government agencies, but almost all of them are also dependent on charitable contributions. All of us can help.●

PLO-TERRORIST ACTS

● Mr. GORTON. Mr. President, last fall the PLO agreed to take two long overdue steps toward establishing peace with Israel: it would renounce the use of terrorism and other acts of violence, and it would recognize Israel's right to exist.

Those commitments are a bare-minimum to insure that this process moves forward. Without them, Israel can hardly be expected to negotiate with the PLO, much less give the Palestinians the concessions they seek. Without them, the Palestinians have offered the Israelis little in these negotiations.

But a State Department report released on June 1 shows that the PLO has not fulfilled its commitments. This report, combined with others released by the State Department, reveal that of the 89 attacks against Israelis between September and May, the PLO denounced only four, and in those it merely expressed regret. In no cases did a PLO official unequivocally denounce attacks against Israelis. Instead, officials simply said that such attacks threaten the peace process.

Indeed they do. Terrorist acts—like that at Hebron—can derail talks for months. But they can terminate talks if they are not dealt with properly. Mr. Arafat is one of the few voices with the

ability to limit Palestinian violence. As long as he remains silent, he virtually urges it to continue.

Moreover, these failures occurred before the Gaza-Jericho autonomy agreement took effect last month. Now, Mr. Arafat must not only condemn such attacks, he must investigate and prosecute those responsible. Can Israelis expect justice if they are victimized in or near Jericho or Gaza? Or will Mr. Arafat still refuse to search out and punish those responsible?

And, what is to happen to Mr. Arafat's credibility as we face the more difficult steps in these negotiations? Already, he has threatened the peace by incorrectly telling his supporters that Israel has promised the Palestinians the right to take control of East Jerusalem. He recently called for a Jihad to recapture Jerusalem, and he has called the Israeli-PLO agreement temporary. If he cannot pass this so-called confidence-building stage of the peace agreement without flaunting his commitments and inciting his supporters, how can we expect him to negotiate toward a responsible final settlement?

He has called into question his willingness to accomplish these tasks, and as a broker in this agreement, I believe the United States should be monitoring his compliance closely. We should have a mechanism for watching his efforts and noting where the PLO has come up short.

The State Department's report should be such a mechanism. Through it, we should present an adequate standard for the PLO to meet before it can rely on our aid through the UN, and in turn, our role, in the peace process.

Instead, I am disappointed to say, much of the State Department's June report has been devoted to making excuses for Mr. Arafat's failure to comply with his September commitments. It explains that he does not have operational control over many of the groups responsible for these killings and that he had no foreknowledge of the attacks.

This does not hold Mr. Arafat to a high enough standard. Clearly, Mr. Arafat could help end some of this violence. Of course, his is a weak coalition, but he has nonetheless delivered autonomy to Jericho and Gaza, and is the undisputed leader of the Palestinian people. And even if he cannot directly stop the violence, he can renounce it, and perhaps inhibit it. It's illuminating to contrast Mr. Arafat's reactions to Arab violence against Jews and Israel's reaction to Jewish violence against Arabs. In responding to the Hebron massacre, the Israeli Government, which was not responsible for the Hebron massacre, quickly renounced that attack, compensated victims, created an independent investigative and review panel, arrested dangerous Israelis, and took other items to increase security for Arab worshippers.

But, most importantly, Mr. Arafat must comply with his September commitments if we are ever to move forward with this tenuous peace process.

Both sides have described this agreement as a series of steps that will be used to build confidence between the two sides before the most difficult subjects are breached. Without an adequate trust having been established in those areas, those final issues will see little movement. If Mr. Arafat ever hopes to attain the goals that he has sought in this peace process, he should be doing everything in his power to comply with the letter of both the September and the May agreements now.

Mr. President, actions speak louder than words. Mr. Arafat must show by his actions that he and his followers are committed to pursuing peace. During the past few months Mr. Arafat's words of peace and moderation have been contradicted by Mr. Arafat's actions.

I urge the administration and my colleagues to watch Mr. Arafat's actions. That, more than words, will tell us if peace is truly their ultimate goal.

If the actions of Mr. Arafat and the PLO fail to show greater compliance with last September's agreement, I will strongly urge my colleagues and the administration to reevaluate the United State's support to the PLO that is provided for under the terms of that agreement.●

THE CIVIL RIGHTS ACT OF 1964

● Mr. RIEGLE. Mr. President, I rise today to commemorate the 30th anniversary of one of the most important and far-reaching laws ever passed by this body. On July 2, 1964, President Lyndon Johnson signed the Civil Rights Act into law just 5 hours after it had passed the House of Representatives. In doing so, President Johnson helped to facilitate and encourage one of the great revolutions of our age: the legal recognition of African-Americans as full and equal participants in American society.

It must be very difficult for young Americans today to comprehend how formidable were the barriers to civil rights in 1964. Although almost 100 years had passed since the end of the Civil War and the enactment of the 13th, 14th, and 15th amendments to the Constitution, the promise of equality under the law that those amendments embodied had gone largely unfulfilled. Throughout the United States, black Americans were routinely denied equal access to restaurants, hotels, housing, and public accommodations generally.

The capstone of this Jim Crow system was the denial to African-Americans of that equality of economic opportunity which is a necessary predicate to any group's full participation in the larger society. Black Americans were consigned to both physical and cultural ghettos, denied equal access to institutions which most of us take for granted. From great corporations to the corner grocery, flagrant hiring discrimination abounded. While a rising sea of prosperity was lifting all boats, African-Americans were left stranded on the shore.

Thirty years ago this week, with one stroke of his pen, President Johnson removed the legal foundations of Jim Crow by signing the 1964 Civil Rights Act into law. This was an act of great political courage, the foundations for which had been laid by the Kennedy administration. But it never would have been possible without countless preceding acts of even greater courage on the part of civil rights workers like Martin Luther King, Jr., who sacrificed their very lives for the cause of equal opportunity and dignity among the races.

At present, we are in danger of becoming complacent about the gains that we have made in the extension of civil rights to all Americans. Distracted by small squabbles, we sometimes lose sight of the larger goals and aspirations that animated the movement in its earlier days.

Racial misunderstanding and bigotry are far from extinction; racial tensions occasionally flare into overt violence. But the gains we have made are undeniable. Over the past 30 years, we have made significant strides toward legal equality between the races. In spite of the racial conflicts that continue to plague our Nation, we are continuing to make strides toward a more just and a more tolerant society.

Mr. President, I believe that we can best commemorate the 30th anniversary of the 1964 Civil Rights Act by rededicating ourselves to the task of bringing about a society in which, as Dr. King said, men and women are judged by the content of their characters and not by the color of their skin.●

JUST DO IT

● Mr. MURKOWSKI. Mr. President, there is a popular advertisement slogan that says, "Just Do It." Most often this phrase is not one that comes to mind when we think of Federal employees. We have been led to believe that they are stale naysayers. Well, Mr. President, that is not always the case. As evidenced by a recent Wall Street Journal article, there are innovative Federal employees who care about their jobs and the people they are supposed to serve. They go the extra step.

The article describes how Roger A. Story, a Department of Veterans Affairs benefits counselor in New York City convinced Chase Manhattan Corp. to open checking accounts for several thousand homeless veterans. This was,

by no means, an easy task. The beneficial results are: they won't have to go to check-cashing shops and pay a fee to cash their benefits checks; they are encouraged to save their money; they are not as susceptible to losing their money on the street; and, more important than interest, they earn some self-esteem. One measure of the success of this effort is that Chase Manhattan now holds over $2 million in deposits from these accounts.

There are no Federal manuals that told Mr. Story to go to Chase Manhattan. There are no regulations that told Mr. Story to come up with this way to help homeless veterans. He used the often overlooked manual of common sense.

Roger A. Story is not the only Federal employee to "Just Do It." There are many of them around the country, who manage, in spite of Washington's red tape and ingrained bureaucracy, to make real differences in the lives of our citizens. You do not hear much about them and, unlike Mr. Story, they seldom make the news. They are imaginative, caring, and dedicated. They are today's heroes.

Mr. President, if there are no objections, I would like to submit the newspaper article to be included in the RECORD.

The article follows:

[From the Wall Street Journal, June 23, 1994]

BANK HELPS HOMELESS VETERANS BY LETTING THEM OPEN ACCOUNTS

(By G. Bruce Knecht)

Floyd Teasley Jr. knows what it means not to have a bank account.

For years, the 60-year-old veteran of the Korean War took his government pension check to a check-cashing shop that took a percentage of his money as a fee. Worse, since he was homeless until a year ago, he had no place to deposit his money except in his pocket. "It was bad," he says. "Usually I blew the money on drink, and it would be gone."

But Mr. Teasley's life is now on the upswing, and part of the reason is the bank account he opened two years ago. The account costs him $5 a month, but now his pension checks arrive electronically and without deductions. Better still, Mr. Teasley says the account enabled him to rent a one-bedroom apartment on June 1, 1993. He remembers the date with beaming pride.

While the problems of the homeless cannot be washed away with bank accounts, Mr. Teasley's experience suggests that banking services can help. The fact is that Mr. Teasley didn't have to be homeless. With a combination of his pension and federal rent subsidies, he can readily afford to pay the $230 rent on the one-bedroom apartment he found just off the Grand Concourse in New York City's borough of the Bronx. But Mr. Teasley says he couldn't have done it without a bank. "I could never be sure that I'd have enough money to pay the rent," he says.

Mr. Teasley opened his account after John A. Story, an unusually dedicated benefits counselor with the New York office of the Department of Veteran Affairs, persuaded Chase Manhattan Corp. to offer accounts to several thousand homeless vets who live in New York. Convinced that access to the banking system could help at least some of them, Mr. Story had approached several banks. Except for Chase, they all said no.

Banks have never offered accounts to people who lack proper identification or even home addresses, resulting in a vexing Catch-22 problem for the homeless. "If we're going to ask people to function like members of society before you give them a bank account, we're fooling ourselves," says John M. Imperiale, a community-investment officer with Chase. "Having a normal life without a bank account is virtually impossible."

Indeed. People who are deprived of banking services suffer in ways that people who take banks for granted can hardly imagine. Check cashers are the first problem. They take at least 1% cut of the checks they cash, and that includes those issued by presumably credit-worthy government agencies. And carrying cash is hardly the best form of cash management, frequently leading to irresponsible spending and robberies.

The problems are magnified when poor people receive lump-sum payments from insurers or government agencies. Mr. Story says a vet named Phillip Witherspoon lost $21,000 in cash the same day he received a check from the VA. Another vet died of a drug overdose the same day he cashed a $7,000 government check.

Since the first accounts at Chase were established in April 1992, Mr. Story says that 350 vets have opened accounts and that their balances now exceed $2 million. The surprising large amount is mostly the result of the lump-sum payments that some vets receive for injuries; several vets have more than $10,000 in their accounts.

Juan R. Martinez, a 43-year-old who earned three Purple Hearts during the time he operated an M-79 grenade launcher in Vietnam, had never been inside a bank before he opened an account at Chase's branch on Manhattan's Seventh Avenue and 24th Street several months ago. Working off and on as baker and driver, Mr. Martinez's life has had a number of ups and downs since he left the service in 1969. In 1990, he was imprisoned for transporting three pounds of cocaine. Now on parole, he is staying with friends while he hopes to find a room in a single-room-occupancy hotel, the low-rent residences familiarly called SROs.

"When I got my money in Vietnam, I just spent it. When I got out, I did the same thing," Mr. Martinez says. "And when I had no money . . . Well, you know how your mind works when you have no money. That's how I got in jail."

Mr. Martinez opened his account with $100; and thanks to the monthly $253 disability payments he receives from the VA, his balance has climbed to more than $600. Along the way, he says he has developed a new sense of responsibility. "I am careful about money now," he says. "It's great to know that I can just go to the bank and get some money if I need it."

Joe Green Jr., who won a Bronze Star for his service as a combat medic in Vietnam, says his automated-teller-machine card makes him feel better about himself. "It makes me feel like I'm getting back into the mainstream of society," he says. Mr. Green, now 46, lives in an SRO on 119th Street and Madison Avenue. Saving a portion of his biweekly public-assistance checks, he hopes that he will eventually be able to rent an apartment.

Chase, which charges its standard fees to homeless vets, recently began granting them credit cards. Credit lines will be limited to the amount of money card holders have in their bank accounts.

While borrowing money at the card's 17.9% rate instead of using money in their accounts that earns just 2% does not make financial sense, it will allow them to take another step into the world of finance. "We are trying to give people a chance to re-establish, or in many cases establish, credit ratings," Mr. Story says.•

TRIBUTE TO MINNESOTA STUDENT GOING TO JAPAN

• Mr. WELLSTONE. Mr. President, today I would like to offer my congratulations to Amber Hojstad, who will be a junior at Champlin Park High School in Champlin, MN. Recently, I recommended Amber to participate in Sony Electronics Inc.'s Student Project Abroad. I am proud to announce that Amber has been accepted for the program. She will spend 2 weeks in Japan studying advanced technology and the Japanese culture with Sony's Student Project Abroad.

As most of my colleagues know, I was a professor at Carlton College before being elected to the U.S. Senate. While at Carlton College, I encouraged students to combine their classroom work with real world experience gained outside the confines of the classroom. I felt that if students took the initiative and explored ways to apply their classroom instruction, they would be better prepared to enter the work force than those who restricted studies solely to their textbooks. It is for this reason that I was particularly pleased to have the opportunity to nominate Amber to the SSPA program. It is another example of better preparing our students for the challenges of an increasingly competitive interdependent world.

Amber is ranked 14th in a class of over 500 students and has maintained a straight A average. In addition to her academic studies, Amber is involved in the marching band and the swim and ski teams; she is active with her church and in her community; and she participated at the Minnesota Academy of Science State Fair 2 years in a row.

Amber's teachers say she exemplifies the best in scholarship, self-discipline, character and persistence, and I believe she will represent Minnesota and the United States very proudly in Japan.

The Sony Student Project Abroad is a 2-week program for American high school students who have a keen interest and ability in science and mathematics. The program features tours of manufacturing facilities, presentations on design and engineering, visits to historical and cultural points of interest, and a home-stay with a Japanese host family.

Amber will have the opportunity to travel to Japan with the Sony Student Project Abroad. Some 200 from all over the United States have already reaped the benefits of this extraordinary educational experience. The program encourages the pursuit of study in

science and math, areas which are critical to America's competitive future. The program also introduces American teenagers to the culture and people of Japan, one of our leading trade partners.

The United States and Japan have an increasing need and desire to broaden the experiences of their young people. Sony's Student Project Abroad opens these students' eyes to the unlimited possibilities of applying math and science. It also allows American students to experience, firsthand, Japanese culture.

Mr. President, I believe this is a wonderful learning opportunity for Amber and for the other students, and I commend Sony for its efforts.•

JOHN W. DOUGLAS RECEIVES THE GOLER BUTCHER AWARD

• Mr. SIMON. Mr. President, John Douglas is the son of a former U.S. Senator, who was one of the finest to ever serve in this body, Paul Douglas.

Recently, he received an award titled, "Goler Butcher Award" from the International Human Rights Law Group.

He richly deserves that award for a whole series of things he has done through the years.

His immediate contribution was to be one of those who monitored the election in South Africa.

His statement in accepting the award is a tribute to the people of South Africa, black and white, who have shown restraint and a willingness to see that their democracy really works.

In a world where there is sometimes not as much hope as we would like, John Douglas's statement stands out.

Particularly interesting is this sentence:

> There was a young Afrikaner—the son of a large landowner—who proved to be a meticulous and fair-minded presiding officer at a voting station where virtually all of the voters were black, many were illiterate and some had never held a pencil before.

The entire statement is one I hope some of my colleagues and their staffs will read, and I ask to insert it into the RECORD at this point.

INTERNATIONAL HUMAN RIGHTS LAW GROUP

(By John W. Douglas)

Thank you, Greg, for those generous remarks.

Distinguished guests, ladies and gentlemen.

I accept this award with pleasure. It is a great honor—particularly so since it is in the name of Goler Butcher who made so many valuable contributions to human rights, including her years of work, with your Board member Gay McDougall, on independence for Namibia and democracy for South Africa.

In many ways, however, there should be a reversal of roles tonight. It is I who should be paying tribute to the Law Group because I have received so much in the way of opportunities and fulfillment from you, including the missions to Chile during the Pinochet years.

Your organization deserves great credit for its tireless efforts to unlock the best in the human potential. Despite the roadblocks, that march for human rights continues—towards the assurance of basic dignity and respect for every individual everywhere. Where is there a better calling?

The vistas which human rights missions can provide were never more compelling than those which some of us encountered as observers for a sister organization during the recent, historic election in South Africa.

In a primarily rural area 150 miles west of Johannesburg—an area which is near the Botswana border and where the population is overwhelmingly black—our group witnessed dramatic expressions of some of the finest of human qualities—dignity, resolve, generosity, and tenacity. The scenes were riveting.

On the first special voting day—for the aged and infirm—there were some individuals in wheelbarrows, others on stretchers, waiting patiently for long hours so they could finally act as citizens in the country of their birth.

Some individuals in their seventies were helping others in their nineties get to the voting stations.

There was a dwarf—whose legs were little more than stumps—and who, with fierce determination, moved ever so slowly toward the ballot booth.

There was a young Afrikaner—the son of a large landowner—who proved to be a meticulous and fair-minded presiding officer at a voting station where virtually all of the voters were black, many were illiterate and some had never held a pencil before.

Elsewhere, in the East Rand industrial belt, voters stood peaceably, even respectfully, next to others with whom they had been fighting only days before.

And all over the country, the security forces, so oppressive as apartheid's enforcers in the recent past, now performed with even-handed skill.

The South African election was a tribute to many things, and certainly to the human spirit. For observers it was a deeply moving experience.

And for South Africa, the massive, peaceful voter turnout was, in and of itself, a unifying force. It sealed a consensus for the new, democratic dispensation. It opened the door to national redemption.

That election also should drive home to all the world the over-arching importance of free and fair elections—of the right of every individual to take part fairly in the selection of his or her national government.

Article 21 of the 1948 Universal Declaration of Rights had asserted that entitlement to democratic governance through ,"periodic and genuine elections." Although the UN initially adopted that principle only as a goal worthy of aspiration, subsequent events have raised it to the position of a customary, international norm.

Today, the concept of "free and fair" elections is, indeed, widely accepted. The idea has permeated previously closed societies such as Malawi, Nepal and Mongolia, not to even mention Russia and Central Europe. It has become a potent political slogan.

Thus, the primary challenge now is not so much to broaden adoption of the principle—desirable though that is—but, rather, to translate the principle into every day practice. This will entail a long struggle, during which it will help us to remember that while free and fair elections do not guarantee respect for the individual, they do remain an essential part of any viable human rights regime. They make it far easier to secure and retain other individual rights.

What is needed now—besides the restoration of President Aristide in Haiti—are breakthroughs in a select number of other recalcitrant countries—the countries which, like Burma and Nigeria, profess adherence to periodic and genuine elections but deny them in practice. Breakthroughs in such states would pave the way for progress in the even more hard-line countries.

All this will require planning and hard work—both scholarly and political—in determining where, when, and how to proceed. It will require disciplined choices as to how the international human rights community can best convey the essentials of democratic elections within local political cultures.

In this endeavor organizations such as the Law Group and its allies should take the lead—most importantly in encouraging international collaboration. This is a field where private organizations can play the most effective roles.

The South African election was such a brilliant success. Let us learn from it and do our best to build upon it.

Thank you very much.•

THE SPECIAL OLYMPICS

• Mr. LIEBERMAN. Mr. President, who among us has not watched the excitement of athletic competition and been inspired by the dedication and hard work which is so evident in the performance of the athletes we are watching? I venture to guess that all of us have done this; I know that I certainly have throughout my life. Whether it is the coordinated performance of our favorite baseball, basketball, football, or soccer team or the individual efforts of a gymnast, swimmer, tennis player, or track runner, there is a fundamental spirit which is evident that proves how hard work, perseverance, and sacrifice can pay enormous personal dividends when a personal best is achieved, or a new record is set, or a championship is won.

Some 25 years ago, a very special woman, Eunice Kennedy Shriver, was inspired by the drive and enthusiasm she saw in a very special group of athletes and she envisioned a world-class sporting event where these athletes could gather, compete, and achieve their personal bests. Since setting out this vision, there have been eight such competitions which have brought these athletes together from all over the world to celebrate sport and to demonstrate to the world and themselves that they are world-class athletes.

I am, of course, speaking of the Special Olympics—the competition which serves as the culmination of year-round training and athletic competition for individuals with mental retardation. Through the program which leads to these games, these men and women are provided opportunities to develop fitness, demonstrate courage, experience joy and participate in sharing gifts, skills, and friendship with their families, other Special Olympics athletes, and their communities.

From July 1 to 9, 1995, over 6,700 athletes from more than 135 countries will

join 2,000 coaches, 15,000 family and friends, 45,000 volunteers, 1,500 media representatives, and over half a million spectators in the Ninth Special Olympics World Summer Games. The State of Connecticut is honored to host this event this year just as Minnesota did in 1991 and Indiana did in 1987. The games will take place at facilities provided by Albert Magnus College, Quinnipiac College, Southern Connecticut State University, the University of New Haven, and Yale University. This will be the largest sports event in the world in 1995 and the 1995 Special Olympics World Games Organizing Committee has sought help from volunteers throughout the country, the State of Connecticut, local governments, and the Federal Government. The organizing committee is a 501(c)(3) charity. As such it must rely on corporate sponsorships, philanthropic donations, and individual contributions to finance the event.

The response to calls for help has been heartening. Corporate sponsors, foundations, service organizations, individual citizens who make small dollar contributions or generous contributions of their time, and the Federal Government have all answered the call in an effort to make these games a great success—not for commercial interests, not for big endorsement contracts which do not wait at the finish line for these Special Olympians, but for the sheer demonstration that the human spirit is alive and will overcome adversity to achieve personal satisfaction. The White House welcomed the 1995 Special Olympics World Games Organizing Committee as a participant in the activities of the Federal Task Force organized to support the 1996 Olympic Games and the 1994 World Cup Games. Recognizing that the Americans With Disabilities Act applies to each and every function of government, the administration supports the inclusion of the 1995 Special Olympics World Games in Federal efforts to support more traditional sports events.

Putting together and managing the Special Olympics is no small task. Thus it is that the organizing committee has turned to the resources of local, State, and Federal Governments for help. The Congress has provided authorization in the past for the Department of Defense to provide "in-kind" support to international sporting events that have taken place in the United States. The Olympic Games in Los Angeles and Lake Placid, and the World University Games in Buffalo are recent examples. Similar support is being provided to the Atlanta Committee for the Olympic Games and World Cup USA which is currently going on.

The Special Olympics Organizing Committee has identified specific needs which it cannot fulfill by other means—providing security and traffic support, medical support, emergency ordinance disposal, water resupply, and some limited transportation—and is cooperating with the Department of Defense to attain them. Some of these functions can be performed by the Connecticut National Guard in conjunction with training and the leadership of the Connecticut National Guard is eager to perform them. The Department of Defense has been working with the organizers and has projected that the maximum authorization to support the entire request is $3 million. All of these items will be provided as "in-kind" goods and services. The organizers are not seeking and do not want the Department of Defense to give monetary support. The effort is to use DOD resources to do what these resources do best and would do if called upon in a military action. This will in no way attrit the readiness of our forces or deplete DOD funds on causes not related to national security. The organizers believe—as I do and the administration does—that this is an appropriate use of a limited amount of DOD assets for a very limited period of time on an activity which could not go on without this support. DOD assets will be utilized as the last resort to supplement the efforts of volunteers, and local and State resources.

Security is a particular area of concern to the organizing committee. At the moment, some twenty heads of state are anticipated to be on hand at various times during these Special Olympics World Games. This provides special security concerns and problems.

These games will be the largest Special Olympics World Games in history and the largest sports event in the world in 1995. Their consolidation in a single urban area and their high visibility and symbolic importance adds significantly to the security concerns of the organizers. Security support to protect against the possibility of international terrorism, to provide assistance with crowd control, and to implement emergency ordinance disposal is critical if the games are to be conducted in a safe environment. DOD support has traditionally been rendered in these sorts of areas and the Special Olympics World Games request is neither unique nor burdensome.

Mr. President, the authorization for $3 million in nonreimbursable support which the Armed Services Committee has included in this bill is justified, appropriate, and in keeping with the traditions and values of this country. It will not affect the readiness or deplete the resources of U.S. forces—if it did, I could not support it. Without this authorization, these games will not go on. I ask for the support of my colleagues for this authorization so that the 1995 Special Olympics World Games can fulfill the vision of its founders some 25 years ago and can live up to its them of "Sport. Spirit. Splendor."•

PEACEMAKING NOW A PUBLIC PROCESS

• Mr. SIMON. Mr. President, I have long been an admirer of Shimon Peres, the former Prime Minister of Israel, who now serves as Foreign Minister.

Recently, he had an op-ed piece in the Los Angeles Times talking about peace in the Middle East and the necessity for creating a situation where we do not solve our problems through military means.

The item is vintage Shimon Peres.

I urge my colleagues and their staffs who did not read the original in the Los Angeles Times to read it, and I ask to insert it into the RECORD at this point.

PERSPECTIVE ON THE MIDDLE EAST: PEACEMAKING NOW A PUBLIC PROCESS

(By Shimon Peres)

(Among Israelis and Palestinians, the media achieved what armies can't do—establish a minimum of trust)

JERUSALEM.—Until recently, negotiations on Israeli security and the occupied territories had been a process that involved only two parties, the Israeli government and the Palestinian leadership. The most important party, the people of Gaza, the Palestinan people themselves—so many of whom are young and angry—were on the sidelines. Now, with the creation of a Palestinian entity, they have been brought into the process as legitimate "public opinion." With Israeli public opinion, they are the critical third party of the equation.

While watching TV recently, I was struck by the change this new role of public opinion and the media will have on our future. The man who was appointed by the Palestinian leaders to be in charge of Gaza is a young man, an angry man, who was in prison for 20 years. He had made a name for himself for being tough and violent. Then, in his new leadership role, he appeared on Israeli television dressed like someone who had just flown down from London. He spoke eloquently and with respectability because, through the TV medium, he was speaking to all the people of Gaza, whose trust and support he needed. He thus had to broaden, perhaps even temper, his message, for it is now his job to persuade his people that the peace process will work for them, and he must mobilize them in that cause.

From the bitter closure of prison to the openness of television—in this I see the key innovation of our age: The media and the public judgment they bring to bear on governments and leaders have become an increasingly critical force in diplomacy between states and in negotiations among parties at conflict. The greatest change in our time has not been effected by armies or states of international organizations; it has been driven by the spread of information.

What brought down communism in Russia? An anti-communist party? A coup d'etat by the army? Invasion by a foreign force? No. Communism was brought down by Communists who could no longer separate their people with an Iron Curtain from images of other parts of the world that were moving forward as they stagnated under repression. The truth could no longer be hidden.

Our first priority in this new media-driven context is to make the very complicated treaty with the Palestinians a reality. There will be mistakes and setbacks. Sadly, we will have to walk through corridors of blood and

tear and misunderstanding yet ahead. We will have to face uninvited disturbances and situations for which we are not prepared.

But the decision to make an agreement on Jericho and Gaza was the right one, and we will see it through. If we had tried to do more, we would have achieved nothing. If we had tried to do less, we wouldn't have a partner. So we've selected enough land to have a partner and excluded enough complications to make an agreement.

The public is also a partner in our negotiations with Syria. We know that it is hard to reach an agreement with the Syrians. But when you reach agreement, the Syrians are very good keeping it. However, when we can arrive at the point where they are willing to make an agreement that they will keep remains an enigma.

What Syrian President Hafez Assad would basically like us to do is to commit ourselves completely and fully to withdrawal from the Golan. Then he would be willing to negotiate with us about the phasing of that process.

That is very hard, almost impossible, for us to accept as a democratic country. When Assad says that he is for the normalization of relations, he cannot forget that normalization begins with the way you negotiate.

At the end of the 20th Century, you cannot negotiate just by emissary. The negotiating team—in Israel primarily, since Assad tightly controls his people—is the whole nation and not just a delegation, because everybody here is watching television and listening to the radio and they want to be sure that the partner we are negotiating with is serious, openly serious, about peace. In a democratic state like Israel, our negotiations are necessarily bound, through the media, by the judgments of public opinion.

Now U.S. Secretary of State Warren Christopher is leading the attempt to open up and equalize the negotiations with Syria through establishing a quid pro quo wherein the process will be gradual on both sides. The Syrians have to understand that our public will not allow us to jump through all the hoops while they stand by, reluctant and watching us jump.

All of this fits within the larger aims of Israel in these new times: We are not just seeking peace in the Middle East, but a peaceful Middle East founded in the new realities of economic interdependence and the open flow of information.

We have seen in Israel that territorial security means little without peace; we are vulnerable both to long-range missiles from afar and to the knife of an angry Palestinian in the alley behind our house. To prosper economically, we need to consume and trade with the neighbors in our region. Peace is the only route to security and prosperity.

A peaceful Middle East can only be built in the minds of peoples that must live with each other side by side. That trust will be built or destroyed in public opinion and communicated by the media.

The hunting season in history is over. It is no longer important how many generals killed how many people. In the age we live in, what armies can achieve is no longer important. What is important is that which armies can no longer achieve.●

REMARKS ON THE FIRST ANNIVERSARY OF THE MASSACRE AT 101 CALIFORNIA STREET

● Mrs. FEINSTEIN. Mr. President, 1 year ago today, the lives of several families from the San Francisco Bay Area were changed forever. They had the misfortune of being in the wrong place at the wrong time, when a grievance killer went on a rampage with a semi-automatic military-style assault weapon. Sadly, this American tragedy could have happened anywhere in the United States, at any time of the day.

The wrong place was a gleaming office tower called 101 California Street in San Francisco. The wrong time was midday, when an unstable former businessman named Gian Luigi Ferri stepped off an elevator with two TEC-DC9 assault pistols equipped with "hellfire" triggers, more than 500 rounds of ammunition—including Black Talon bullets made infamous in the Long Island railroad shooting—and began rapidly and indiscriminately mowing down anyone and everyone in this path.

Eight people died. Six people were wounded in this massacre.

I have spoken many times to urge my colleagues in both Houses of Congress to help end the carnage by ending easy over-the-counter access to assault weapons—by stopping the free flow of these weapons of war to our streets. The Senate and the House, I am very proud to say, have both done so. Neither Chamber, however, has yet fully discharged its responsibility by sending the President a crime bill that includes a ban on the future manufacture of semi-automatic assault weapons.

As the days go by without such bill, assault weapons continue to kill and maim.

It is human nature to want to see something good come from a tragedy.

Nothing will bring back the victims of the 101 California shooting: Allen Berk, John Scully, David Sutcliffe, Jack Berman, Jody Sposato, Shirley Mooser, Donald Merrill; and Debbie Fogel.

These men and women cannot and must not have died in vain. Their families cannot and must not suffer in vain.

It is time for the crime bill conference to produce a report. It is time that both Houses of Congress take up and pass it. And it is time that the President sign it, as he is eager to do, into law.

I hope this anniversary is a chance for us to reflect—and is another reminder to Congress that it must act now.●

THE HOUSING SITUATION IN NEW MEXICO—WHY THE HOUSING BILL IS IMPORTANT

● Mr. DOMENICI. Mr. President, housing in New Mexico is diverse. The State's needs are complicated and they vary from country to country and even from neighborhood to neighborhood.

The State takes great pride in being the home to the oldest condominium in the country, the 600 year old Taos Pueblo. The State has many pre-1800 Spanish colonial adobe buildings which are still occupied. We have many victorian buildings constructed while the railroad was being built. This makes the State a wonderful place for individuals interested in architectural history but adds to the challenge faced by housing policymakers and program administrators.

Some parts of the State are growing a new subdivision every month. In other parts of the State there is a substantial amount of vacant, substandard, yet preservable, housing. The decline of the mining industry has placed an added economic burden in Grant, Cibola, McKinley Colfax, and Taos Counties. New Mexico is a major oil producing State and times are not good in oil patch. This has a direct impact on affordable housing needs particularly, as they relate to loss of homes due to foreclosures. The situation in Indian country is another set of problems entirely. The situation there is beyond crisis.

Housing prices for low-income individuals are out of reach for people in many counties based on the housing affordability measures used by HUD.

Affordable rental units are out of reach for many New Mexicans in the very-low and low-income families. Very-low income families are paying more than they can really afford for housing. The affordability gap ranges from $9 to $239 per month. The three counties with the biggest affordability gap include Sante Fe—$239, Taos—$224, and McKinley—$186. Also, Guadalupe—$164, Valencia—$159, and Bernalillo—$92.

Let me recite some of the usual indicators used to measure housing needs.

OLD AND NEEDING REHABILITATION

One out of every four homes throughout the State are more than 50 years old. In Harding, Union, and Mora Counties close to 50 percent of the houses are older than 50 years old. The State officials presume that if a house is older than 30 years old it needs rehabilitation. Using this assumption, which is the best they can do with the data that they have, there are 272,166 New Mexico housing units in need of rehabilitation.

CROWDING OUT

There is the greatest need of housing along the Rio Grande corridor in Santa Fe, and counties, and in Lincoln County which attracts a lot of seasonal visitors. This is caused by substantial immigration and crowding out of existing low-income families. In Santa Fe affordable housing is extremely scarce.

I have been working with the RTC and the city to turn the Pueblo Hermosa apartment building into 45 affordable housing units. There were over 500 applicants to date. Of them 200 have met the income qualifications. Clearly the need and the demand is staggering.

Housing in Santa Fe has always been expensive. There isn't much water. As

a result there isn't room for everyone who wants to move there and it is getting harder and harder for the people who have family roots there to remain. The artists tell me that they are now being crowded out as well. They can't afford the real estate prices or the rents for the studio space they need. It is ironic that some people move to Santa Fe to have artists as neighbors and yet the artists are being crowded out by the high prices the newcomers are willing to pay.

Crowding out isn't unique to Santa Fe. The Las Cruces-Dona County area is also experiencing this effect. The Santa Teressa border crossing and the expansion of the maquiladora plants are bringing new people to the area all the time.

This area is also home to some of New Mexico's best farmland. We have world famous chilies, onions, pecans, and peanuts. Housing needs for seasonal agricultural workers increases during peak planting and harvesting seasons.

As Cannon Air Force base expands, Portales and Clovis will also experience crowding out. The very low- and low-income families will be the ones who suffer the most.

OVERCROWDED

On a statewide average 11 percent of the households are living in overcrowded conditions. The county with the greatest overcrowding problem is McKinley County where 32 percent of the households are living in overcrowded conditions.

HARD CHOICES FOR SOME COMMUNITIES

On the streets of Silver City and Las Vegas one can see many historical buildings in dire need of restoration. These communities face the dilemma of historical preservation versus affordable housing.

A FEW OTHER KEY INDICATORS BY COUNTY

In Cibola, McKinley, and San Juan Counties, it is estimated that 85 percent of all housing units are in need of rehabilitation.

In McKinley County 71.8 percent of the residents are native Americans. Seventeen percent of the housing stock lacks plumbing. In Mora County 23 percent lack plumbing and in Catron County 22 percent lack plumbing.

In McKinley County 32 percent of the units are overcrowded using HUD's definitions.

San Juan County is 36.7 percent native American.

The Navajo Housing Authority Project in New Mexico has 2,493 individuals and families on waiting lists for a place to live. The housing authority can't meet this need. For example, it only had 12 openings for those on the waiting list in 1993.

Hispanics represent the majority of the population in Mora—85 percent; Guadalupe—84.3 percent; San Miguel—79.4 percent; Rio Arriba—72.6 percent, and Taos—64.9 percent.

STATE'S DELIVERY SYSTEM FOR THE VERY LOW- AND LOW-INCOME FAMILIES

According to the State's Comprehensive Affordable Housing Strategy report [CHAS] prepared by the State of New Mexico the "housing delivery system for low and very-low income families in the State of New Mexico is characteristic of many efforts nationwide to improve social and economic conditions among the poor; these efforts are typically fragmented without clear long-term goals and without formal coordination * * *"

The State has an excellent New Mexico State Housing Authority.

There are several well functioning regional housing authorities as well.

PUBLIC HOUSING IN NEW MEXICO

There are 46 local Public Housing Agencies [PHAS]—1965 was an important year because HUD's Operation Breakthrough made housing more a statewide government activity. Until 1965 only large cities were addressing low-income housing needs.

PAST IS PROLOG—NEW MEXICO DATA ON VARIOUS PROGRAMS REAUTHORIZED IN THIS BILL

FmHA and FHA provide homeownership loans and/or loan guarantees. During the last 12 years, FmHA has provided 5,744 homeownership loans and 773 home repair loans and/or grants.

The New Mexico HUD/FHA office has insured 160,000 properties totaling more than $4.95 billion in home mortgages. Over 1,100 subdivisions have been approved with over 270 builders and 230 lenders currently participating in the FHA single family program in New Mexico.

The New Mexico CDBG Small Cities program through its housing component, has funded the rehabilitation of over 1,329 owner-occupied units statewide—since when, since the program began? In fiscal year 1994, $1.8 million in State CDBG funds will be utilized for rehabilitation of low-income owner occupied housing statewide. Each small city will receive an average of $150,000 out of the fiscal year 1994 funds.

There are approximately 19,449 federally assisted rental units in New Mexico. These are broken down as follows: 4,835—Public housing rental units; 15—Turnkey III; 515—Section 8 Mod-Rehab; 2,326—Section 8 Vouchers; 7,132—Section 8 Certificates; 2,798—FmHA Section 515; 1,572—Section 202, and 6,598—Low Income Housing.

In 1994 the programs reauthorized in this bill provide some important resources to New Mexico. It is receiving approximately $35.5 million for fiscal year 1994 under current law. More specifically New Mexico is receiving: $3.3 million for the HOME program; $1.2 million from HOPE I; $1.4 million from HOPE III; $12.7 million from CDBG of which $1.8 million will be committed; $429 thousand for Emergency Shelter Grants (ESG); $300 thousand for PATH grants; $7.7 million for Section 8 Rental Vouchers; $369 thousand for Rental Certificates; $3.3 million for Capital Improvement for public housing [CIAP] replaced by Comprehensive Grant program; $359 thousand for lead based paint; $300 thousand for Shelter Plus care; $115 thousand for Supplemental Assistance for Facilities to Assist the Homeless [SAFAH]; $3.7 million for Public Housing Comprehensive Grant; and $350 thousand for Housing Opportunities for Persons with AIDS Program [HOPWA].

THIS HOUSING BILL IS IMPORTANT TO NEW MEXICO

The Housing bill the Banking Committee is working on is important to New Mexico. The legislation's focus is housing for the very low income and low income families. Over 40 percent of the families living in every region of New Mexico meet that HUD definition. Measured another way, seven counties in New Mexico have median family incomes under $20,000.

This bill has programs designed to help 7 out of 10 families in Mora and Sierra Counties, 6 out of 10 households in Guadalupe, Sandoval, Roosevelt, Catron, Torrance, Rio Arriba, Taos, Socorro, and Union counties; and one out of every two people in Quay, DeBaca, Curry, Harding, Grant, McKinley, Chaves, Colfax, and Hidalgo counties. Now I don't want to get everyone's hopes up. Unfortunately, there is not enough money to go around, but we hope this bill will make the money go farther and make the programs work better.

This bill reauthorizes our homeless programs, the Indian and public housing programs, makes changes in FHA, HOPE and HOME, section 8 rental assistance, low income housing preservation, renewal of section 8 public housing subsidies, creates a new Leveraged Investment for Tomorrow Program [LIFT], provides additional colonias assistance and rural housing programs section 515 rural rental housing program. I will say more about the bill when the Senate considers it later in July.

I believe that housing should encourage private investment. As Robert Kennedy said, "To ignore the potential contribution of private enterprise is to fight the war on poverty with a single platoon, while great armies are left to stand aside." A current cabinet member, Mike Espy, also expressed a good philosophy: "Whoever controls your home controls your life." He is correct and for this reason, we should encourage privatization. Vouchers are a good step in the right direction. I am pleased that this bill includes an increased authorization for the FmHA vouchers.

However, housing has become one of the most heavily regulated sectors of the American economy. There is a growing web of laws, rules, regulations and red tape. I wish this bill were doing more to undo some of that regulation

because it would lower the price paid by millions of families who've spent their lives working and saving for the time when they could become homeowners. That will be part of my agenda for next Congress.●

CHAMPION FOR THE DISABLED

● Mr. SIMON. Mr. President, our colleague Senator HARKIN, chairman of the Subcommittee on Disability Policy, made remarks recently to the Council of State Administrators of Vocational Rehabilitation. He discussed the reasons why the programs authorized under the Rehabilitation Act are essential to the ability to meet the goals and objectives of the Americans with Disabilities Act.

I appreciate my colleague's continued championing of this successful and vitally important program. He knows he has my support in efforts to keep the Rehabilitation Act strong and effective.

I urge my colleagues to read the Senator's remarks, which follow.

The remarks follow:

REMARKS BY TOM HARKIN

COUNCIL OF STATE ADMINISTRATORS OF VOCATIONAL REHABILITATION—MAY 10, 1994

Thanks for that kind introduction.

Thanks also to Joe Owens, your executive director and Jack Duncan, your General Counsel. CSAVR is very fortunate to have two such effective persons representing your organization in Washington.

I understand that one of your own, Fred Schroeder, will be nominated to serve as our next Commissioner of the Rehabilitation Services Administration. Fred, congratulations and best of luck. You can count on my personal commitment and support to enable you and Judy to succeed in making the state/federal vocational rehabilitation program achieve the goal of gainful employment for its clients.

Almost four years ago, President Bush signed into law the Americans with Disabilities Act. To me, the ADA sends a simple, but powerful message—disability is a natural part of the human experience that in no way diminishes the fundamental right of people with disabilities to:

Live independently;
Enjoy self-determination;
Make choices;
Contribute to society;
Pursue meaningful careers, and
Enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.

The ADA sets the promise of equal opportunity. But title I of the Rehabilitation Act—the state/federal vocational rehabilitation program—is the means to turn the promise of equal employment opportunity into a reality.

For many people with disabilities, a positive vocational rehabilitation can be the most important experience in their lives. Hyperbole? I think not. I believe that work fulfills the needs of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America. My words? No, the words of the Rehabilitation Act.

Every day people with disabilities enter your agency's offices. Most come to you because they want to work; some lack the skills or education they need; others lack the confidence. With your staff's support, expertise, and encouragement you help these clients achieve their dreams, consistent with their strengths, resources, priorities, abilities, and capabilities.

Employment is a powerful outcome. This means being satisfied with nothing less than ensuring that your clients enter or retain full-time or, if appropriate part-time competitive employment in the integrated labor market, including supportive employment.

Aim high. Challenge your staff to achieve meaningful employment outcomes. Insist on high expectations. Expand your staff's conception of what is achievable. And never lose sight of the prize—employment.

Some of you are saying to yourself, "Sounds good to me, but what about the waiting lists of people who I can't serve because of a lack of federal resources."

I want to be honest with you. Each year, I fight for significant increases for this program. Each year I secure increases that are substantially more than proposed by the Executive branch and by the other body.

I commit to you my continuing support for this program; but you need to help me. You need to get the other body to include in its appropriation bill more than the minimum required by law; you need to work with the Administration to get them to propose more than the minimum required by law. I can't succeed without your help.

In closing, I urge you to continue your efforts to maximize each client's potential. Let's transform yesterday's impossibilities into tomorrow's employment realities for people with disabilities.●

ORDERS FOR MONDAY, JULY 11, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 1 p.m., on Monday July 11; and that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date; the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 2 p.m., with Senators permitted to speak therein for up to 10 minutes each; that at 2 p.m., Monday, the motion to proceed to S. 55 be the pending business.

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

ADJOURNMENT UNTIL MONDAY, JULY 11, 1994, AT 1 P.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 1 p.m., Monday, July 11, as provided for under the provisions of House Concurrent Resolution 263.

The motion was agreed to; and at 12 midnight the Senate adjourned until Monday, July 11, 1994, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate July 1, 1994:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

GILBERT F. CASELLAS, OF PENNSYLVANIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 1999, VICE TONY E. GALLEGOS, TERM EXPIRING.

FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1999, VICE DONALD ROBERT QUARTEL, JR., RESIGNED.

DELMOND J.H. WON, OF HAWAII, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1997, VICE FRANCIS J. IVANCIE, TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

SUSAN BERLA PERRY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1998, VICE SUSAN M. COUGHLIN, RESIGNED.

FEDERAL EMERGENCY MANAGEMENT AGENCY

HARVEY G. RYLAND, OF FLORIDA, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE JERRY D. JENNINGS, RESIGNED.

DEPARTMENT OF JUSTICE

DENNIS H. BLOME, OF IOWA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF 4 YEARS VICE JAMES P. JONKER.

DANIEL C. DOTSON, OF UTAH, TO BE U.S. MARSHAL FOR THE DISTRICT OF UTAH FOR THE TERM OF 4 YEARS, VICE EUGENE H. DAVIS, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

STUART L. BROWN, OF MARYLAND, TO BE AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY (CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE), VICE ABRAHAM N.M. SHASHY, JR., RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. RICHARD C. MACKE, [redacted] U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. MICHAEL P. KALLERES, [redacted] U.S. NAVY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED NAVAL ACADEMY GRADUATES TO BE APPOINTED PERMANENT SECOND LIEUTENANTS IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL ACADEMY GRADUATES

To be second lieutenants

NED M. BEIHL
CHARLES C. COX
GARY M. DEVINGER
SCOTT C. HURT
ERNEST E. ROBINSON

CONFIRMATIONS

Executive nominations confirmed by the Senate June 30, 1994:

FEDERAL ELECTION COMMISSION

LEE ANN ELLIOTT, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1999.

DANNY LEE MCDONALD, OF OKLAHOMA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1999.

DEPARTMENT OF STATE

DAVID M. RANSOM, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICAN TO THE STATE OF BAHRAIN.

JOSEPH EDWARD LAKE, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

RONALD E. NEUMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA.

MARY ANN CASEY, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

RAYMOND EDWIN MABUS, JR., MISSISSIPPI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

GEORGE CHARLES BRUNO, OF NEW HAMPSHIRE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

ELIZABETH FRAWLEY BAGLEY, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

BRIAN J. DONNELLY, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TRINIDAD AND TOBAGO.

CLAY CONSTANTINOU, OF NEW JERSEY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

INTER-AMERICAN FOUNDATION

MARIA OTERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1994.

MARIA OTERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2000.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

MICHAEL MAREK, OF ILLINOIS, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS.

AFRICAN DEVELOPMENT FOUNDATION

ERNEST GIDEON GREEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1995.

DEPARTMENT OF THE TREASURY

RONALD K. NOBLE, OF NEW YORK, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT.

DEPARTMENT OF LABOR

CYNTHIA A. METZLER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF EDUCATION

FREDRIC K. SCHROEDER, OF NEW MEXICO, TO BE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION, DEPARTMENT OF EDUCATION.

NATIONAL SCIENCE FOUNDATION

ANNE C. PETERSEN, OF MINNESOTA, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JUDITH O. RUBIN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998.

COLLEEN JENNINGS-ROGGENSACK, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

RACHEL WORBY, OF WEST VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998.

JOHN HAUGHTON D'ARMS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

DARRYL J. GLESS, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1998.

RAMON A. GUTIERREZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

CHARLES PATRICK HENRY, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

THOMAS CLEVELAND HOLT, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 26, 1998.

MARTHA CONGLETON HOWELL, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

NICOLAS KANELLOS, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

BEV LINDSEY, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

ROBERT I. ROTBERG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

HAROLD K. SKRAMSTAD, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING ARTHUR F. SALVATERRA, AND ENDING BRUCE T. MULLER, M.D., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 24, 1994.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on July 1, 1994, withdrawing from further Senate consideration the following nominations:

U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601, WHICH WAS FORWARDED ON APRIL 21, 1994:

To be admiral

ADM. STANLEY R. ARTHUR, U.S. NAVY [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035, WHICH WAS FORWARDED ON MAY 3, 1994:

To be vice chief of naval operations

VICE ADM. RICHARD C. MACKE, U.S. NAVY [redacted]