SENATE—*Wednesday, July 17, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have wonderfully preserved and guided our Nation through the years and given us a position of leadership in the world. Now we ask You to bless the Senators and all who assist them in their high calling. Stir up our patriotism for our Nation and our passion for the work of Government. When we get weary, refresh us with new vision for the importance of our work. Give us a new burst of enthusiasm for our assignments by reminding us that we really report to You and are working for Your glory. Help us to remember that we are Your agents in shaping our society. Purge from us any vestige of selfish ambition or combative competition that would hinder teamwork. In a time of history when our Nation needs greater trust in You, we commit ourselves to be leaders who unashamedly live their faith and seek to keep our Nation deeply rooted in You, Your Commandments, and Your vision for us, through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. This morning there will be a period for morning business until 11 a.m. Following morning business, the Senate will resume consideration of the Department of Defense appropriations bill. We are attempting to reach agreement to limit amendments on that bill. However, if we are unable to reach an agreement, there will be a cloture vote on the Defense bill during today's session.

There has been good cooperation on both sides of the aisle on trying to identify and limit the amendments. While we still have a lengthy list, it seems to be that we can cut them down to a reasonable number, and I would like for us to make every effort to complete this Department of Defense appropriations bill today.

Senators can expect rollcall votes throughout the day and evening in order to make progress and, again, to possibly complete action on the bill tonight.

I remind my colleagues that a number of appropriations bills now have become available for consideration. I think there are five pending counting the Defense appropriations bill. So we have a lot of work to do, and I hope to move forward on those the first part of next week. We need cooperation of all our Members in allowing us to consider and complete these bills in a timely manner. I call on our colleagues on both sides of the aisle to stick with germane amendments and try to limit them so that we can get this work done.

Also, in accordance with last night's agreement, the Senate will vote on the motion to invoke cloture on S. 1936, the Nuclear Waste Policy Act, on Thursday of next week. That is July 25.

MEASURES PLACED ON CALENDAR—S. 1954 AND H.R. 3396

Mr. LOTT. Mr. President, I understand there are two bills at the desk that are now due for their second reading, and I ask that they be read consecutively.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1954) to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

A bill (H.R. 3396) to define and protect the institution of marriage.

Mr. LOTT. Mr. President, I object to further consideration of these matters at this time.

The PRESIDING OFFICER. The bills will be placed on the calendar.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Arizona [Mr. KYL], is recognized to speak for up to 10 minutes under the previous order.

Mr. KYL. I thank the Chair.

RELIGIOUS UPBRINGING OF CHILDREN

Mr. KYL. Mr. President, while the Supreme Court has issued decisions protecting the rights of parents to direct the religious upbringing of their children, the lower courts have narrowly interpreted these decisions to give them almost no value as precedent. As a result, public school officials have been permitted to abuse their authority and compel students—at the objection of their parents—to participate in activities violative of deeply held religious beliefs. This must be of concern at a time when we are all seeking ways to strengthen families and inculcate values in our children.

One case, which a respected Federal court judge brought to my attention, not only demonstrates the courts' unwillingness to respect the constitutional rights of parents to direct the religious upbringing of their children, it illustrates a bizarre dichotomy that has developed between the first amendment religious clauses: the establishment clause, which prohibits an official religion in the United States, and the free-exercise clause, which ensures every American's freedom of conscience. It is my sincere hope that this discussion will prod the Congress into considering ways we can assure that the Constitution will be applied to protect the rights of parents committed to firm moral guidance of their children, and in the process repair the glaring inconsistency that now exists regarding enforcement of these religious clauses in our Constitution.

One Senator who has responded to this challenge is Senator GRASSLEY, who has introduced an important bill, the Parental Rights and Responsibilities Act, which would forbid Federal, State, and local governments from interfering with "the right of a parent to direct the upbringing of the child of the parent." This could resuscitate the Supreme Court's pro-parental rights decisions. Senator GRASSLEY cited the case I am going to discuss as an example of why his legislation deserves serious consideration.

II. THE CASE

On March 4, the U.S. Supreme Court declined to hear *Brown* v. *Hot, Sexy and Safer Productions, Inc.*, 68 F.3d 525 (1st Cir. 1995), cert. denied, U.S. (1996), in which the district court ruled, and the circuit court upheld, that it is constitutional for a public school to compel students—some as young as 14—without notifying parents, to sit through an explicit AIDS awareness presentation. A ruling that permits public school officials to force students—over the objections of their parents—to participate in activities that violate deeply held religious beliefs should be of concern to us all.

School officials at Chelmsford High School in Chelmsford, MA, knew full

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

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well what they were getting when they hired Suzi Landolphi, the owner of a company called Hot, Sexy, and Safer, to give presentations at two 90-minute assemblies at the school. They viewed a promotional videotape of the organization's past presentations as well as promotional brochures and articles. The superintendent and the assistant superintendent attended the presentation. The principal introduced the presenter to the students.

While school officials were busy securing what the principal described as "a very special program," no effort was made to alert parents about the assembly, and students were compelled to attend it. Some argue that public school officials cannot keep parents apprised of every detail of their children's education. But Landolphi's presentation was not a calculus exposition. It was a highly charged event, unrelated to subjects traditionally taught to high school students.

A videotape of the program reveals that the presenter concentrated on personal matters and used language so graphic that it would make former Surgeon General Jocelyn Elders blush.

Abstinence was never discussed as an option to avoid contracting AIDS. The assemblies were, however, filled with lewd demonstrations of crude sexual acts. Landolphi kicked off her presentation to 9th and 10th grade students by saying, "This is amaz[ing]—I can't believe how many people came here to listen to someone talk about sex, instead of staying home and having it yourself." This may have been the high water mark for the show.

During the program, the presenter told the students that they were going to have a "group sexual experience, with audience participation"; told a minor he was not "having enough orgasms"; commented about a minor's "nice butt"; characterized the loose pants worn by a student as "erection wear"; and had a male student lick an oversized prophylactic, after which she had a female student pull it over the male's head.

Landolphi was also philosophical: "When we are younger, we know about our private parts. We're less embarrassed. Why is that? With all of us sitting in this room right now—I mean, have you ever really sat down and thought about your private parts? Did you ever think about them?"

She concluded her presentation by instructing the students to "Become sexually proud and confident people. Know how you work. Tell your parents about sex."

Not only was Ms. Landolphi's program salacious, it was astonishingly inaccurate. Example: "When you find out someone you love has this virus, you tell them they can fight this virus, and they might fight it so well that they may never get ill. That's a fact." She informed these students that those infected with HIV could avoid AIDS by getting rid of drugs, alcohol, tobacco, and stress. And what, according to Landolphi, relieves stress? "Sex, of course."

For school officials to hold such a controversial—to put it mildly—event without parental notification suggests these officials may have deliberately sidestepped the parents. Even if, on the other hand, this heedlessness was inadvertent, it begs a broader question: Have some public school officials become so arrogant that they do not even give thought to the views of the people they serve—the community—when planning school events?

Some Chelmsford parents believed that their constitutional right to direct the upbringing of their children was violated. A Federal district court judge and a court of appeals, however, ruled against the parents.

The district court judge, in granting the defendant's motion to dismiss, opined: "Parents who send their children to public schools * * * daily risk their children's exposure, both inside and outside the classroom, to ideas and values that the parents and the children find offensive." Memorandum and Order, *Brown* v. *Hot, Sexy and Safer Productions*, No. 93–11842, slip op. at 10 (D. Mass. January 19, 1995). The effect of this brush off is to treat a convinced Christian, Jew, Muslim, or parent of other religious faith as insufficiently enlightened, deserving of exclusion from the educational process along with other narrow-minded and ignorant people. The erosion of our values that this kind of indiscriminate reasoning represents is truly breathtaking.

III. CONSTITUTIONAL PROTECTION FOR PARENTAL RIGHTS

The liberty clause of the 14th amendment, and the free exercise clause of the first amendment, should protect parents from overreaching public school officials. The 14th amendment claim is stronger, but there is also precedent for the first amendment to protect a religious person from neutral government action hostile to his or her beliefs.

A. FOURTEENTH AMENDMENT

The Supreme Court firmly recognizes that certain practices are "so rooted in the traditions and conscience of our people as to be ranked as fundamental" and therefore merit protection under the 14th amendment. *Palko* v. *State of Connecticut*, 302 U.S. 319 (1937). I can think of few rights as fundamental as the right of a parent to control the religious upbringing of his or her children.

A troika of Supreme Court decisions have encouraged us to see this route as potentially fruitful. In *Meyer* v. *Nebraska*, 262 U.S. 390, 399 (1923), the Court ruled that the liberty clause of the 14th amendment protects the fundamental right of parents to bring up children. The right of the parents to have their children instructed in a foreign language was, according to the Court, "within the liberty of the amendment." Id. at 400.

The Court reaffirmed this right in *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925). In Pierce the Court declared unconstitutional a State statute that required public school education of children aged 8 to 16. The Court reasoned that the statute "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control * * * The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." Id. at 534, 535.

While decided primarily on free exercise grounds, *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972), a decision upholding the right of Amish parents to remove their children from public schools, acknowledged the liberty interest of parents to control the upbringing of their children. "The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate." Id. at 232.

In the Chelmsford case, the circuit court arrogantly dismissed the 14th amendment claim of the parents, commenting that "the Meyer and Pierce cases were decided well before the current 'right to privacy' jurisprudence was developed, and the Supreme Court has yet to decide whether the right to direct the upbringing and education of one's children is among those fundamental rights whose infringement merits heightened scrutiny." Hot, Sexy and Safer 68 F.3d at 533. For the Court to suggest that decisions regarding fundamental rights, including, for example, the right to marry, are preempted until reanalyzed under the Supreme Court's constitutionally suspect privacy decisions is, if not novel, absurd. But again, when cases involve religion, the courts all too often come up with imaginative reasons to avoid following good case law.

B. FIRST AMENDMENT

At first blush, the first amendment's free exercise clause seems like a weak instrument for those who seek relief from neutral State action that inhibits the practice of religion. It was, after all, Justice Scalia who wrote the decision in *Employment Division, Department of Human Resources of Oregon* v. *Smith*, 494 U.S. 872, 879 (1990), which announced that a "neutral, generally applicable" law does not violate the free-exercise clause even when it prohibits religious exercise in effect.

The free exercise claim advanced by the Chelmsford parents would have the same problem, if Smith were to be our

guide. While the school officials at Chelmsford High School certainly offended religious children by offering the AIDS presentation, it does not seem that they intended to single out religious individuals for the offensive show. Indeed, they were equal opportunity offenders.

But for those ready to close the door on free exercise claims when government, by application of a neutral mandate, coerces individuals to violate their own religious practices, such as in the Chelmsford case, the matter is not set. Relevant to Chelmsford, the Yoder Court held that when a 14th amendment-based claim to protect the fundamental right to control the religious upbringing of their children is combined with a free-exercise claim—a "hybrid" situation—the first amendment claim is enhanced. Yoder, 406 U.S. at 233. Smith acknowledges Yoder hybrid claims. Smith, 494 U.S. at 881.

Also relevant to the Chelmsford case, Justice Scalia, in a useful concurrence in *Church of Lukumi Babalu Aye, Inc.* v. *City of Hialeah*, 508 U.S. 520, 559 (1993), questioned whether the rule he authored in Smith, which garnered five votes on the Court, and was the subject of a spirited attack by Justice O'Connor, merits adherence. Justice Scalia suggests that Smith is deficient in resolving free-exercise claims when "'Neutral, generally applicable' laws, drafted as they are from the perspective of the nonadherent, have the unavoidable potential of putting the believer to a choice between God and government." Id. at 577. In chronicling the tensions in free exercise jurisprudence—the mechanistic approach of Smith, versus the more nuanced approach of Yoder—the Justices concludes that neither line of cases is controlling: "Our cases now present competing answers to the question when Government, while pursuing secular ends, may compel disobedience to what one believes religion commands." Id. at 559.

If the Court does reevaluate the free-exercise clause, and decides that a more expansive reading is warranted—as it has already done with gusto for the other first amendment religious clause, the establishment clause—Justice Scalia offers some preliminary thoughts on a revitalized free exercise clause more sympathetic to the plaintiffs in coercion cases, such as that of Chelmsford, and a persuasive rationale for why the Court should resolve this conundrum:

> A law that is religion neutral on its face or in its purpose may lack neutrality in its effect by forbidding something that religion requires or *requiring something that religion forbids*. A secular law, applicable to all, that prohibits consumption of alcohol, for example, will affect members of religions that require the use of wine differently from members of other religious and nonbelievers, disproportionality burdening the practice of, say, Catholicism or Judaism." Id. at 560 (emphasis added).

What the Chelmsford school officials did, with the District Court's backing, was require something that was against the religion of some of the students. Thus this legal framework could provide relief for such compulsion situations.

The circuit court in Chelmsford dismissed the free-exercise claim under the Yoder scheme on two grounds: First, the free-exercise challenge was not "conjoined with an independently protected constitutional protection," and Second, the free-exercise claim was distinguishable because the parents did not "allege that the one-time compulsory attendance at the Program threatened their entire way of life." Hot, Sexy, and Safer, 68 F.3d at 539. Neither rationale is persuasive. As mentioned above, the Supreme Court has firmly recognized that parents enjoy certain constitutional protections in directing the upbringing of their children. And the hybrid situation developed in Yoder, and noted in Smith, does not require that an individual's entire way of life be threatened for there to be constitutional recourse.

IV. DICHOTOMY IN FIRST AMENDMENT RELIGIOUS CLAUSES

While the courts have taken great pains not to disturb neutrally drafted laws when considering free-exercise claims, and even Justices sympathetic to religious freedom, such as Justice Scalia, have agonized over these decisions, the courts are aggressive in restricting religious activities under the establishment clause. The result: an extreme dichotomy in religious clauses jurisprudence.

Contrast the federal courts' refusal to recognize free-exercise claims with their zeal in banning prayers at school ceremonies under the establishment clause. In the same year the AIDS presentation at Chelmsford High School occurred, the U.S. Supreme Court ruled in *Lee* v. *Weisman*, 505 U.S. 577 (1992) that a prayer given by a rabbi during a middle school commencement program violated this clause. Let's take a look at a part of the offending prayer:

> God of the Free, Hope of the Brave: For the legacy of America where diversity is celebrated and the rights of minorities are protected, we thank You. May these young men and women grow up to enrich it. . . . May our aspirations for our country and for these young people, who are our hope for the future, be richly fulfilled. Id. at 581, 582.

In his opinion for the majority, Justice Kennedy reasoned that "heightened concerns [exist] when protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools." Id. at 592.

But where is the concern for the subtle coercive pressure of a mandatory AIDS assembly, whose graphic details and panderingly hip attitude toward human sexuality, offend the core values of believers in the great religions of the world? Consider that if one agrees with Justice Kennedy that students should not be coerced to listen to prayer, it is hard to understand why one wouldn't agree that the free-exercise clause should protect a school from coercing a student to participate in an activity which violates that students's religion. But a double-standard has emerged that the Chelmsford case perfectly illustrates.

The offending prayer delivered by the rabbi in Weisman was less than 2 minutes long, compared to the 90-minute presentation which took place at Chelmsford High School. The Court in Weisman did not require that the student's life lie in ruin when invalidating a benign commencement prayer. Also consider that the prayer in Weisman is a religious statement that is well within the tradition of benedictions at graduation ceremonies, and that parents accompanied the students and had notice that the rabbi was speaking.

We remove prayer because it's offensive to 1 out of 100, but don't remove—or at least make optional—material highly offensive to a student of faith. I believe that most Americans would agree that something is corrupt within our jurisprudence when an indecent presentation directed at minors is constitutional while a short commencement prayer delivered by a member of the clergy is unconstitutional.

V. CONCLUSION

When a public school presents controversial subjects, out of courtesy, it should notify parents, and give them the opportunity to have their children opt out. This isn't burdensome; it's the morally right thing to do. If public school officials exercised this courtesy in the first place, the Chelmsford controversy could have been avoided.

I believe the courts should return to the spirit of the Supreme Court decisions on parental rights, and recognize and protect the right of parents to direct the religious upbringing of their children. The U.S. Constitution requires no less. Meanwhile, Congress should consider legislation, such as Senator GRASSLEY's parental rights bill, to prod the courts to respect one of the most basic, and important fundamental rights.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. ROCKEFELLER], is recognized to speak for up to 15 minutes under the previous order.

Mr. ROCKEFELLER. I thank the Chair.

(The remarks of Mr. ROCKEFELLER pertaining to the introduction of S. 1963 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROCKEFELLER. I thank the Presiding Officer and yield the floor.

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

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

NATIONAL MISSILE DEFENSE

Mr. INHOFE. Mr. President, I have been presiding, and I know that we are going to be continuing with the defense appropriations bill later on. I noticed something that I read just in the last couple days that was in the Wall Street Journal under the title of "Do We Need a Missile Defense?" This has been a debate in this body for quite some time during the Defense authorization bill. It is so obvious on its face, that virtually every strategist, in terms of strategic defense in the country, agrees that we are under probably a greater threat today than we have been maybe in the history of this country in that we no longer are in a cold-war posture where there are two superpowers and you can identify who the other one is, as it was in the case of the cold war.

Some of us, I think, may be looking back wistfully at the days when there was a cold war and we could identify who the enemy was. I can recall that back during the Nixon administration, Richard Nixon and Dr. Kissinger put together the whole concept of the ABM Treaty, which was there are only two superpowers that have weapons of mass destruction and the missile means to deliver them, at least part way. Therefore, if we all agree not to defend ourselves, then the philosophy of mutual assured destruction would serve us all well. In other words, the Soviets fire at us, we fire at them, everybody dies and no one is happy.

That is not the situation today. I did not agree with it back in 1972. Back when we had the ratification of the START II agreement, I was the only Senator halfway through the rollcall to vote against it. Everyone else was voting for it until a few others realized that what we were doing is going back and reinstating or resurrecting that philosophy of the ABM Treaty, except now it would be with Russia as opposed to the Soviet Union since it no longer exists.

I think it is insane that we would even consider something like that. In fact, I had permission from Henry Kissinger himself to stand on the Senate floor and quote him when he said that he did agree at the time that that was a good policy for America in 1972, but he said that now some 25 nations have weapons of mass destruction, and he said, "It is nuts to make a virtue out of our vulnerability."

This article that I read—I will, without exceeding my time, just paraphrase a few of the comments here by some of the experts. Donald Rumsfeld was the Secretary of Defense during the Ford administration. He said:

> Only someone deep in denial can contend that the U.S. cannot be threatened by ballistic missiles. Rogue states like Iran, Iraq and North Korea have made clear their determination to acquire chemical, biological or nuclear weapons and the missiles to deliver them. China and Russia, if inclined, could threaten many countries, near and far, with nuclear missiles. Missiles are a weapon of choice for intimidation, precisely because the world knows that once a missile is launched, the U.S. is not capable of stopping it.

Henry F. Cooper was the director of the Strategic Defense Initiative during the Bush administration and the chief U.S. negotiator in the Geneva defense and space talks during the Reagan administration. He said—I will just quote this first sentence:

> America's vulnerability to ballistic missile attack is a leadership failure of potentially disastrous proportions.

Then it goes on to quote many others, including James Woolsey, who was President Clinton's former Director of the Central Intelligence Agency and now practices law in Washington. He was the one who 2 years ago said that—this was 2 years ago—we now have 22, 25 nations that have weapons of mass destruction or are in the final stages of completing those weapons and are working on the missile means of deploying them, delivering them.

I think, Mr. President, if you update his statement, as he did the other day, it is now up to some 30 nations. Look at who these nations are. When you are dealing with the Middle East mentality of Iran, Iraq, and Syria and Lebanon and Libya, and, of course, people like Saddam Hussein, who would murder his own grandchildren, we are not dealing with people that we can predict, people who think like Westerners think. Yet here we are today considering the defense appropriations bill and giving virtually no attention to our ability to defend ourselves with a national missile defense system.

So, Mr. President, I am hoping, as we keep repeating this over and over again, that we can penetrate somehow this Eastern media who would like to make people believe that the threat is not out there, this administration that keeps saying over and over again that it will be 15 years before we can be threatened by a missile attack, when in fact there are intercontinental ballistic missiles that can reach the United States from as far away as China or Russia.

We have been held hostage. We were held hostage in the Taiwan Strait when the Chinese went over and were doing their missile experimentation. One of the highest ranking Chinese officials at that time said, "We're not concerned about the Americans coming in and defending Taipei because they would rather defend Los Angeles than they would Taipei." That has to be at least an indirect threat at the United States.

The threat is real. The danger is real. We are living in a time when the threat is greater than it has been at any time in this country's history. We, as a body, are trying to do something about it against the wishes of the administration, and we have to prevail in this effort for our kids' sake.

Lastly, I am from Oklahoma, and those who saw the Murrah Federal Office Building and saw the television accounts of it—you almost had to be there to get the full impact of the tragedy that was there. It was just indescribable. The power of that bomb that blew up the Murrah Federal Office Building in Oklahoma City was equal to 1 ton of TNT. The smallest nuclear warhead known to man is 1 kiloton, 1,000 times the explosive power. So the threat is there, Mr. President. We need to deal with that and do something about it. After all, is that not what Government is for? 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. BENNETT. 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 Utah is recognized.

THE CRISIS IN EDUCATION IN AMERICA

Mr. BENNETT. Mr. President, you and some others in this body have heard me say that the one experience that took me out of the private sector and brought me back into public life was my term as chairman of the Strategic Planning Commission for the Utah State Board of Education. I was happily serving as the chief executive of a very successful, functioning corporation when I was asked to take that assignment in public service. It brought me face to face with the current crisis in education.

I have been interested in that issue ever since. I was interested in this morning's Wall Street Journal where the following appeared. I would like to call it to the attention of the entire Senate and, hopefully, through the CONGRESSIONAL RECORD and C-SPAN, as wide an audience as possible. In this morning's Wall Street Journal there is the following article that I find incredible:

> New York City's Cardinal John J. O'Connor has repeatedly made the city an extraordinary offer: Send me the lowest performing 5% of children presently in the public schools, and I will put them in Catholic schools—where they will succeed. The city's response: Silence.
>
> In a more rational world, city officials would have jumped at the cardinal's invitation. It would have been a huge financial

plus for the city. The annual per-pupil cost of Catholic elementary schools is $2,500 per year, about a third of what taxpayers now spend for the city's public schools.

Mr. President, I have had this debate with leaders of the Teachers' Association in Utah. Members of the National Education Association do not come to see me because they apparently know that I have already come to the conclusion that something must be done to break the monopoly that current teachers' unions have on the way education is conducted in this country.

The author of this article goes on to tell us his own experience with his own children. He tells us how he takes his children past the Catholic schools every morning, to enroll them in what are considered the best public schools in New York City. One day he decided he would go in and see what was going on in the Catholic schools, to compare it to what was happening in the public schools. He says, "* * * I was impressed. I sat in, for example, as fourth-grade teacher Susan Viti conducted a review lesson on the geography of the Western United States." He goes on to describe the things that were done, and then he says:

I found myself wishing that my own son's fourth-grade teachers at nearby Public School 87, reputedly one of the best public schools in the city, were anywhere near as productive and as focused on basic schools as Miss Viti. Both my boys' teachers have wasted an enormous amount of time with empty verbiage about the evils of racism and sexism. By contrast, in Miss Viti's class and all other Catholic school classes I attended, it was taken for granted that a real education is the best antidote to prejudice.

Miss Viti earns $21,000 a year, $8,000 less than a first-year public-school teacher. "I've taught in an all-white affluent suburban school, where I made over $40,000. This time I wanted to do something good for society, and I am lucky enough to be able to afford to do it. I am trying to instill in my students that whatever their life situation is now, they can succeed if they work hard and study."

Mr. President, monopoly is a terrible thing, whether it is in an economy or in an intellectual circumstance. Establishing a monopoly that prevents people from looking for other ideas or other ways of doing something is the best way to guarantee stagnation. What we have in public education now is a monopoly, firmly enforced by the teachers' unions and geared to prevent any kind of intellectual competition.

We have seen it on the floor of this Chamber. Again and again last year, we tried to pass an appropriations bill for the District of Columbia. Certainly, there is no place in the world that needs appropriations more than the District of Columbia. Mired down in financial disaster and management chaos the District needed that money as quickly as it could come. Yet because we put into that bill the opportunity for experimentation on just that situation described in this morning's story in the Journal, there were people on this floor who filibustered against that appropriations bill, willing to hold up needed financial support for the District, all in the name of preserving an educational monopoly for the teachers' unions.

Now, I have very good friends in the Utah Teachers Association who come to me and say, "It is unconstitutional for you to spend public money on a private institution, particularly a private institution that has connection to a religion." Mr. President, we crossed that line, successfully, 50 years ago. All of us are familiar with the GI bills, considered by many to be the most successful Government program ever, the most successful expenditure of Government money to help people's lives that has ever taken place in the history of the United States. I have heard the GI bill being described thusly here on the floor by some of my colleagues. What do we do in the GI bill? We say to individuals, "Here is the money that we promised you to help you with your education. Now you make the decision as to where that money will be spent." Is it unconstitutional to someone under the GI bill to take that money and go to the University of Notre Dame just because the University of Notre Dame is affiliated with the Catholic Church? Is it unconstitutional for you to take that money to go to Georgetown University here in the District just because Georgetown University is run by the Jesuits? Of course, not. We have long since come to the conclusion that the money follows the student, not that it goes to support the institution.

Would it be unconstitutional for the city of New York to take Cardinal O'Connor up on his offer and say we will give you the 5-percent lowest students, we will give you the 5-percent worst problems we have, allow the money to follow the students, and let you take care of it for us? No, the constitutional precedent has been firmly established. What are they afraid of? They are afraid of saving money? They are afraid of doing better by the children? No, they are afraid of the political retaliation of the teachers' union.

The article goes on to describe that retaliation in some detail. Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BENNETT. Mr. President, there is no issue that we face in this body more serious than the challenge of educating our young people. That is not a cliche. That is a statement of our primary survival challenge of the future. Talk to CEO's, talk to personnel directors around the country, and they tell you more and more the primary challenge we have long term in this country is maintaining a work force that can survive international competition. Talk to many of these CEO's and they tell you that more and more of their budget is going to pay for remedial learning skills for their new hires. They are hiring people who cannot read the instructions that they are given to carry out their work. They are hiring people who cannot figure enough to even make change in a retail situation.

Recognizing that the schools will not teach these people to read and figure, they are beginning to allocate more and more of their corporate dollars to give this kind of education themselves. It is potentially, as I say, Mr. President, the single most important issue we face. I think with the collapse of the Soviet Union, this has become the long-term survival issue for the United States. Yet we allow ourselves to insist that the status quo, producing these kinds of results, is what must be maintained at all costs. We allow ourselves to say we will not even experiment with a voucher system that might challenge the present monopoly. We will not even allow an educational system that is willing to try and experiment with 5 percent of the kids who are doing the worst in our Nation's largest city, to see what might happen with that experiment.

What are the teachers' unions afraid of, when challenged with the opportunity to have an experiment of this kind? They are afraid of people like Miss Viti, described in the article, demonstrating to all of the world the bankruptcy of the present circumstance. Education is the only place I know, Mr. President, where professionals—and I consider teachers to be professionals—are willing to accept less money in order to avoid working for public payroll. In every other circumstance, the professionals earn more money when they get out of the public payroll. Lawyers in private practice earn more than lawyers who work for municipalities and State governments and the Federal Government. Doctors in private practice earn more than doctors who work for the Public Health Service. But in education, teachers earn less who work in private schools than those who work for the public. Why do they do it? Because as Miss Viti says, "I wanted to do something good for society. I am lucky to be able to afford to do it."

Mr. President, I will return to this from time to time. I am not on the appropriate committee for a variety of reasons which we understand around here. The committee assignments come by virtue of the State that you represent and the interests that you have in seeing that State is properly represented. But I could not pass the opportunity to call to the attention of the Senate this incredible statement in this morning's paper, whereby the Nation's teachers' union, working

through its affiliates in New York State, have denied the lowest 5 percent of the city of New York the opportunity to try something new, and have thus condemned those 5 percent to a continued future of bleakness and lack of opportunity.

A final demonstration of this, Mr. President, again, from the information contained in the article comparing what happens in New York City schools—the public schools that are spending three times as much as the Catholic schools—in terms of the results. Here is the conclusion that comes from the New York State Department of Education. This is not a conclusion that comes from the managers of the private schools, the Catholic schools. This is the conclusion that comes from the New York State officials themselves:

Catholic schools with 81 percent to 100 percent minority composition outscored New York City public schools with the same percentage of minority enrollment in grade 3 reading . . .

In grade 3 reading, they were 17 percent better; in grade 3 mathematics, 10 percent better; in grade 5 writing, 6 percent better; in grade 6 reading, 10 percent better; in grade 6 mathematics, 18 percent better.

A Rand Corp. study compared the performance of children from New York City's public schools and Catholic high schools and came up with these statistics. Again, this is not from the Catholic school system itself; this is from an outside observer known for its excellence and its objectivity, the Rand Corp.:

Only 25 percent of the public school students graduated at all . . .

Let me repeat that statistic, Mr. President. It is staggering.

Only 25 percent of the public school students graduated at all, and only 16 percent took the Scholastic Aptitude Test.

By shameful contrast, the small "elite" of public school students who graduated and took the SAT averaged only 642 for those in neighborhood schools and 715 for those in magnet schools.

Here is the shameful contrast: 25 percent of the public school students graduated, and 16 percent took the SAT; and 95 percent of the Catholic school children graduated, and 75 percent took the SAT's. The Catholic school students scored an average of 815 on the SAT, compared to 642 of the public schools.

Once again, Mr. President, let me stress that these are in schools where the minority makeup is identical to the minority makeup in the public schools. If there is ever a statistical case to be made for the fact that we need to experiment with this kind of education and break the monopoly that the teachers' union has established and is maintaining on public education, this is it.

I thank the Chair for his indulgence. As I said, I will return to this subject from time to time because I consider it the Nation's No. 1 survival issue in the long term.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, July 17, 1996]

WHY THE CATHOLIC SCHOOL MODEL IS TABOO

(By Sol Stern)

New York City's Cardinal John J. O'Connor has repeatedly made the city an extraordinary offer: Send me the lowest-performing 5% of children presently in the public schools, and I will put them in Catholic Schools—where they will succeed. The city's response: silence.

In a more rational world, city officials would have jumped at the cardinal's invitation. It would have jumped at the cardinal's invitation. It would have been a huge financial plus for the city. The annual per-pupil cost of Catholic elementary schools is $2,500 per year, about a third of what taxpayers now spend for the city's public schools.

NO IDLE BOAST

More important, thousands more disadvantaged children would finish school and become productive citizens. For Cardinal O'Connor's claim that Catholic schools would do a better job than public schools is no idle boast. In 1990 the RAND Corporation compared the performance of children from New York City's public and Catholic high schools. Only 25% of the public-school students graduated at all, and only 16% took the Scholastic Aptitude Test, vs. 95% and 75% of Catholic-school students, respectively, Catholic-school students scored an average of 815 on the SAT. By shameful contrast, the small "elite" of public-school students who graduated and took the SAT averaged only 642 for those in neighborhood schools and 715 for those in magnet schools.

In 1993 the New York State Department of Education compared city schools with the highest levels of minority enrollment. Conclusion: "Catholic schools with 81% to 100% minority composition outscored New York City public schools with the same percentage of minority enrollment in Grade 3 reading (+17%), Grade 3 mathematics (+10%), Grade 5 writing (+6%), Grade 6 reading (+10%) and Grade 6 mathematics (+11%)."

Yet most of the elite, in New York and elsewhere, is resolutely uninterested in the Catholic schools' success. In part this reflects the enormous power of teachers' unions, fierce opponents of anything that threatens their monopoly on education. In part it reflects a secular discomfort with religious institutions.

I myself have felt this discomfort over the years, walking past Catholic schools like St. Gregory the Great, near my Manhattan home. Every morning, as I took my sons to public school, I couldn't help noticing the well-behaved black and Hispanic children in their neat uniforms entering the drab parish building. But my curiosity never led me past the imposing crucifix looking down from the roof, which evoked childhood images of Catholic anti-Semitism and clerical obscurantism.

Finally, earlier this year, I ventured in, and I was impressed. I sat in, for example, as fourth-grade teacher Susan Viti conducted a review lesson on the geography of the Western United States. All the children were completely engaged and had obviously done their homework. They were able to answer each of her questions about the principal cities and capitals of the Western states—some of which I couldn't name—and the topography and natural resources of the region. "Which minerals would be found in the Rocky Mountains?" Miss Viti asked. Eager hands shot up. Miss Viti used the lesson to expand the students' vocabulary: when the children wrote things down, she insisted on proper grammar and spelling.

I found myself wishing that my own son's fourth-grade teachers at nearby Public School 87, reputedly one of the best public schools in the city, were anywhere near as productive and as focused on basic skills as Miss Viti. Both my boys' teachers have wasted an enormous amount of time with empty verbiage about the evils of racism and sexism. By contrast, in Miss Viti's class and in all the other Catholic school classes I visited, it was taken for granted that a real education is the best antidote to prejudice.

Miss Viti earns $21,000 a year, $8,000 less than a first-year public-school teacher. "I've taught in an all-white, affluent suburban school, where I made over $40,000," she says. "This time I wanted to do something good for society, and I am lucky enough to be able to afford to do it. I am trying to instill in my students that whatever their life situation is now, they can succeed if they work hard and study."

You might expect liberals, self-styled champions of disadvantaged children, to applaud the commitment and sacrifice of educators like Susan Viti. You might even expect them to look for ways of getting government money to these underfunded schools. Instead, they've done their best to make sure the wall of separation between church and state remains impenetrable. Liberal child-advocacy groups tout an endless array of "prevention" programs that are supposed to stave off delinquency, dropping out of school and teen pregnancy—yet they consistently ignore Catholic schools, which nearly always succeed in preventing these pathologies.

Read the chapter on education in Hillary Clinton's "It Takes a Village." Mrs. Clinton advocates an alphabet soup of education programs for poor kids, but says not a word about Catholic schools. Similarly, in his books on education and inner-city ghettos, Jonathan Kozol offers vivid tours of decrepit public schools in places like the South Bronx, but he never stops at the many Catholic schools that are succeeding a few blocks away.

Why are Catholic schools taboo among those who talk loudest about compassion for the downtrodden? It's hard to escape the conclusion that one of the most powerful reasons is liberals' alliance with the teachers' unions, which have poured hundreds of millions of dollars into the campaign coffers of liberal candidates around the country. Two weeks ago I attended the National Education Association convention in Washington, a week-long pep rally for Bill Clinton punctuated by ritual denunciations of privatization.

Before the teachers' unions rise to political power, it was not unusual to see urban Democrats like former New York Gov. Mario Cuomo support government aid to Catholic schools. Mr. Cuomo's flip-flop on this issue is especially revealing. In 1974, when he first ran for public office, Mr. Cuomo wrote a letter to potential supporters: "I've spent more than 15 years . . . arguing for aid to private schools," he wrote. "If you believe aid is a good thing, then you are the good people. If you believe it, then it's your moral obligation, as it is my own, to do something about it. . . . Let's try tax-credit plans and anything else that offers any help."

Mr. Cuomo soon learned his lesson. In his published diaries he wrote: "Teachers are perhaps the most effective of all the state's unions. If they go all-out, it will mean telephones and vigorous statewide support. It will also mean some money." In his 1982 campaign for governor, Mr. Cuomo gave a speech trumpeting the primacy of public education and the rights of teachers. He won the union's enthusiastic endorsement against Ed Koch in the Democratic primary. Over the next 12 years, in private meetings with Catholic leaders, Gov. Cuomo would declare that he still supported tax relief for parochial school parents. Then he would take a completely different position in public. For example, in 1984 he acknowledged that giving tax credits for parochial-school tuition was "clearly constitutional" under a recent Supreme Court decision—but he refused to support such a plan.

Politically controlled schools are unlikely to improve much without strong pressure from outside. Thus, the case for government aid to Catholic schools is now more compelling than ever, if only to provide the competitive pressure to force state schools to change. And the conventional wisdom that government is constitutionally prohibited from aiding Catholic schools has been undermined by several recent U.S. Supreme Court decisions.

SUCKER'S TRAP

Since the powerful teachers' unions vehemently oppose any form of government aid to Catholic schools, reformers are often skittish about advocating vouchers or tuition tax credits, fearing that will end the public-school reform conversation before it begins. But to abandon aid to Catholic schools in the name of public-school reform is a sucker's trap. We have ended up with no aid to Catholic schools and no real public-school reform either.

Catholic schools are a valuable public resource not just because they profoundly benefit the children who enroll in them. They also challenge the public-school monopoly, constantly reminding us that the neediest kids are educable and that spending extravagant sums of money isn't the answer. No one who cares about reviving our failing public schools can afford to ignore this inspiring laboratory of reform.

Mr. BENNETT. 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. 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, I assume we are in morning business. I ask unanimous consent I may proceed for no more than 10 minutes.

The PRESIDING OFFICER. The Senate is in morning business and the Senator is recognized for 10 minutes, without objection.

TAXPAYER BILL OF RIGHTS 2

Mr. PRYOR. Mr. President, over the past several years there has been a very extensive debate over ways to achieve more fairness for taxpayers, especially small taxpayers, through reform of our tax system. Proposals are most often very complex and sometimes extremely partisan. But there is one simple, inexpensive, and I must say unanimously-agreed upon legislative package that helps make paying taxes fairer to the taxpayer. Mr. President, we call this proposal the taxpayer bill of rights 2, which passed the Senate by unanimous vote on Thursday evening.

I am very proud we passed this particular piece of legislation by unanimous consent. The passage of this important piece of legislative work is the culmination of over one decade of dedication to its philosophy.

Many of our colleagues in the Senate today were not here in 1988 when Congress passed, and President Reagan signed into law, the very first taxpayer bill of rights. That bill was the first ever comprehensive piece of legislation enumerating the rights of the American taxpayer. For example, in the taxpayer bill of rights 1 provided:

First, the right of the taxpayer to be informed of their respective rights;

Second, the right of the taxpayer to rely on written advice of the Internal Revenue Service;

Third, the right of the taxpayer to representation; and

Fourth, the right of the taxpayer to recover, for the first time, civil damages and attorney's fees from the Internal Revenue Service.

These and other basic, commonsense provisions were codified by the first taxpayer bill of rights. The battle waged by a strongly bipartisan coalition for their codification was hard-fought, and their ultimate enactment was a first giant step for the American taxpayer.

But, since 1988 Mr. President, we have learned much about the Internal Revenue Service and the needs of taxpayers. Now is clearly time to more fully develop and expand those particular rights. With Thursday's passage of the taxpayer bill of rights 2, we have taken a very significant step forward, treating taxpayers more like customers.

This step follows the efforts taken in 1988 with the enactment of the first taxpayer bill of rights.

In 1992 I first introduced the taxpayer bill of rights 2 with considerable bipartisan backing of some 52 of our colleagues on each side of the aisle. The bill passed Congress twice that year. It was ultimately vetoed because it was included as part of two large tax bills with which President Bush did not agree. Since these two bills were vetoed at that time, the Senate has not considered taxpayer bill of rights 2 on its own merits until this past Thursday. In making its way to the Senate, this very important piece of legislation passed the House of Representatives by a unanimous 425 to 0 vote. I applaud the action of the House of Representatives, and I am proud that this Thursday, because of a strong bipartisan coalition, the Senate has now followed suit by unanimously passing taxpayer bill of rights 2.

I am also proud to say I have had the privilege and honor of working very closely with my colleagues in the Senate. Senator CHUCK GRASSLEY, of Iowa, has been a strong champion for years of increasing taxpayers' rights. He has been, certainly, a grand ally in this long fight. Senator HARRY REID, from Nevada, has also been a strong advocate for giving additional rights to the taxpayer. He has been a strong advocate and supporter of taxpayer bill of rights 2. In fact, the very first speech that Senator REID made on the floor of the U.S. Senate, shortly after his election, related to the necessity and the need of having a taxpayer bill of rights.

I look forward to President Clinton signing this very important bill in the days ahead. The taxpayer bill of rights 2 builds on a foundation laid by the original taxpayer bill of rights. It protects taxpayers by requiring the IRS to achieve higher standards of accuracy, timeliness, and fair play in providing taxpayer service. It makes the Internal Revenue Service accountable.

The taxpayer bill of rights 2 achieves these new standards through 27 new provisions—27 new protections for the American taxpayer, as a result of the passage of the taxpayer bill of rights 2.

First, expansion of the authority of the taxpayer advocate to prevent hardships on taxpayers;

Second, creation of small taxpayers' rights to an installment agreement, and further rights when installment agreements are denied or terminated are specifically spelled out to benefit the taxpayer;

Third, the expansion of the reasons for which the IRS must abate interest when it has delayed a taxpayers' case, and for the very first time in our history, a grant of authority to the courts of the power to review the interest abatement determination;

Fourth, an increase in the amount a taxpayer can recover in civil damages from $100,000 to $1 million, when the Internal Revenue Service or an agent thereof has acted negligently or recklessly in the taxpayer's case;

Fifth, provisions strengthening the code so the taxpayer may recover out-of-pocket costs;

Sixth, rules prohibiting the Internal Revenue Service from issuing retroactive proposed regulations unless the Congress provides otherwise.

Mr. President, the taxpayer bill of rights 2 contains many more commonsense provisions, designed to safeguard the rights of taxpayers. Taken together, these provisions will work to restore more faith in our system of taxation. It will provide more protection for the taxpayer in dealing with the Internal Revenue Service.

I truly believe that in the long run, this very important, bipartisan legislation will help bolster taxpayer confidence in dealing with the Government by ensuring taxpayers that they are going to get fair treatment by the tax collector, the Internal Revenue Service.

Mr. President, in closing, I would like to this morning pay a very, very special tribute to a fine gentleman who has worked for years to make certain that the taxpayer bill of rights No. 2 became the law of this land. This fine gentleman is Steve Glaze. He is a member of my staff. He sits to my left at this moment on the floor, and I can say without reservation that without Steve Glaze's constant help and support, his inspiration many times when we thought the taxpayer bill of rights 2 would never see the light of day and never become law, Steve Glaze was always that optimistic individual, knowledgeable, inspired and committed to making certain that the American taxpayer got a fairer break.

So, Mr. President, I thank my very worthy staff member, Steve Glaze, for his magnificent contribution to this bipartisan piece of legislation.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I understand morning business will be completed at 11 o'clock. I will attempt to keep my time to that. If you will advise me when the time is up, I would appreciate it.

The PRESIDING OFFICER. The Senator is correct. Morning business does expire at 11 o'clock. The Chair will advise the Senator.

Mr. DOMENICI. I had contacted Senator THURMOND about the last 5 minutes, and he is not coming, so that is why I am using his time.

FOREIGN OWNERSHIP OF U.S. TREASURIES

Mr. DOMENICI. Mr. President, while much attention has been given to the trajectory of our budget deficit in recent months, very little has been said about how we are financing this deficit. I think this latter point is crucial because there are some very troubling trends in the ownership of U.S. Treasuries which could spell trouble down the road.

Foreign ownership of U.S. Treasuries has surged in the last 3½ years. As a percent of the total private holdings, this ratio soared from 19 percent in 1992 to 25 percent by 1995. To put this in perspective, foreign treasuries and their holdings held within a fairly stable, and narrow range of 15 to 20 percent during the 12 years previous to 1992.

Some may argue that this recent rise is not worrisome. Indeed, we should be grateful, some would say, for foreign participation. However, this ignores two very key facts.

One, this money must be paid back with interest at a future date, and interest payments abroad are an unambiguous loss to American incomes. This is not the case with interest paid to domestic residents and domestic institutions. As such, continued purchases of Treasuries amount to mortgaging away our future standard of living a little bit at a time.

The second reason is that it is usually a bad sign to see a country find itself predominantly with foreign central bank money, because when they buy our Treasuries, they lend us their money. So it is usually a bad sign to see a country find that a foreign central bank is a predominant lender of money to us.

This usually bespeaks a lack of sufficient private investment and is a warning of unsustainable fiscal policies. Witness Mexico in 1995. That is why I view the first quarter's current data with such alarm. It showed that foreign central banks bought $55 billion in U.S. Treasuries from January to March of this year alone—$55 billion. That is nearly double the amount that central banks bought in all of 1994 and is over 80 percent of 1995's yearly total.

Let me put it another way. First quarter foreign official bond purchases amounted to 6.5 percent of the entire stock of foreign treasury holdings which had been built up over time. This goes a long way toward explaining why the treasury market was so resilient initially to the collapse of the balanced budget talks that we were having with the administration at the start of this year.

Why were central banks buying so many of our Treasury bills, so many of our IOU's? While some may have viewed United States debt as a good investment, the main player was the Bank of Japan. It was not buying our Treasury bills because it wanted to, but only did so to prop up the dollar and keep the yen weak as a way of aiding its ailing exporters and its banking sector.

The Bank of Japan has been forced into such defensive dollar buying ever since the Clinton administration forcibly devalued the dollar in 1993. Since 1993, the Bank of Japan's reserves have tripled from $69 billion, Mr. President, to $208 billion, underpinning our bond market with those huge quantities of purchases.

Since these reserves are held in dollars, this translates into a similar amount of treasury purchases. At present, these Japanese treasury purchases are very stable. The Bank of Japan cannot sell them without precipitating a fall in the dollar versus yen. However, once its banking sector reserves and its exporters adjust to the current yen level, there will be less need for the Bank of Japan to be buying Treasuries. Since the U.S. bond market has been accustomed to their steady purchases, this will come as a blow to the Treasury market of the United States. Indeed, we have already seen a mild example of what might happen when foreign central banks scale back their dollar purchases.

In April through June of 1996, official Treasury purchases were only one-tenth as large as in the first quarter. It was no accident that bonds fell sharply during this period, with the 30-year yield soaring from 6.6 to 7.2 percent.

The recent example stresses the importance of reducing the amount of U.S. debt issuance now. Only in this way will we be able to prevent a sharp future bond market selloff if foreign central banks scale back their enormous appetite for our securities, which appetite is not singularly predicated upon their confidence in us but, rather, in this case, the Japanese purchases are in their own self-interest for the time being, for they are attempting to effect the value of the yen versus the dollar their way.

When that all gets stabilized, who will fill the gap as they begin to dispose of these inordinate holdings of American Treasuries?

Mr. President, I yield the floor and thank the Senate for the time.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered. The Senator from Alaska.

Mr. STEVENS. What is the pending business now?

DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1997

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1894) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Stevens amendment No. 4439, to realign funds from Army and Defense Wide Operation and Maintenance accounts to the Overseas Contingency Operations Transfer Fund.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my understanding as to the vote on the cloture motion that was filed last week, it has been temporarily set aside and could be called back by the leadership after notice to the minority; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. The Senator from Hawaii and I are now at liberty to proceed with the bill; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. When we were interrupted by the proceedings on the cloture motions last week, I had an amendment pending which had been set aside. Is that still the situation with regard to this bill?

The PRESIDING OFFICER. The pending question is amendment No. 4439, as the Senator has stated. Is there further debate on the amendment?

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

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

AMENDMENT NO. 4439

Mr. STEVENS. Mr. President, I ask the clerk to lay before the Senate the amendment that was set aside, No. 4439.

The PRESIDING OFFICER. That is the pending question.

Mr. STEVENS. Mr. President, this is a technical amendment that transfers funds from one account to another to assure that the contingency operations of the Department will be met.

AMENDMENT NO. 4589 TO AMENDMENT NO. 4439

(Purpose: A second degree amendment to amendment number 4439 filed by Mr. Stevens)

Mr. STEVENS. Mr. President, I now send to the desk an amendment which was proposed by Senator INOUYE and introduced on Friday.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. INOUYE, proposes an amendment numbered 4589 to amendment No. 4439.

The amendment is as follows:

In lieu of the matter to be inserted by amendment number 4439, at an appropriate place in the bill insert:

SEC. 8099. (a) Notwithstanding any other provision of this Act, the number for Military Personnel, Navy shall be $16,948,481,000, the number for Military Personnel, Air Force shall be $17,026,210,000, the number for Operation and Maintenance, Army shall be $17,696,659,000, the number for Operation and Maintenance, Air Force shall be $17,326,909,000, the number for Operation and Maintenance, Defense-Wide shall be $9,887,142,000, the number for Overseas Contingency Operations Transfer Fund shall be $1,140,157,000, the number for Defense Health Program shall be $10,251,208,000, the number for Defense Health Program Operation and maintenance shall be $9,931,738,000. (b) Of the funds appropriated under the heading Aircraft procurement, Air Force, $11,500,000 shall be made available only for modifications to B-52 bomber aircraft. (c) Of the funds appropriated in title VI of this Act, under the heading Chemical Agents and Munitions Destruction, Defense for Research, development, test and evaluation, $3,000,000 shall only be for the accelerated development of advanced sensors for the Army's Mobile Munitions Assessment System. (d) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Defense-Wide, $56,200,000 shall be available for the Corps Surface-to-Air Missile (CORPS SAM) program and $515,743,000 shall be available for the Other Theater Missile Defense/Follow-On TMD Activities program. (e) Funds appropriated in title II of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house government costs. (f) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Navy, $2,000,000 is available for titanium processing technology. (g) Advance billing for services provided or work performed by the Navy's defense business operating fund activities is prohibited: *Provided*, That of the funds appropriated under the heading Operation and Maintenance, Navy, $2,976,000,000 shall be available only for depot maintenance activities and programs, and $989,700,000 shall be available only for real property maintenance activities. (h) The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center. (i) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Defense-Wide, $3,000,000 shall be available for a defense technology transfer pilot program. (j) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Navy, $4,000,000 is available for the establishment of the National Coastal Data Centers required by section 7901(c) of title 10, United States Code, as added by the National Defense Authorization Act for Fiscal Year 1997. (k)(1) Of the amounts appropriated or otherwise made available by this Act for the Department of the Air Force, $2,000,000 shall be available to provide comprehensive care and rehabilitation services to children with disabilities who are dependents of members of the Armed Forces at Lackland Air Force Base, Texas.

(2) Subject to subsection (3), the Secretary of the Air Force shall grant the funds available under subsection (a) to the Children's Association for Maximum Potential (CAMP) for use by the association to defray the costs of designing and constructing the facility referred to in subsection (1).

(3)(a) The Secretary may not make a grant of funds under subsection (2) until the Secretary and the association enter into an agreement under which the Secretary leases to the association the facility to be constructed using the funds.

(b)(1) The term of the lease under paragraph (1) may not be less than 25 years.

(2) As consideration for the lease of the facility, the association shall assume responsibility for the operation and maintenance of the facility, including the costs of such operation and maintenance.

(c) The Secretary may require such additional terms and conditions in connection with the lease as the Secretary considers appropriate to protect the interests of the United States.

Mr. STEVENS. I stand corrected. This is an amendment based upon a series of amendments that I will articulate after we adopt this amendment. This is a managers' amendment. It has been drafted and prepared by Senator INOUYE. With his consent, I have called it up as an amendment in the second degree to the pending amendment.

I want to give notice to all Senators that it is being brought up and it is a technical amendment. However, it does cover a series of amendments that were filed in cloture. This amendment, if adopted, covers amendments Nos. 4439, 4466, 4467, 4468, 4469, 4470, 4471, 4472, 4473, 4474, 4475, 4476, 4477, 4478, 4481, 4482, 4483, 4484, 4485, 4486, 4487, 4488, 4511, 4565, 4567, and 4576. I believe that is the list.

Because of the cloture requirements, we filed separate amendments to achieve the same objective as the managers' amendment we had worked out before the cloture motion was filed. These were a series, not totally technical, of amendments that had been worked out on both sides and cleared on both sides for inclusion in this bill by unanimous consent. If we adopt this amendment, I will ask that the amendments I have just read be withdrawn.

I turn to my friend from Hawaii to seek his concurrence in this procedure.

Mr. INOUYE. Mr. President, I have no objection, and I wish to advise my colleagues that this procedure and these amendments have been cleared by both sides.

Mr. STEVENS. Mr. President, I want to wait a minute in total fairness. We are trying to contact one Senator. I want to make sure there is no disagreement. We have the list here, if anyone who is observing these proceedings is concerned. This will, in effect, adopt the amendments that we were prepared, before the cloture motion was filed, to recommend to the Senate as one managers' amendment. That is our proceeding now.

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

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

Mr. STEVENS. Mr. President, I restate my request. I have an amendment at the desk. I ask unanimous consent that it be considered as a substitute for the pending amendment.

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

Mr. CRAIG. Mr. President, the plasma quench technology amendment will yield valuable results for our defense and aerospace industries in the near future. I understand it has been accepted by the committee, so I will keep my remarks brief. I sincerely appreciate the help and support of the chairman of the subcommittee, Senator STEVENS and the ranking member, Senator INOUYE.

Mr. President, my amendment would provide $2 million from funds available under title IV of the legislation before us, to support development of an innovative metallurgic technology called plasma quench developed at the Idaho National Engineering Laboratory, to be used in producing ultra fine titanium powder and developing an injection molding of titanium metal.

Titanium metal is of critical significance to a wide variety of strategically important manufactured products, and the need for titanium in the production of such products is set to increase dramatically. In the transportation and aerospace areas the feasibility of many advanced products is predicated on a high-quantity, low cost supply of titanium that simply does not currently exist. At the same time that U.S. aerospace companies and other manufacturers are becoming more dependent on titanium, the sources for processed titanium metal are increasingly moving offshore, becoming more expensive. High capital and operational costs, in addition to the waste disposal costs associated with the standard Kroll process for titanium production are largely to blame for this migration. This situation threatens to seriously diminish the leverage and control exercised by U.S. manufacturers over this important strategic material.

The plasma quench process represents an alternative to the Kroll process that could have a radical impact on the world's titanium market by dramatically reducing the capital and process costs, and eliminating the waste stream associated with titanium production. While commercial-scale production of other metals using this process has already been demonstrated, much developmental work is necessary to prove the viability of the process with regard to titanium.

Mr. President, this is an important step in assuring the cost-effective, viable, and readily accessible production in the United States. As I mentioned before, I thank the committee for accepting this amendment.

Mr. STEVENS. Now, Mr. President, I will announce, once again, that this is the managers' amendment. It incorporates a series of amendments that we had agreed to accept on both sides prior to the cloture motion being filed. It has been checked with the persons that had some question about it. I now believe that it is still cleared on both sides. With that concurrence from the Senator from Hawaii, I ask if he concurs that it be adopted.

Mr. INOUYE. Mr. President, I concur.

The PRESIDING OFFICER. If there is no objection, amendment No. 4589 is agreed to.

The amendment (No. 4589) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4439, AS AMENDED

The PRESIDING OFFICER. If there is no objection, amendment No. 4439, as amended, is agreed to.

The amendment (No. 4439), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I read the series of amendments that have been proposed in the cloture mode, and I recall all of those amendments.

The PRESIDING OFFICER. Without objection, those amendments are recalled.

Mr. STEVENS. Mr. President, we have a series of amendments that have been filed, and we have been notified of a series that Members will seek to debate. We have an understanding with the leadership that a cloture motion will continue to be set aside so long as we proceed expeditiously with this bill.

Senator INOUYE and I are prepared to debate and consider any amendments that Members have indicated they wish to bring before the Senate. We will announce to the Senate that if there are no Members that wish to bring the matters before the Senate, we will go to third reading.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. STEVENS. Yes, I will. Does the Senator from Hawaii have any remaining amendments he wishes to consider?

Mr. INOUYE. Not personally.

Mr. President, I want to advise my colleagues that the managers of this measure are prepared to not only debate but to pass this measure today. If we cooperate, we should be able to do so by a reasonable time this evening.

That would mean tomorrow and the weekend would be free for our colleagues to do what they normally wish to do at this time of the year. So, Mr. President, I hope that the staff on both sides will send the message out to those who are interested in presenting amendments to come forth to the floor and do so expeditiously.

Mr. STEVENS. Mr. President, if I can have the indulgence of the Chair, I have three small amendments that I will present.

AMENDMENT NO. 4563

(Purpose: To require a study regarding the F-22 advanced tactical fighter)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 4563.

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

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

The amendment is as follows:

On page 30, line 2, before the period, insert: ": *Provided*, That not less than $1,000,000 of the funds appropriated in this paragraph shall be made available only to assess the budgetary, cost, technical, operational, training, and safety issues associated with a decision to eliminate development of the F-22B two-seat training variant of the F-22 advanced tactical fighter: *Provided further*, That the assessment required by the preceding proviso shall be submitted, in classified and unclassified versions, by the Secretary of the Air Force to the Congressional defense committees not later than February 15, 1997".

Mr. STEVENS. Mr. President, this amendment allocates $1 million for the Air Force to assess comprehensively the implications of the service's recent decision to terminate development of a two-seat trainer variant of the F-22 advanced tactical fighter.

I might state to the Senate that we have been informed that, if there was a proposal to eliminate the two-seat variant of the F-22 advanced tactical fighter, that would leave us without a training vehicle for this very sophisticated new aircraft.

We are not mandating that the decision be changed. We are mandating that there be a study made of that decision with regard to safety and training problems, as well as budgetary and technical problems, and that the Appropriations Committees and the Armed Services Committees of the House and Senate receive this study by February 15, 1997.

The Air Force normally acquires fighter aircraft in single-seat and two-seat variants so that the latter may be used for pilot flight training. Although the twin-seat trainers cost more than the single seat aircraft, they are considered necessary for the effective and safe training of pilots in the demanding air-to-air and air-to-ground tactical environments. Should a student pilot experience difficulties, the instructor pilot can assume control of the aircraft

and safely demonstrate the required procedures and maneuvers.

Recently, the Air Force decided to cease development of the two-seat F-22—known as the "F-22B"—in order to constrain costs.

Mr. President, there are serious safety, operational, and training issues associated with this decision. The F-22 is the most complex fighter aircraft ever developed. The pilots flying it must be the best trained to operate and fight the aircraft safely and effectively. The loss of a single pilot in a training accident would be a tragedy and would deprive the nation of a talented Air Force officer needed to accomplish important military missions.

There also are major cost, budgetary, and technical issues associated with the decision. Every F-22 fighter will cost at least $111 million to procure. The entire program will cost at least $70,092,947,000. In addition to the high cost of training a pilot, the loss of just a few F-22's in training or operational accidents caused by inferior training would more than offset the savings generated by terminating the F-22B. In retrospect, this decision may well come to be seen as penny wise and fiscally and militarily pound foolish.

The amendment I am offering is intended to provide the Congress with sufficient information to enable us to fully understand the many serious implications of the Air Force decision. Congress should have the opportunity to consider, and to act on, this decision in a timely manner.

The amendment mandates that the required report be submitted in classified and unclassified versions.

Does this have my friend's support?

Mr. INOUYE. Mr. President, this amendment has been cleared by both sides.

Mr. STEVENS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4563) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4489

(Purpose: To reduce by $100 million the maximum amount allowed for Pentagon renovation)

Mr. INOUYE. Mr. President, I call up amendment No. 4489 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Hawaii [Mr. INOUYE], for Mr. BINGAMAN, proposes an amendment numbered 4489.

Mr. INOUYE. 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 70, line 8, strike out "$1,218,000,000" and insert in lieu thereof "$1,118,000,000".

Mr. BINGAMAN. Mr. President, this amendment will bring the defense appropriations bill into conformance with the authorization bill on the total cost of the renovation of the Pentagon reservation. My amendment reduces the cost cap in the bill by $100 million to a total of $1.118 billion. This is identical in purpose to the amendment passed by the Senate on June 25 during debate on the defense authorization bill.

The amendment is very simple and straightforward. It reduces the funds for the Pentagon renovation project by $100 million. As we have realigned our defense programs to meet changing needs, funds for many projects have been reduced or eliminated. Despite big reductions in defense spending and defense personnel, the Pentagon renovation project has enjoyed a steady flow of cash.

The time has come to impose greater financial discipline on the Pentagon, just as the Pentagon has asked other military organizations to be more frugal. This would be the first reduction in funds for this expensive project since its inception half a decade ago, and it amounts to less than 10 percent of the total.

Many things have changed since this 15-year project began, and I believe Pentagon renovation plans can be better aligned with today's realities. There are many factors which ease the impact of a reduced renovation budget. For example, the Department of Defense is downsizing. As the civilian and military workforce is steadily reduced, demands on workspace have eased. Construction costs in the Washington DC area have fallen and contract costs for the renovation have turned out to be considerably lower than the original estimates. On one construction contract alone, for example, costs were 36 percent less than anticipated. Also, modern communications technology makes it unnecessary to have large staffs at the Pentagon to manage dispersed operations.

Mr. President, in 1990 Congress transferred responsibility for the operation, maintenance, and renovation of the Pentagon from the General Services Administration to the Office of the Secretary of Defense. Congress recognized that the serious structural problems of the Pentagon building had to be addressed without further delay, and we took this action to get the long overdue project moving forward. Congress earmarked the $1.2 billion DoD would have paid to GSA in rent for the next 12 or 13 years as a break even way to pay for the renovations. This $1.2 billion was not based on projected renovation costs; it was simply a sum that was available and seemed a logical way to fund the renovation. Congress also provided the Department of Defense great flexibility in managing this large and complex project.

Since fiscal year 1994, the Senate Appropriations Committee has required the Secretary of Defense to certify that the total cost of Pentagon renovation will not exceed $1,218 million. But this $1.2 billion cap does not include all the renovation costs. In fact, there are four catogories of expenses which add substantial amounts to the total. For example, the Pentagon estimates the cost of buying and installing information management and telecommunications equipment is $750 million. This amount is not part of the $1.2 billion cap. Neither is the heating and refrigeration plant, the classified waste incinerator, the furniture, or the 780,000 square feet of leased spaces for people who must be moved during the construction. A figure of $1.2 billion is misleading; the expense of renovating the Pentagon easily exceeds $2 billion.

Last year the Senate passed my amendment to cut Pentagon Renovation expenses by $100 million. During conference, however, the conferees agreed to eliminate that requirement and instead directed the Defense Department to review the Pentagon's renovation plans and recommend cost saving options. In fact, this review had been underway since March of 1995. A March, 1995 Pentagon press release stated:

> This review will include re-examination of all lower cost options. At a time when the Secretary has initiated efforts to improve housing for our soldiers, sailors, airmen and marines, we need to do all we can to insure that dollars being spent for other infrastructure projects are not being taken away from the very high priority of improving the lifestyles of our men and women in uniform.

I agree with this sentiment, and now I'd like to ensure that we turn these words into actions.

This well publicized review was supposed to produce a report which was due in February of this year. We didn't get that report, but on June 5 the Armed Services Committee staff did receive a one-page memo which states the Defense Department has found a savings of $37 million and will continue to look for more. A reduction of $37 million out of a total of $1.2 billion is not what I consider an aggressive response to our call to reduce costs.

Mr. President, 15 months ago the Pentagon itself publicly announced the intent to reduce the cost of this project. The Defense Department identified a new spending target only after last year's threat of a reduced cap and after I announced at the Readiness Subcommittee markup on April 30 that I would introduce a similar amendment this year if I was not convinced by the Pentagon's long-overdue report. Well, that report is not here. I am not convinced that $37 million is the best the

Pentagon can do in the way of savings. The only way in which we can force additional savings is to keep up the pressure. That is what my amendment does.

Mr. President, Americans have been asked to tighten their belts and they expect no less from their Government. The Pentagon must be expected to do the same.

I yield the floor and urge the adoption of the amendment.

Mr. INOUYE. Mr. President, this amendment conforms to the Senate-passed authorization that places a ceiling on the Pentagon renovation fund. It has been cleared by both sides.

Mr. STEVENS. Mr. President, we do support this to conform with the authorization bill as passed by the Senate.

The PRESIDING OFFICER. If there is no objection, the amendment No. 4489 is agreed to.

The amendment (No. 4489) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4566

(Purpose: To increase the funding level available to continue the Maritime Technology program to $50,000,000 within available RDT&E, Defense-Wide appropriations and provide appropriate offsets)

Mr. STEVENS. Mr. President, I call before the Senate amendment No. 4566.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Alaska [Mr. STEVENS], for Mr. LOTT, proposes an amendment numbered 4566.

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

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

The amendment is as follows:

Before the period on page 30, line 13, insert: ": *Provided further*, That of the funds appropriated under this heading, $50,000,000 shall be available for the Maritime Technology program and $3,580,000 shall be available for the Focused Research Initiatives program".

Mr. STEVENS. Mr. President, this is to increase the funding level available to the Maritime Technology Program to $50 million within the available research and development funds of the defensewide appropriations to provide for appropriate offsets, and it is an item that I have introduced on behalf of Senator LOTT, and I ask for its consideration.

Mr. INOUYE. This amendment has been cleared and approved by both sides.

Mr. STEVENS. I ask for adoption of the amendment.

The PRESIDING OFFICER. If there is no objection to amendment No. 4566, the amendment is agreed to.

The amendment (No. 4566) was agreed to.

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

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, on behalf of Senator HUTCHISON, I ask unanimous consent that Michael Montelongo be admitted to the floor during the consideration of this Defense appropriations bill. He is a congressional fellow.

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

AMENDMENT NO. 4490

(Purpose: To set aside $10,000,000 for the United States-Japan Management Training Program)

Mr. INOUYE. Mr. President, in behalf of Senators BINGAMAN, DOMENICI, and SANTORUM, I call for the immediate consideration of amendment No. 4490.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Hawaii [Mr. INOUYE], for Mr. BINGAMAN, for himself, Mr. DOMENICI, and Mr. SANTORUM, proposes an amendment numbered 4490.

Mr. INOUYE. 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 30, line 13, insert before the period the following: ": *Provided*, That, of such amount, $10,000,000 is available for the United States-Japan Management Training Program".

Mr. BINGAMAN. Mr. President, this amendment would allocate $10 million within the DOD university research initiatives program element 61103D for the United States-Japan Management Training Program.

This program was begun in fiscal year 1991 at my initiative. It has enjoyed the support of both the Armed Services and the Appropriations Committees since its inception and I have been very grateful for the support of the senior Senators from Alaska and Hawaii. The goal of the program is to train American scientists and engineers and business managers in the Japanese language as part of their graduate educations and then place them in Japanese research institutions for internships or fellowships where they could learn firsthand how the Japanese research and development system—second only to our own at more than $100 billion per year—functions. They could then later in their careers in American industry and government help tap and build bridges to the Japanese research efforts in their areas of expertise. Essentially, this was an effort on a modest scale to learn from the Japanese success in tapping our research enterprise through such fellowships at our universities.

By all reports—and there have been several thorough reviews of this program—the program, as run by the Air Force Office of Scientific Research [AFOSR], has done an impressive job of achieving its objectives. Nineteen universities from around the country have received grants under the program and there has been significant cost-sharing from non-Federal sources to match funds provided by AFOSR.

Unfortunately, in fiscal year 1996, AFOSR was only able to fund the program at $2 million from its own resources after several years in which DARPA had provided AFOSR $10 million per year for the program. Essentially, the program got caught up in the politics of the Technology Reinvestment Project [TRP], even though the Japan program's focus was only peripherally related to the TRP's focus on government-industry technology partnerships.

Earlier this year, the Senate Armed Services Committee in its report provided discretion for the Pentagon to allocate up to $10 million to the Japan program from either PE61102F, the Air Force's defense research sciences program element, or PE61103D, the Office of Secretary of Defense's university research initiatives program element. The Armed Services Committee also directed AFOSR to ensure that cost-sharing from non-Federal sources should match AFOSR funds to the maximum extent practicable in future grant awards.

The Appropriations Committee in its report on the pending bill also urged the Pentagon to fund this program up to the $10 million level in its report language on the university research initiatives program element. I agree with the Appropriations Committee that the university research initiatives line is the more appropriate source for funds for this program, although the Air Force Office of Scientific Research should continue to manage it. I very much appreciate the Appropriations Committee's continuing support for the program. My amendment would take the extra step of insuring the full $10 million is really available to the program. I believe that taking this step is warranted in light of the great success the program has enjoyed in achieving its goals. I hope that the managers of the bill can support taking this additional step in supporting the Japan program.

I urge the adoption of the amendment and yield the floor.

Mr. INOUYE. This amendment earmarks $10 million for the U.S.-Japan Management Training program. Both authorization and appropriations include supporting report language, and it has been cleared by both sides, Mr. President.

Mr. STEVENS. Mr. President, I concur with the statement of the Senator from Hawaii. This is a matter that needs to be adopted to conform with the action taken by the authorizing committees.

The PRESIDING OFFICER. Without objection, amendment No. 4490 is agreed to.

The amendment (No. 4490) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4462

(Purpose: To provide $4,000,000 for the procurement of a real-time, automatic cargo tracking and control system)

Mr. INOUYE. Mr. President, in behalf of Senator FEINSTEIN, I call up amendment No. 4462 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Hawaii [Mr. INOUYE], for Mrs. FEINSTEIN, proposes an amendment numbered 4462.

Mr. INOUYE. 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 29, line 10, strike out "1998." and insert in lieu thereof "1998: *Provided*, That of the funds appropriated in this paragraph, $4,000,000 shall be available for the procurement of a real-time, automatic cargo tracking and control system.".

Mrs. FEINSTEIN. Mr. President, I rise today in support of my amendment to make $4 million from the Army's Research, Development, Test and Evaluation available to acquire a real-time, demonstrated, automatic cargo tracking and control system. This cargo tracking and control system is designed to assure that the smooth flow of cargo and to reduce the occurrence of misplaced cargo at Army ports. This demonstrated cargo tracking mechanism makes it possible for the manager of a port, rail yard, or other cargo distribution area to know where each container is and to move those containers without risk of being lost.

The Army has already witnessed massive unreported but costly loss of cargo location in storage following Vietnam and Desert Storm. The Army made previous attempts to purchase this tracking system but was unable to do so due to funding constraints. It is my understanding that the Army Material Command would like to use $4 million from Army Research, Development, Technology, and Evaluation budget line PE0603804A.

I am pleased that this amendment is acceptable and I thank the managers of the bill.

Mr. INOUYE. This amendment appropriates $4 million to be made available for the procurement of a real-time, automatic cargo tracking and control system. It has been cleared by both sides, Mr. President.

Mr. STEVENS. I do concur in this amendment.

The PRESIDING OFFICER. Without objection, amendment No. 4462 is agreed to.

The amendment (No. 4462) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4442

Mr. STEVENS. Mr. President, I call before the Senate amendment No. 4442.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. MCCAIN, proposes an amendment numbered 4442.

Mr. STEVENS. Mr. President, I have called this amendment before the Senate on behalf of Senator BOND and Senator FORD. It is an amendment that will prevent the reduction of the funds that are available under authorized program activities for the National Guard, and it has been cleared on both sides. It does indicate that if additional funds are required for a program, project or activity of a higher priority than any other in future acts, they should be submitted to Congress under section 1997 of the Defense Authorization Act.

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

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

AMENDMENT NO. 4452

(Purpose: To prohibit the use of appropriated funds to inactivate or reduce any unit of special operation forces of the Army National Guard)

Mr. STEVENS. Mr. President, I apologize to the Senate. The number should have been 4452. I mistakenly called up 4442. I ask the previous amendment be set aside. We do not want to call it up or recall it, just not bring it before the Senate at this time.

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

Mr. STEVENS. And that the amendment we consider now be the amendment for Mr. BOND, Mr. FORD, and Mr. LOTT, which is 4452.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BOND, for himself, Mr. FORD, and Mr. LOTT, proposes an amendment numbered 4452.

The amendment is as follows:

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. None of the funds appropriated by this Act may be obligated or expended—

(1) to reduce the number of units of special operations forces of the Army National Guard during fiscal year 1997;

(2) to reduce the authorized strength of any such unit below the strength authorized for the unit as of September 30, 1996; or

(3) to apply any administratively imposed limitation on the assigned strength of any such unit at less than the strength authorized for that unit as of September 30, 1996.

Mr. FORD. Mr. President, as cochairman of the Senate National Guard Caucus, I join with my colleague, Senator BOND, to thank my good friend Senator STEVENS and his ranking member Senator INOUYE for including our amendment prohibiting the use of appropriated funds to inactivate any units of Special Operation Forces of the Army National Guard in the managers amendment.

This issue has just been brought to Senator BOND's and my attention. From all indications, the U.S. Special Operations Command has decided on their own to inactivate two Army National Guard Special Forces battalions by September 1998.

This inactivation represents a loss of 802 individuals—or one-third of the Army National Guard Special Forces structure. This is not only a complete surprise to me and Senator BOND, but also to the Department of Defense.

Upon hearing of this plan, I asked my staff to check with the Pentagon to see if they knew of this proposal and had given their approval. Much to my dismay, I found out this was new to them as well.

The Special Operations Command tells us that these National Guard units are excess. However, a closer examination of the facts indicates that the actual motive behind this proposal is to harvest moneys to be spent on active forces. It is my understanding that the Special Operations Command did not even bother coordinating these proposed reductions with the leadership of the National Guard Bureau, the Army National Guard, or the active duty Army.

I believe this is the first step by the Special Operations Command for the total elimination of Special Forces in the National Guard.

The National Guard Special Forces units—the 19th and 20th Groups—are made up from the following States: Alabama, Utah, Mississippi, Florida, West Virginia, Colorado, Massachusetts, Maryland, Illinois, Virginia, Washington, Ohio, Rhode Island, California, and Kentucky.

These Special Forces groups are at the highest personnel readiness levels in history. Just recently, they proved

their mission readiness during Operation Uphold Democracy when they made up over one-half of the U.S. Special Forces presence in Haiti.

Mr. President, the Special Operations Command's proposal to reduce these National Guard units does not appear to be based on any thorough analysis of force structure required or cost comparison savings between Active Components and Reserve Components units.

It was because of decisions like this that Senator BOND and I joined Senator LIEBERMAN, Senator MCCAIN and others to co-sponsor an amendment to the 1997 Defense authority bill calling for a complete review of our military force structure needs.

Mr. President, I ask unanimous consent that a letter I received from the adjutant general of the State of Kentucky, Gen. John Groves, be printed in the RECORD following my remarks.

Mr. President, I again thank the chairman and ranking member and their staffs for their assistance in this matter.

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

COMMONWEALTH OF KENTUCKY, DEPARTMENT OF MILITARY AFFAIRS, OFFICE OF THE ADJUTANT GENERAL,

Frankfort, KY, July 5, 1996.

Hon. WENDELL H. FORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I have just become aware of a proposal by the United States Special Operations Command (USSOCOM) to inactivate two Army National Guard Special Forces Battalions by September 1998. This represents 802 ARNG spaces or one-third of the Army National Guard Special Forces structure.

As you may recall, USSOCOM conducted a comprehensive review of requirements during the 1990-92 timeframe. This review identified that two SF Groups were excess to requirements in light of the end of the Cold War. At that time, a determination was made to inactivate one group each from the Guard and USAR. The 1993 Offsite Agreement resulted in a determination that both USAR groups would inactivate and both Guard groups would remain in the structure.

Upon inactivation of the two USAR groups, the Adjutants General, with the full support of the National Guard Bureau, committed to ensuring that the readiness levels of these two groups were appropriately maintained. This was accomplished by absorbing highly qualified SF soldiers from the inactivating USAR units and intensively managing and resourcing the other shortfalls. Today, the 19th and 20th Groups are at the highest personnel readiness levels in history. Further evidence of their mission readiness was proven during Operation Uphold Democracy, when one-half of the U.S. Special Forces presence in Haiti was from the National Guard.

This proposal by USSOCOM to reduce these SF units does not appear to be based on any thorough analysis of force structure required or cost comparison savings between Active Component and Reserve Component units. It seems to be an attempt by USSOCOM to capture dollars at the expense of the Reserve Component without regard to any hard facts. These reductions will most likely jeopardize the ninety-five SF positions in Kentucky. However, the most critical aspect of these reductions is the loss of highly skilled/trained soldiers/units at a considerable savings in OPTEMPO and PERSTEMPO costs at a time when the probability of extensive participation in military operations other than war, such as in Haiti, is at an all-time high. The skills and equipment these soldiers possess to accomplish state and federal missions at minimum costs cannot be overstated.

Your assistance in stopping any further reduction in Special Forces Units would be very much appreciated. I am available to discuss this matter or answer any questions you may have either personally or by telephone at your convenience.

Sincerely,

JOHN R. GROVES, JR.
Brigadier General, KYNG,
Adjutant General.

P.S. In order to lose no time, I directed that background materials be sent to you by Fax on 3 July. This letter is my position relative to those materials.

Mr. STEVENS. Again, this is the same item discussed before. It is what I would call a preventive amendment and really instructs that the funds cannot be obligated to reduce the number of units of Special Forces in the Army National Guard for the year 1997, and we believe that it is consistent with existing law. It just indicates that those funds shall be expended for the purpose authorized only.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that this amendment has been cleared and approved.

The PRESIDING OFFICER. Without objection, amendment No. 4452 is agreed to.

The amendment (No. 4452) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4572

(Purpose: To require the Secretary of the Army to establish subcontracting goals for certain procurement using funds appropriated by the bill)

Mr. INOUYE. Mr. President, on behalf of Mr. SHELBY and Mr. HEFLIN, I call up amendment No. 4572 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. SHELBY, for himself and Mr. HEFLIN, proposes an amendment numbered 4572.

Mr. INOUYE. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) The Secretay of the Army shall ensure that solicitations for contracts for unrestricted procurement to be entered into using funds appropriated for the Army by this Act include, where appropriate, specific goals for subcontracts with small businesses, small disadvantaged businesses, and women-owned small businesses.

(b) The Secretary shall ensure that any subcontract entered into pursuant to a solicitation referred to in subsection (a) that meets a specific goal referred to in that subsection is credited toward the overall goal of the Army for subcontracts with the businesses referred to in that subsection.

Mr. HEFLIN. Mr. President, I rise today to propose an amendment designed to aid small business in this time of consolidation and reduced Federal spending. Over the last few years, as the Army has reduced its contracting personnel strength, I have seen larger and larger small business set-aside contracts. This process is known as bundling. Unfortunately, when the bundled contract values approach $50 million annually, the number of firms eligible to compete is greatly reduced. The pressure on small businesses is further increased by the Army's failure to place firm small business subcontracting targets in its unrestricted requests for proposals.

My amendment would, therefore, require the Army to place firm small business, small disadvantaged business, and women-owned small business subcontracting targets in appropriate unrestricted RFP's. These subcontracts would then count toward the Army's small business set-aside goal. This amendment would not, however, increase the percentage of work being set aside for small business.

As this amendment is beneficial to small business and will not affect the Army's procurement workload, I hope my colleagues will fully support it.

Mr. INOUYE. Mr. President, this amendment has been cleared. It relates to small business activities and contracts, and provides disadvantaged businesses and women-owned small businesses a slight advantage.

Mr. STEVENS. Mr. President, we have examined the amendment. There is no objection to this amendment from this side of the aisle.

The PRESIDING OFFICER. Without objection, amendment No. 4572 is agreed to.

The amendment (No. 4572) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4564

(Purpose: To require a report from the Secretary of the Air Force and the Director of the Office of Personnel Management)

Mr. STEVENS. Mr. President, I ask the clerk to lay before the Senate my amendment No. 4564.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 4564.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following general provision:

SEC. . (a) The Secretary of the Air Force and the Director of the Office of Personnel Management shall submit a joint report describing in detail the benefits, allowances, services, and any other forms of assistance which may or shall be provided to any civilian employee of the Federal government or to any private citizen, or to the family of such an individual, who is injured or killed while traveling on an aircraft owned, leased, chartered, or operated by the Government of the United States.

(b) The report required by subsection (a) above shall be submitted to the Congressional defense committees and to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives not later than December 15, 1996.

Mr. STEVENS. Mr. President, this is a general provision which requires the Secretary of the Air Force and the Director of the Office of Personnel Management to submit a joint report describing in detail the benefits, allowances, services, and other forms of assistance which may or shall be provided to any civilian employee of the Federal Government or to any private citizen, or to the family of such an individual, who is injured or killed while traveling in an aircraft owned, leased, chartered, or operated by the Government of the United States.

This report is to be submitted to the congressional defense committees, the Governmental Affairs Committee of the Senate, and the Committee on Governmental Reform Oversight of the House, no later than December 15, 1996.

This report is needed because we have had some recent accidents—the terrible accident involving Commerce Secretary Brown and other accidents—of military aircraft on which civilians who were not employees of the Federal Government were killed, as a result of the accident.

I am seeking a study to determine the fairness of the situation with regard to people who may be asked, invited, by the Government to perform what amounts to semiofficial tasks, and they are involved in missions that are undertaken on behalf of the United States, and they are killed as a result of an aircraft accident.

There has been some indications that some of these people do not have the coverage of benefits and other assistance that employees of the Government have, and that their survivors do not have the assistance of the laws that are in effect for survivors of those who were official employees. I wish to present to the Senate and the Congress next year legislation to see if we can correct this situation.

There was a similar concept in World War II that I recall. We called them the dollar-a-year persons. They were placed on the payroll and received $1 in order that they might be considered government employees so their survivors, in the event of disaster, were given the same consideration as the survivors of those who were government employees.

I do not ask the Senate, the Congress, at this time, to try to correct this, because I think there is sort of a patchwork quilt out there of benefits for survivors. I want to be able to consider this matter in the next session, as I indicated.

The difficulty is that, in almost all instances, these aircraft are military aircraft, but some of them, now, are leased and some of them are actually leased for the United States but operated under other departments than the Department of Defense. So this has to be a comprehensive report for us to see what is, really, the situation under this patchwork quilt that I mentioned, and see if we can find some way to be fair and treat these survivors honorably, without regard to which agency of the Federal Government was in charge of the aircraft and without regard to whether or not they were, in fact, employees of the United States.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that this measure has been cleared and approved by both managers.

The PRESIDING OFFICER. If there is no objection, amendment No. 4564 is agreed to.

The amendment (No. 4564) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4550

(Purpose: To require a report on meeting Department of Defense procurements of propellant raw materials)

Mr. INOUYE. Mr. President, I ask unanimous consent that amendment No. 4550 be called up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LAUTENBERG, proposes an amendment numbered 4550.

Mr. INOUYE. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) Not later than March 1, 1997, the Deputy Secretary of Defense shall submit to the defense Committees a report on Department of Defense procurement of propellant raw materials.

(b) The report shall include the following:

(1) The projected future requirements of the Department of Defense for propellant raw materials, such as nitrocellulose.

(2) The capacity, ability, and production cost rates of the national technology and industrial base, including Government-owned, contractor-operated facilities, contractor owned and operated facilities, and Government-owned, Government-operated facilities, for meeting such requirements.

(3) The national security benefits of preserving in the national technology and industrial base contractor owned and operated facilities for producing propellant raw materials, including nitrocellulose.

(4) The extent to which the cost rates for production of nitrocellulose in Government-owned, contractor-operated facilities is lower because of the relationship of those facilities with the Department of Defense that such rates would be without that relationship.

(5) The advantages and disadvantages of permitting commercial facilities to compete for award of Department of Defense contracts for procurement of propellant raw materials, such as nitrocellulose.

Mr. LAUTENBERG. Mr. President, I appreciate the cooperation of the managers of this bill in approving this amendment. The amendment is straightforward. It asks the Deputy Secretary of Defense to provide a report, not later than March 1, 1997, to the Defense committees on examining the advantages and disadvantages of allowing commercial facilities to compete for future contracts of propellant raw material requirements, such as nitrocellulose.

The report shall include an assessment of first, the projected future procurement requirements for propellant raw material, such as nitrocellulose; second, the capacity, ability, and production cost rates of the national technology and industrial base to satisfy DOD requirements; third, the national security advantage of preserving contractor owned, contractor operated facilities as part of the industrial base; and finally, the extent to which government owned, contractor operated rates for nitrocellulose are reduced as a result of their relationship with the DOD.

Nitrocellulose is the basic chemical in the propellant mixture that provides the propulsion power for a projectile or cartridge, such as for the 120 millimeter target practice cartridge used on the M1A2 tank for gunnery training.

Because of the shrinking Defense procurement budget, the Department of the Army had directed the production of propellant to its Government owned, contractor operated facility located at the Radford Army Ammunition Plant

in Virginia in order to keep its industrial base operating. However, this decision has precluded a commercial facility in my home State from competing for certain grades of nitrocellulose. This commercial facility wants to compete for future contracts beginning in fiscal year 1999.

Mr. President, this study is intended to make information available to help the Congress and the administration make an informed decision on this issue in the future. Therefore, Mr. President, I am pleased that my colleagues support this amendment.

Mr. INOUYE. Mr. President, this amendment calls for a report on DOD procurement of propellant raw materials such as nitrocellulose.

Mr. STEVENS. Mr. President, we have examined this. There have been some technical changes made at our request. We do not object to the amendment offered on behalf of the Senator from New Jersey.

The PRESIDING OFFICER. Without objection, amendment No. 4550 is agreed to.

The amendment (No. 4550) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4534

(Purpose: To require the Secretary of the Air Force to carry out a cost-benefit analysis of consolidating the ground station infrastructure supporting polar orbiting satellites)

Mr. STEVENS. Mr. President, I call before the Senate amendment No. 4534, offered by my colleague from Alaska, Senator MURKOWSKI.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. MURKOWSKI, proposes an amendment numbered 4534.

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

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

The amendment is as follows:

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. Not later than six months after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a cost-benefit analysis of consolidating the ground station infrastructure of the Air Force that supports polar orbiting satellites.

Mr. STEVENS. Mr. President, this is a very straightforward amendment that deals with requiring a report from the Air Force on the cost-benefit analysis of consolidating the ground station infrastructure of the Air Force that supports polar orbiting satellites. At present, there are several. We seek to discover whether it would be cost effective to consolidate those.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, this amendment has been cleared and approved by both managers.

Mr. STEVENS. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no objection, amendment No. 4534 is agreed to.

The amendment (No. 4534) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we have just completed a series of amendments that would have taken about—well, about 12 hours under cloture. So I am grateful to the Senate for an opportunity to proceed with our bill.

I would now like to announce to the Senate we would like Members who have amendments that they wish to present that have not been cleared to come to the floor. We will be pleased to consider any amendment and see if we can handle it as expeditiously as we have these that we have presented to the Senate. I might add, many of those amendments were modified substantially before we agreed to them.

So we look forward to that opportunity with regard to the rest of these amendments that have been filed before cloture. The leaders, I am informed, will look at this situation somewhere around 1 o'clock to determine whether we should proceed with our cloture vote.

At present, I think we could announce to the Senate, from the way we look at the amendments that have been submitted to us for review and were submitted to the Senate under the cloture procedure, if we work cooperatively we should be able to finish this bill by 7 or 8 o'clock tonight. We can do that by limiting the amount of time a Member might seek for the debate of an amendment or by assuring Members we will be more than pleased to attempt to work with them to alter the form of the amendments so we could agree to an amendment and take it to conference.

I am sure my friend from Hawaii joins me in urging Members now to come to the floor to present controversial amendments.

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

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

COMMENDING DR. LEROY T. WALKER

Mr. STEVENS. Mr. President, this has been cleared on both sides. I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate resolution that I submitted earlier today, Senate Resolution 279.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 279) to commend Dr. LeRoy T. Walker for his service as President of the U.S. Olympic Committee and his lifelong dedication to the improvement of amateur athletic opportunities in the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. I have submitted this Senate resolution to commend and thank Dr. LeRoy T. Walker, the current president of the U.S. Olympic Committee, for his contribution to amateur sports in the United States.

Dr. Walker has been the USOC president since 1992, and has been involved with the USOC since 1977. He is the first African-American to be the USOC President in the 100-year history of the U.S. Olympic Committee.

Dr. Walker started working for the U.S. Olympic Committee the year before the Congress enacted the Amateur Sports Act of 1978. That was a bill I introduced in the Senate, Mr. President.

That act marked the beginning of the modern Olympics in the United States.

Dr. Walker has been the leader in carrying out Congress' vision for the modern Olympic movement through the Amateur Sports Act.

He has brought the U.S. Olympic Committee from an era where its budget was in the tens of millions to its most recent budget in the hundreds of millions.

Athletes in the late 1970's were a different kind of amateur than today's Olympians who are able to earn millions of dollars in endorsements, and whose fame is far greater due to the substantial television coverage that we now enjoy.

The Olympics have gone from being held once every 4 years to once every 2 years, with the staggered Summer and Winter Olympics schedule.

Dr. Walker has guided the Olympic movement in the United States and in the world through these significant changes and growth.

The resolution that I have submitted mentions many of Dr. Walker's accomplishments with the U.S. Olympics and with other amateur sports organizations over the years.

Let me speak briefly on some of the remarkable things Senators may not know about my friend, Dr. Walker.

Dr. Walker was the youngest of 13 children raised in Harlem during the

Great Depression. He was the first person in his family to earn a college degree in 1940.

Not only did he earn the degree, but he graduated magna cum laude from Benedict College in just 3½ years. During that time, he earned 12 varsity letters in football, basketball, and track and field during that same time.

Dr. Walker was selected as an All-American quarterback in 1938, but kept the fact that he even played football a secret from his mother until his commencement because she was worried he would get hurt.

He earned a masters degree from Columbia in 1941. Columbia did not allow African Americans to earn doctoral degrees at that time, so Dr. Walker went to New York University to earn his Ph.D.

He was only the second African American to earn a Ph.D. at New York University.

Before Dr. Walker became involved with the U.S. Olympic Committee, he had one of the most remarkable coaching careers in the history of sports in the United States.

In all, he has coached football, basketball, and track teams that produced over 80 All-Americans, 40 national champions and 10 Olympians.

He coached or consulted the Olympic track teams of Israel in 1960, Ethiopia in 1960, Trinidad-Tobago in 1964, Jamaica in 1968, Kenya in 1972, and served as the head men's coach of the U.S. Olympic track and field team in Montreal in 1976.

Any one of Dr. Walker's achievements—whether his own athletic successes, his coaching accomplishments and his academic endeavors—not to mention his service with the U.S. Olympic Committee—would be a great achievement for most of us.

Dr. Walker has made those achievements look routine.

We commend him today for his leadership in preparing the United States for the 1996 Olympics and for preparing the U.S. Olympic Committee for the challenges of the 21st Century.

Dr. Walker is the 23d president of the U.S. Olympic Committee, and truly is one of the founding fathers of amateur sports in the United States.

His tenure as U.S. Olympic Committee President, and his long and distinguished career in amateur sports, will be capped off with the 1996 Summer Olympics in Atlanta, GA, which begin shortly.

It will be my pleasure to go to Atlanta on Wednesday to deliver to Dr. Walker the resolution I am presenting to the Senate today.

I hope the Senate will join me in support of this resolution commending and thanking Dr. Walker for all that he has done for amateur sports in the United States.

Mr. President, I urge the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution S. Res. 279.

The resolution (S. Res. 279) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 279

Whereas, Dr. LeRoy T. Walker, as President of the U.S. Olympic Committee from 1992 to 1996, and through a life long commitment to amateur athletics, has significantly improved amateur athletic opportunities in the United States;

Whereas, Dr. Walker has contributed in numerous capacities with the U.S. Olympic Committee since 1977;

Whereas, Dr. Walker is the first African-American to serve as President of the U.S. Olympic Committee in its one hundred year history;

Whereas, Dr. Walker has furthered amateur athletics in the United States through service in numerous other amateur athletic organizations, including the Atlanta Committee for the Olympic Games, the North Carolina Sports Development Commission, the Pan American Sports Organization, the Special Olympics, USA Track and Field, the Athletics Congress, and Amateur Athletic Union, the Army Specialized Training Program, the American Alliance of Health, Physical Education, Recreation and Dance, the National Association of Intercollegiate Athletics, North Carolina Central University, Duke University, Prairie View State College, Bishop College, Benedict College, and many others;

Whereas, Dr. Walker was an accomplished athlete himself in collegiate football, basketball and track at Benedict College, and an All-American in football in 1940;

Whereas, as a track and field coach, Dr. Walker helped 77 All-Americans, 40 national champions, eight Olympians, and hundreds of others, reach their potential as amateur athletes;

Whereas, Dr. Walker epitomizes the spirit of the Amateur Sports Act of 1978, the nation's law governing amateur sports;

Whereas, Dr. Walker was inducted into the U.S. Olympic Hall of Fame in 1987;

Whereas, Dr. Walker is recognized as a worldwide leader in the furtherance of amateur athletics;

Whereas, Dr. Walker will be leaving his post as the 23rd President of the U.S. Olympic Committee in 1996: Now, therefore, be it

Resolved, That the Senate commends and thanks Dr. LeRoy T. Walker for his service with the U.S. Olympic Committee, his lifelong dedication to the improvement of amateur athletics, and for the enrichment he has brought to so many Americans through these activities.

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

Mr. INOUYE. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from Illinois for deferring.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 4591

(Purpose: To ensure that work under Department of Defense contracts is performed in the United States)

Mr. SIMON. Mr. President, I send an amendment to the desk on behalf of myself, Senator SPECTER, and Senator HARKIN.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. SPECTER, and Mr. HARKIN, proposes an amendment numbered 4591.

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

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

The amendment is as follows:

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) CONSIDERATION OF PERCENTAGE OF WORK PERFORMED IN THE UNITED STATES.—None of the funds appropriated to the Department of Defense under this Act may be obligated or expended to evaluate competitive proposals submitted in response to solicitations for a contracts for the procurement of property or services except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) a factor in such evaluation, as stated in the solicitation, is the percentage of work under the contract that the offeror plans to perform in the United States; and

(2) a high importance is assigned to such factor.

(b) BREACH OF CONTRACT FOR TRANSFERRING WORK OUTSIDE THE UNITED STATES.—None of the funds appropriated to the Department of Defense under this Act may be obligated or expended to procure property or services except when it is made known to the Federal official having authority to obligate or expend such funds that each contract for the procurement of property or services includes a clause providing that the contractor is deemed to have breached the contract if the contractor performs significantly less work in the United States than the contractor stated, in its response to the solicitation for the contract, that it planned to perform in the United States.

(c) EFFECT OF BREACH ON CONTRACT AWARDS AND THE EXERCISE OF OPTIONS UNDER COVERED CONTRACTS.—None of the funds appropriated to the Department of Defense under this Act may be obligated or expended to award a contract or exercise an option under a contract, except when it is made known to the Federal official having authority to obligate or expend such funds that the compliance of the contractor with its commitment to perform a specific percentage of work under such a contract inside the United States is a factor of high importance in any evaluation of the contractor's past performance for the purposes of the contract award or the exercise of the option.

(d) REQUIREMENT FOR OFFERORS TO PERFORM ESTIMATE.—None of the funds appropriated to the Department of Defense under

this Act may be obligated or expended to award a contract for the procurement of property or services unless the solicitation for the contract contains a clause requiring each offerer to provide an estimate of the percentage of work that the offeror will perform in the United States.

(e) WAIVERS.—

(1) Subsections (a), (b), and (c) shall not apply with respect to funds appropriated to the Department of Defense under this Act when it is made known to the Federal official having authority to obligate or expend such funds that an emergency situation or the national security interests of the United States requires the obligation or expenditure of such funds.

(2) Subsections (a), (b) and (c) may be waived on a subsection-by-subsection basis for all contracts described in subsection (f) if the Secretary of Defense or the Deputy Secretary of Defense—

(A) makes a written determination, on a nondelegable basis, that—

(1) the subsection cannot be implemented in a manner that is consistent with the obligations of the United States under existing Reciprocal Procurement Agreements with defense allies; and

(2) the implementation of the subsection in a manner that is inconsistent with existing Reciprocal Procurement Agreements would result in a net loss of work performed in the United States; and

(B) reports to the Congress, within 60 days after the date of enactment of this Act, on the reasons for such determinations.

(f) SCOPE OF COVERAGE.—This section applies—

(1) to any contract for any amount greater than the simplified acquisition threshold (as specified in section 2302(7) of title 10, United States Code), other than a contract for a commercial item as defined in section 2302(3)(I); and

(2) to any contract for items described in section 2534(a)(5) of such title.

(g) CONSTRUCTION.—Subsections (a), (b), and (c) may not be construed to diminish the primary importance of considerations of quality in the procurement of defense-related property or services.

(h) EFFECTIVE DATE.—This section shall apply with respect to contracts entered into on or after 60 days after the date of the enactment of this Act.

Mr. SIMON. Mr. President, this is an amendment that tries to make our present Buy American Act effective on defense contracts. What it says is that when a defense contractor submits a bill, the defense contractor should indicate what percentage of that contract is going to be manufactured here in the United States, and then that should be a high factor in the determination by the Defense Department in consideration for that contract. And we also make clear that this is not to violate any agreement, any treaty we have with any other country and any memorandum of understanding we have with any other country.

The reality is that the Buy American Act just has not worked. I had the experience of being on an American base and seeing a truck made in another country, a U.S. military truck there, and I thought, you know, we really ought to be buying trucks made in the United States of America. That is just one small illustration.

I ask, Mr. President, unanimous consent to have printed in the RECORD letters from the Maritime Trades Department, from the International Association of Machinists and Aerospace Workers, from the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, from the AFL–CIO, and a letter from the Timken Co.

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

MARITIME TRADES DEPARTMENT,
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, July 15, 1996.

DEAR SENATOR: When the Senate takes up the FY97 defense appropriations bill, it will consider an amendment designed to provide preference to Department of Defense (DOD) contractors who maintain significant domestic production capabilities. The Maritime Trades Department, AFL–CIO (MTD) urges adoption of this amendment, which will be offered by Senator Paul Simon (D–IL) to help maintain the defense industrial base.

If adopted, this provision will provide a mechanism for assuring the American public that the nation's defense dollars are being utilized to provide the highest possible level of domestic employment. This is an important point to consider. Since 1987, over one million skilled American workers in the defense industry have lost their employment. These job losses resulted from military downsizing and, to a growing extent, American defense firms' expanding use of overseas outsourcing to fulfill their contractual obligations. In 1995, over $1.3 billion in foreign subcontracts and purchases were made as part of DOD contracts.

The Simon amendment requires the DOD to consider projected levels of domestic production when evaluating competitive procurement proposals. Defense firms are expected to reach stated domestic targets. In the event foreign outsourcing is significantly higher than declared, they may be deemed ineligible for renewal of that contract. The amendment also contains appropriate waivers for national security and international emergencies and provisions to guarantee the primacy of product quality in defense procurement decisions.

These requirements are hardly onerous when one realizes what is at stake. Americans working in this strategic field possess unique industrial skills that are vital to our nation's future, but their employment opportunities are being jeopardized by unfair trade and low-cost, heavily subsidized foreign competition. The aerospace industry, long considered the linchpin of our defense industrial system, may suffer the loss of 250,000 jobs by the year 2000.

Aside from the economic consideration involved, it simply is unacceptable for the DOD to allow defense contractors to increase their dependence on foreign-source military equipment and services. It is in this nation's vital interest to maintain a viable network of skilled defense workers so that our armed forces can respond to any contingency in an increasingly unstable world. Other nations understand this need, and until recently, so did America. Essentially, the Simon amendment would provide the necessary framework to insure that precious defense dollars be use to underwrite a competitive American base.

In closing, the MTD and its affiliates urge you to support the Simon amendment when it is considered as part of the FY97 defense appropriations measure.

Sincerely,

MICHAEL SACCO,
President.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,
Upper Marlboro, MD, June 24, 1996.

DEAR SENATOR: We are writing on behalf of the International Association of Machinists and Aerospace Workers to voice our strong support for an amendment to defense appropriations sponsored by Senator Paul Simon. The amendment, which has already passed the House of Representatives, is needed to maintain the integrity of defense spending by enabling U.S. taxpayers to know how much of their money is used to retain and create jobs in the United States.

Specifically, the Simon amendment would require contractors to state during the bidding process what percentage of work performed under a defense contract would be kept in the U.S. The amendment further provides that if a contractor is awarded the contract and fails to honor its commitment, it would be considered to be in breach of the contract and render itself ineligible for contract renewal.

This amendment makes good sense. American taxpayers should know whether they are funding defense programs that result in jobs at home. The current practice which permits defense contractors to operate in a shadow by engaging in the practice of seeking subcontractors outside the U.S. to perform portions of their contracts must be put to a stop. This practice has resulted in increased profits for the defense contractor with no savings passed along to the U.S. taxpayer. Most importantly, it has resulted in the loss of major opportunities for U.S. workers.

As jobs in the defense industry continue to be drastically reduced, this issue has become even more important. Total employment in the private sector defense industry declined by more than one million workers between 1987 and 1995. Defense related employment for aircraft, missiles, space vehicles, and related parts today is less than half of what it was in 1987. At the same time defense related employment is declining, government expenditures on defense and defense related projects involving work performed abroad continues to soar.

Defense contractors should not be in the business of subcontracting technology and shipping work, funded by U.S. taxpayers, offshore. Senators should, at the very least, be aware of the economic impact that large defense contracts will have on local communities and this impact should be a major factor in awarding contracts.

The Simon amendment accomplishes this goal by merely obligating a defense contractor to state what percentage of the contract's work will be performed in the U.S. It serves as a "truth in lending" provision and will force a contractor to be honest with itself and the United States taxpayer before it submits a bid on federal government defense work.

The American people have a right to know—will their money be going to create good and decent jobs at home, or will it be going to pay for subcontracted defense work abroad? Once again we urge your support for the Simon amendment.

Very truly yours,

GEORGE J. KOURPIAS,
International President.

INTERNATIONAL UNION OF ELECTRONIC, ELECTRICAL, SALARIED, MACHINE AND FURNITURE WORKERS, AFL–CIO,

Washington, DC, June 25, 1996.

DEAR SENATOR: On behalf of the working men and women of the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL–CIO, I urge your support for an amendment to defense appropriations to be offered by Senator Paul Simon. This amendment, which has already passed the House of Representatives, will enable the American public to know whether their tax dollars are creating good-paying defense jobs here in the United States, or whether they are subsidizing foreign operations.

Specifically, the Simon amendment would require contractors during the bidding process to disclose what percentage of work to be performed under a given defense contract would be kept in the United States. It further provides that this percentage be a factor in the awarding of the contract, and that the failure of a contractor to honor its commitment, constitutes a breach of the contract, rendering the contractor ineligible for contract renewal.

This amendment makes good common sense. American taxpayers should have the right to know whether they are funding defense programs which result in jobs at home. This amendment would put an end to current practice which permits defense contractors, without the public's knowledge, to ship work to subcontractors outside of the United States. While defense contractors have been the beneficiaries in the form of enormous profits, the American worker has been the loser.

Indeed, as defense work continues to decline in this country, this issue will become of increased importance. Between 1987 and 1995, total employment declined by more than one million workers in the private sector defense industry. Today, defense-related employment for aircraft, missiles, space vehicles, and related parts today is less than half of what it was in 1987.

With jobs and job stability a major concern of all workers in this country, the American people should have the right to know whether their hard-earned tax dollars will be used to create good-paying jobs at home, or whether they will be used to subsidize operations overseas. I strongly urge your support for the Simon amendment.

Sincerely,

WILLIAM H. BYWATER,
International Union President.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, July 1, 1996.

DEAR SENATOR: Senator Paul Simon (D–IL) will offer an amendment to the DOD appropriations bill, S. 1894, that would help retain defense manufacturing capacity in the United States. A similar amendment has already passed the House of Representatives. The AFL–CIO strongly supports the Simon amendment.

Offshore production of United States defense products is an increasing concern to defense workers as well as defense strategists. The Simon amendment would give a contract preference to manufacturers who promise to build in the United States. Contracts would be required to disclose what percentage of their product would be manufactured in the U.S., and they would be held accountable for that percentage for the duration of that contract. If a contractor failed to meet its domestic production commitment, it would be ineligible to renew that contract.

The Simon amendment makes good sense by protecting defense jobs, retaining the United States defense industrial base and enhancing protection for advanced technologies by keeping them in the United States. It also provides reasonable waiver authority and excludes contracts under $100,000.

At a time of defense downsizing, it makes little sense to continue hollowing out our defense manufacturing capability. Therefore the AFL–CLO strongly endorses the Simon amendment.

Sincerely,

PEGGY TAYLOR,
Director, Department of Legisltion.

THE TIMKEN CO.,

July 9, 1996.

I am writing to express the strong support of the Timken Company for an amendment to be offered by Senator Paul Simon during consideration of the Defense Appropriations bill for Fiscal Year 1997. The provision is similar to the Durbin amendment accepted by the House in their FY97 spending bill and would provide accountability by U.S. Government agencies in defense procurement contracts.

Under existing law and regulation, Americans are guaranteed that their tax dollars will be used by the Department of Defense in the procurement of goods and services in a manner that maintains the ability to produce certain products critical to our nation's defense. The purpose of these statutes is to sustain our national security and economy by helping to preserve the defense industrial base and the high-skilled, high wage jobs associated with it.

Unfortunately, there is no mechanism, now under law, the enforce these laws. Foreign producers consistently violate the statute by including products in U.S. defense systems that were mandated by Congress to be produced within the United States. The effect is a short term cost savings of the Pentagon with a permanent weakening of or industrial base. Such foreign sourcing of key products causes American producers to discontinue needed research and development, as well as reduce domestic capacity. We slowly become vulnerable by losing our long-term ability to produce critical defense systems.

For example, in late June, Defense Secretary Perry announced that the department would conduct an internal review of the possible illegal use of foreign high technology bearings in U.S. missile systems (such as the patriot missile and various air to air missile systems). Because these bearings are essential for the systems to work, U.S. law requires U.S.-made bearings to be used, when available, in missiles procured by the U.S. government. It is only after widespread abuse that this case received the attention necessary within the Congress and the Administration to prompt action. How many other situations simply go unnoticed and unreported? Clearly, the law must be better enforced.

The Simon amendment addresses the issue, by providing that the percentage of work a defense contractor plans to perform in the U.S. will be an important factor in the evaluation of bids; a defense contract will be deemed to have been breached if a contractor performs significantly less work in the U.S. than promised in its contract solicitation; and such a contractor will also be ineligible to have that contract renewed.

The amendment can be waived in a national emergency or for national security reasons. Also there is specific reference to not construing the provision in a manner that diminishes the primary importance of quality in the product being procured.

Your strong support of the Simon amendment is requested for a strong America. Thank you for your consideration of this matter.

Sincerely,

ROBERT LAPP.

Mr. SIMON. Mr. President, here is a defense contractor. Let me just read one paragraph here.

I am writing to express the strong support of the Timken Company for an amendment to be offered by Senator Paul Simon during consideration of the Defense Appropriations bill for Fiscal Year 1997. . . .

Unfortunately, there is no mechanism, now under law, to enforce these [Buy American] laws. Foreign producers consistently violate the statute by including products in U.S. defense systems that were mandated by Congress to be produced within the United States. The effect is a short term cost savings for the Pentagon with a permanent weakening of our industrial base. Such foreign sourcing of key products causes American producers to discontinue needed research and development, as well as reduce domestic capacity. We slowly become vulnerable by losing our long-term ability to produce critical defense systems.

I think this is a security issue.

What would happen, practically, when a company submits a bid, they would have to submit that they are going to spend 70 percent, 80 percent, or whatever percent of this contract in the United States. Then, when the Defense Department reviews the contract, that should be a high factor—not the sole factor, but a high factor—in determining where the manufacturing should go.

If a company submits a bid saying, "We are going to produce 80 percent in the United States," and then they produce 20 percent in the United States, that would be considered a breach of contract, and it would have to be considered in any future contracts by that company. I think it makes sense.

A recent GAO study in April of 1996 found that other countries are much more pressing in terms of their defense establishment in how they insist their defense money is spent within their own country. The GAO found out, among other things, that U.S. companies have entered into offset agreements totaling more than $84 billion since the mid-1980's. In order to get a contract in another country, we have agreed to $84 billion in manufacturing and purchasing of their products in another country.

I understand why some companies want to go abroad. China pays an average of $50 a month. Wichita, KS, now makes part of what it made in Wichita, KS, in China. I understand the cost savings there. We are not saying that cost savings cannot be a factor, but that a high factor has to be how much is manufactured in the United States.

As the president of Timken Company said, there is a security factor here. We need to maintain our industrial base, our research. I am told that the McDonnell Douglas facility in St. Louis, where 500 employees have just been laid off, the company is subcontracting work to Finland, Spain, Australia, Germany and Switzerland for the F-18.

Now, we are not saying that none of this work can go abroad. We are just saying it ought to be upfront in the contract.

I am pleased to be joined by Senator SPECTER and Senator HARKIN as cosponsors of this legislation. I hope it will be adopted by the Senate.

Mr. STEVENS. Mr. President, I am sad to announce to the Senate that the Department of Defense has requested that we oppose this amendment because it would impose a burdensome and relevant complication on the evaluation process. This is a very difficult process to work out.

The United States sells over $14 billion in military equipment overseas. We import about $1.3 billion. It is obvious that we have a substantial interest in continuing exports which lower the unit cost of our production that we must buy to maintain our own defense. The defense industry that is engaged in the export also has asked us to oppose this amendment.

If a contractor selects a U.S. contractor and the U.S. contractor goes out of business or cannot perform and there is no other U.S. source, the net effect of this amendment would prohibit the prime contractor from seeking a subcontractor abroad from the country of one of our allies.

This is a similar provision to the House bill. It will be in conference, and we will work out some of this issue in conference. Contrary to some of the reports I read in some of the papers this morning, the Defense Subcommittee does still confer, and we confer at length and ad nauseam sometimes, but we will confer on the issue because it is a House bill.

One of the basic problems that we have is if we interfere with the prime contractor's ability to select the best subcontractor available, we are not only imposing a burden on the contractor to respond to a solicitation that he has presented based upon availability of competitive bidding from subcontractors, the net result, Mr. President, will be the increase in costs of the defense efforts of the United States, to the taxpayers of the United States.

I view this amendment as being one which is very difficult to deal with because it is so appealing. What we are saying is the DOE policy with regard to evaluation factors would be legislated by Congress in such a way as to eliminate the ability of a contractor to look to a foreign source for a portion of the work that contractor commits to do on behalf of the Department of Defense at the taxpayers' expense and, by definition, a competitive contract.

I believe this will nullify existing procurement agreements that we have. We have some 20 longstanding allies who buy a considerable amount of their military products from us. To a great extent, we see enormous entities in the industrial base. In the United States, many of the subcontractors are from overseas.

This Senator and other Senators have been criticized for going to things like air shows, for instance. We go to trade shows and air shows to see who is out there, what is the strength of the United States vis-a-vis the foreign supplier, and are we correct to the extent that we are even buying the $1.3 billion that we buy from overseas through the use of taxpayers' funds, and directly by our contractors who do buy from subcontractors overseas.

I personally believe this is a very strong export business. Let me say, it is a $14 billion export we are looking at. That export is a strong, strong portion of our industrial base. It represents a strong portion of our industrial base. If we were to adopt the approach of the Senator from Illinois and the approach represented in the House bill totally, in my judgment, we would place at risk this strong export business. Therefore, I am sad to say I intend to move to table the amendment, subject to the comments of my friend from Hawaii.

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

Mr. INOUYE. Mr. President, at first blush, one must conclude this is a good amendment. In general, it says we Americans will purchase American goods. It is a very patriotic amendment. However, Mr. President, it is not a realistic amendment.

As the chairman of the subcommittee has pointed out, we sell our allies and other friends over $14 billion worth of defense products. In return, we have purchased $1.8 billion. As everyone in this Chamber will say, trade is a two-way street. We cannot insist our allies purchase everything from us and we not purchase anything from them. If we were the only producers in the world, we may be able to dictate terms and impose our will on the rest of the world, but there are many other countries that are involved in defense production.

This amendment of my friend from Illinois does provide the Secretary of Defense the authority to waive provisions of this amendment for NATO allies—for Israel, for Egypt, for Japan, and for Korea. But we do a lot of business with countries like Malaysia, Singapore, Thailand, Indonesia, all of South America, and all of Central America, and we may reach a point where we may find these friends of ours responding to our strict restrictions by saying: Well, if that is the way you feel about it, Mr. U.S., we will buy our aircraft from France. The Mirage is just as good. Or we might buy it from Britain. They are just as good.

So, Mr. President, though at first blush this may seem like a very patriotic amendment, the effect may be one that none of us would want to happen to our industry. We may be the loser. So I join my chairman in this motion to table this amendment.

I ask for the yeas—

Mr. STEVENS. If the Senator will withhold. I know the Senator from Illinois may want to speak. We are trying to work out a time to stack votes for a later time because there are some meetings going on that the leaders are involved in, as I understand it.

I will just add this comment to my friend from Illinois. We now are becoming an industrial center for investment by foreign producers, whether it is in automobiles, aviation parts, or other types of production. We are reducing our industrial base. After all, we have reduced the amount of money spent by the taxpayers of the United States for procurement of military goods by 60 percent in the last 10 years. We have reduced it 60 percent. Now our industrial base is shrinking. As it shrinks, some of the foreign investors and foreign manufacturers are coming into our country and opening plants to take advantage of the expertise of our labor force, and they are producing some of the parts that we are exporting. This is saying to those same people who are investing in this country, creating jobs and preserving jobs here in our industrial base: That is fine. You can produce it here and we will export it, but you cannot bring into this country and compete with this country on subcontractors. I really think that is not the right policy.

So while it will be a very difficult thing to convince the Members of the House to modify this, that is what we intend to do. We will not be able to do that if this amendment is adopted. We will have no negotiating room with the House at all. The export business of the United States is of sufficient importance that we must find a way. I do believe that, with the good will that exists in the House, we will find a way to reflect the concept that the House seeks, which is that we know what we are doing when these contracts are let, and that there literally be competition. But as long as we are insisting on competition, I do not think we ought to say we only want competition from U.S. sources when we are providing so much of the overseas market, as far as these military acquisitions are concerned.

I urge Members to travel with us and look at this. It is an enormous market that we serve. Our military-industrial complex not only serves the military

market abroad, but by producing the parts for aircraft, and parts for various types of vehicles we use, parts for our submarines, we are the parts supplier of the world.

This amendment would put that in great jeopardy, and I think it should be tabled at the appropriate time. I will make the motion to table at the appropriate time. I want to defer that until I get an indication from the leadership of the proper time to request that the vote take place.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I buy many of the arguments that my friends from Hawaii and Alaska used. I voted for NAFTA. I voted for GATT. In general, we have to have reciprocity in terms of trade. But we also have, in theory, a Buy American Act, which is, frankly, toothless. So I think we need something that is a little stronger.

Let me add that this amendment is more narrowly crafted than the House amendment. The House amendment introduced by my House colleague, Congressman DICK DURBIN, is stronger than this amendment. But this amendment at least says, let us find out what percentages are made in the United States and what percentages abroad.

In response to my friend from Alaska, who said this is going to mean a lot of work, I have a news release—and it is fairly typical—from the Office of the Assistant Secretary of Defense about various contracts. Here is a contract awarded to McDonnell Douglas that says, "Work will be performed in St. Louis, Missouri, 70 percent, and in the United Kingdom, 30 percent." So they are doing some of this right now. All we are saying is that the percent that is manufactured in the United States should be of high importance—not the sole consideration, but should be of high importance.

Here is another one. Refinery Associates of Texas. "Work will be performed in overseas locations."

Here is another contract that says, "Work will be performed 43 percent in Germany, 30 percent in Alabama, 22 percent in Michigan, 4 percent in California."

So they are doing these things now. What we are doing is just ignoring how much is made in the United States. Here is another contrast as to how much would be done in the United States, how much in Germany, how much in England, how much in Italy, how much in Korea, how much in Australia. So they are doing this now. This is not an undue burden.

Now, one argument they make is that this may cost a little more. It may cost a little more. I do not know what they pay for that foreign truck on an American base. Maybe we save a few dollars. But I think that when it comes to defense dollars, insofar as practically possible, we ought to be spending that money here at home. That is the reality. Again, I stress that there is a waiver where we have agreements with other countries and memoranda of understanding with other countries for any kind of emergency. I think this makes sense, and I urge my colleagues to reject the motion to table.

Mr. STEVENS. Mr. President, let me just list some major sales in the time we have. As we listened to the Senator from Illinois, I made a list. These are recent major sales:

C-130J to Britain, AH-64 Apache to Britain, AH-64 Apache to Netherlands, F-16 to South Korea, Corp-San development with Germany, F-18 to Australia, F-18 to Spain, AV-8B co-production with Britain and Spain. That is the British area being built in the United States, a co-production with Britain and Spain. And the MLRS rockets, which are so important to the Senator from Arkansas, to Germany and to Britain.

Now, that is just 5 seconds of thinking about what we are doing. The impact of this amendment places those in jeopardy.

Now, Mr. President, I am constrained to say that, the other night, a good friend of mine, who is a very intelligent person from academia, told me, "You know, as we reduce our industrial base, if you in Congress continue to put restrictions on our American industry so it cannot enter into cooperative agreements abroad, we will see the day come when we will be procuring all of our systems from abroad, because technology follows production."

Technology follows production. As we produce, we refine our systems, we develop new technology. If we are not involved in this production, we will not be able to afford the development costs and research costs to refine it. If we want to remain a leader in terms of production—particularly now of aircraft, submarine, and military vehicles—we are going to have to understand that our allies throughout the world, who are buying our major projects, are going to insist that they be involved somehow in this overall business.

Today, as I indicated, the balance is over $14 billion that we export versus about $1.3 billion we import. I do not believe that this amendment in its present form is in the best interest of the United States, and therefore I oppose it.

Mr. President, I will put the Senate on notice that unless the leader disagrees, we will call for the vote in 10 minutes, and I suggest the absence of a quorum in the meantime.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4569

(Purpose: To impose additional conditions on the authority to pay restructuring costs under defense contracts.)

Mr. INOUYE. Mr. President, in behalf of the Senator from New Jersey [Mr. BRADLEY], I ask for the immediate consideration of amendment No. 4569.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The amendment will be considered.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BRADLEY, proposes an amendment numbered 4569.

Mr. INOUYE. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. (1) Not later than April 1, 1997, the Comptroller General shall, in consultation with the Inspector General of the Department of Defense, the Secretary of Defense, and the Secretary of Labor, submit to Congress a report which shall include the following:

(A) an analysis and breakdown of the restructuring costs paid by or submitted to the Department of Defense to companies involved in business combinations since 1993;

(B) an analysis of the specific costs associated with workforce reductions;

(C) an analysis of the services provided to the workers affected by business combinations;

(D) an analysis of the effectiveness of the restructuring costs used to assist laid off workers in gaining employment;

(E) in accordance with Section 818 of 10 U.S.C. 2324, an analysis of the savings reached from the business combination relative to the restructuring costs paid by the Department of Defense.

(2) The report should set forth recommendations to make this program more effective for workers affected by business combinations and more efficient in terms of the use of federal dollars.

Mr. BRADLEY. Mr. President, I offer an amendment regarding a Department of Defense [DOD] policy of paying restructuring costs to companies that are involved in a merger.

Mr. State of New Jersey is currently feeling the effects of a defense-industry merger. As a result of the Lockheed-Martin merger, a satellite plant in East Windsor, NJ, will close, causing substantial job loss. I have therefore taken a strong interest in the current DOD policy.

Under this policy, DOD reimburses restructuring costs to contractors that are involved in mergers that lead to savings for the DOD. DOD payments can be used for, among other things, worker and plant relocation, severance pay, early retirement incentives, and continued health benefits. This policy has been called payoffs for layoffs and blamed by some for the mergers in the industry.

It is my belief that layoffs in the defense industry do not result from this DOD policy. Rather, due to the end of the cold war, defense layoffs have become inevitable. While we are no longer faced with a Soviet threat, we must now come to terms with our runaway debt. These major transformnations—the end of the cold war and a spiraling budget deficit—have made job loss in the defense industry a reality and necessity.

It is my belief that this policy makes good sense. Defense cuts have led to overcapacity, which encouraged mergers and cost cutting. It is not the reimbursement but the defense cuts that lead to layoffs, and it is appropriate for DOD to pay a fraction of those savings for assistance to workers laid-off from the merger.

In light of the end of the cold war, our priorities must be twofold. First, we should encourage the Defense Department and defense contractors to reduce the excessive buildup from the cold war era. Our second priority must be to determine how to best help workers in the defense industry who have been downsized.

I have come to believe that the DOD policy meets the priorities I have stated. Indeed, it encourages contractors to achieve savings for the DOD while providing the affected workers with benefits they desperately need. In a perfect world, companies that downsize would provide their employees with a respectable severance package that would include extended health care benefits. All to often, though, laid-off employees find themselves without these benefits, struggling to put food on the table, or make the next mortgage payment.

In order to clarify the confusion regarding this policy, I would urge the Defense Department to continue to ensure that the payments made are used solely for restructuring costs, with a strong emphasis on the employees laid off. I would also urge the DOD to continue to monitor the savings certified by the companies, ensuring that the savings are greater than the restructuring payments.

My amendment therefore calls for the GAO to analyze the restructuring costs paid by the DOD and to consult with the Secretary of Labor to determine the effectiveness of the assistance provided to laid off workers. The report should ensure that the payments are being used for justified costs and that the workers laid off are treated fairly.

It is my hope that this amendment will help my constituents in East Windsor and those around the country affected by defense downsizing. This amendment assures that these workers will not be ignored.

Mr. INOUYE. This amendment is in response to the great number of mergers that we have found in the business community, and this amendment calls for a report to be issued by the Secretary of Defense and the Secretary of Labor, and that report shall include an analysis and breakdown of restructuring costs paid by or submitted to DOD, analysis of the specific costs associated with work force reductions, analysis of the services provided to the workers affected by business combinations, an analysis of the effectiveness of the restructuring costs used to assist laid-off workers in gaining employment.

This amendment, Mr. President, has been approved by both managers.

Mr. STEVENS. Mr. President, the Senator from Hawaii is correct. We have approved it. I hope, however, that the study requested will cover additional factors. I am one who believes that, if we had not had some of these restructurings and some of these consolidations of basic companies in the defense industrial base, we would have had the possibility of a loss of all of the companies involved in those consolidations. Because of the competitive aspect of our acquisitions, I think that more and more companies would have found they could not perform and meet the competition of those that were equally sharpening their pencils trying to think they could beat out the other company.

I think it has been in the best interests of the United States that we have had selective consolidations and restructuring to preserve the industrial base. I hope a portion of this is directed toward the potential loss to the United States of the industrial base had the consolidations not taken place. But under the circumstances, I think the directions are broad enough to cover that, and I will pose no opposition to the amendment. It is a study we need; there is no question about it. But I hope it is balanced.

Obviously, there are jobs lost and obviously there are costs from the reduction in the amount of procurement we are making. I just said we have reduced procurement by 60 percent. Anyone who thinks we are going to get the resultant production for the same costs or less than we were getting when we had the competition from a full industrial base is mistaken. Costs of industrial production are going up because the sources are being more limited, and there is additional cost to the taxpayer because of the inability of the limited number of companies to provide the competitive edge we used to have in terms of the industrial process. But I accept the amendment, and I am prepared to agree to it on this side.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, the amendment is agreed to.

The amendment (No. 4569) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on amendment No. 4591.

AMENDMENT NO. 4480

Mr. STEVENS. Mr. President, I ask that it be temporarily set aside to take up another amendment, which is amendment No. 4480.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SPECTER, proposes an amendment numbered 4480.

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

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

The amendment is as follows:

On page 29, line 20 before the period, insert: ": *Provided further*, That of the funds appropriated under this heading $46,600,000 shall be made available only for the Intercooled Recuperated Gas Turbine Engine program".

Mr. STEVENS. Mr. President, I offer this amendment in the cloture proceedings for Senator SPECTER. It is a limitation to comply with a limitation in the authorization bill with regard to the availability of funds for the Intercooled Recuperated Gas Turbine Engine Program, and I believe it is a technical amendment that should be offered.

Mr. INOUYE. Mr. President, both managers approve the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4480) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, may I inquire as to whether the Senator from Illinois wishes to make any further statement before I make a motion to table?

Mr. SIMON. If I may have 3 minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 4591

Mr. SIMON. It was mentioned that other countries buy a great deal from us. I ask unanimous consent to have printed in the RECORD right now the requirements of Australia, Canada, The Netherlands, Norway, Sweden, and the United Kingdom, all of which are more severe than the requirements that I suggest in this amendment.

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

FOREIGN GOVERNMENT "LOCAL CONTENT" REQUIREMENTS FOR DEFENSE CONTRACTS

LOCAL CONTENT REQUIREMENTS

A company in the United States that wants to sell defense-related marine equipment to governments in many other industrialized nations must comply with offset or

other requirements that include a "local content" obligation to produce 50% or more of the system within the customer's country. "Local content" means that a U.S. company must substitute its own production with sourcing and engaging subcontractors in the target country. Also, the U.S. company frequently is required to conduct free transfer of technology to achieve the required local content. Liquidated damages can be assessed if the local content requirements are not fulfilled.

EXAMPLES OF SPECIFIC "LOCAL CONTENT" AND OTHER REQUIREMENTS OF SELECTED FOREIGN GOVERNMENTS, INCLUDING MOU SIGNATORIES WITH THE UNITED STATES

Australia: The Australian Industry Involvement office within the Department of Defense coordinates the offset policies. Guidelines are contained in the Defense Australian Industry Involvement Program, published in July 1995. Actual requirements are program specific. For example, the Ocean Patrol Combatant Project suggests that the local content be 65%. Liquidated damages assessment for unfilled local content requirements also vary with the contract. For the Australian Ocean Patrol Combatant project, the liquidated damages assessment is 20%. Another example is the Australian ANZAC Frigate project in which U.S.-based Bird-Johnson Company is participating. Bird-Johnson is required to manufacture its ship propeller system with at least 80% local Australian content.

Canada: The Director of Industrial Benefits Policy, Industry Canada agency, is the coordinator of offset authority. The Canadian term for offset is Industrial Benefit (IB). IB Managers are assigned to individual projects. It is normal for major programs to have at least 100% Canadian content requirement. Liquidated damage assessments are 10% of the unfulfilled amount of the IB commitment.

The Netherlands: The Coordinator of Offset Authority is the Commissioner for Military Production and Crisis Management within the Ministry of Economic Affairs with input from advisors for the Navy, Air Force, or Army. 100% offset is required. Offset valuation credits vary, but in general, 85% or more local content would result in an 100% offset credit.

Norway: The Coordinator of Offset Authority is the Royal Norwegian Ministry of Defense, assisted by the Director General of the Section for Industrial Cooperation. For contracts over $7 million, 100% offset is required, with 80% or more local content equal to 100% offset credit. A 10% penalty is assessed on any unfulfilled offset amount.

Sweden: At least 50% of the total value of a Swedish defense procurement with an offshore company must be in local content. The offshore bidder must sign a Draft Contract for Industrial Cooperation with the Swedish Defense Material Administration (FMV) detailing how the bidder will meet the binding industrial cooperation (I.C.) commitment. The commitment constitutes "a vital part of the decision process" concerning the acceptability of the bid. I.C. is "valued on the basis of the production of goods and services that is achieved in Sweden." Both the "economical volume" and the "qualitative contents" of the bidder's commitment are considered. I.C. credits, which must be "accepted by the Swedish industry concerned," are evaluated and monitored by the FMV, in consultation with Swedish industry.

United Kingdom: The U.K. Ministry of Defense (MOD) Procurement Executive DESO is charged with providing Government support to increase UK defense business. When offshore defense companies seek to compete, the MOD-DESO assesses the U.K. Industrial Participation (IP) proposal of an offshore defense company seeking to compare. Although IP proposals are not mandatory, in reality, the IP is a key element in whether or not the offshore company gets the MOD contract. 100% offsets are encouraged. The IP obligation must be met at no extra cost to MOD. The DESO negotiates a Letter or Agreement on the IP proposal which is not legally binding, but is considered a "Gentlemen's Agreement."

Mr. SIMON. Again, what I am suggesting in this amendment is that when a contractor submits a bid, that contractor has to say what percentage of the work will be done in the United States and it be a matter of high importance, not the only consideration, but a matter of high importance for the Defense Department. We do not suggest and we make clear that it would be waived for countries where we have agreements or memoranda of understanding.

So I think it makes sense. I hope that the motion to table will be rejected.

Mr. STEVENS. Mr. President, I shall make a motion to table this amendment at 1 p.m.. I now ask that it be set aside temporarily so that I might deal with some other matters here, if that meets with the approval of the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Hawaii.

PHOTONICS RESEARCH REPORT

Mr. INOUYE. Mr. President, last year, during the consideration of the fiscal year 1996 defense appropriations measure, the Congress approved the Center for Photonics Research at Boston University. I am pleased to share with my colleague an interim report that was just submitted by the president of Boston University, advising us of the progress being made in this technology.

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:

BOSTON UNIVERSITY,
Boston, MA, July 10, 1996.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INOUYE: It was a pleasure to meet with you to discuss the Center for Photonics Research at Boston University, and to have an opportunity to thank you in person for your support and leadership in the Congress. I also want to thank you again for your very generous offer to be of assistance if possible in the future, and to help put the Center on the road to self-sufficiency.

Boston University has invested over $60 million of its own funding to create and establish the Center, and we are committed to its long-term mission and success. Photonics technology will, as you have observed, be one of the keys to our nation's ability to defend itself from external threats; it will also become a driving force in all sectors of our economy. It is truly the technology of the future.

Few, if any, of our current weapons, weapon systems or platforms do not depend on photonics for their effectiveness. It was not by coincidence that photonics was declared as one of our most critical technologies needed for the future in the Critical Technologies Report to the Congress.

Research alone cannot meet the defense needs of our country. We must develop the ability to move from the research to the actual product and product-manufacturing requirements of our country. Meeting these requirements is central to the mission of the Center. The funding your Committee made available has allowed us to move the Center forward, and the actual construction is moving forward on budget and on schedule.

The Center for Photonics Research is already actively contributing to the nation's defense. To illustrate this, I enclose a brief report, prepared by Dr. Donald Fraser, the Center's Director, which summarizes the defense-related applications that are now under development.

The Center's building will be completed and ready for formal dedication next spring. We very much hope that you the Members of the Defense Appropriations Subcommittee will be able to join us at that event.

Again, thank the Subcommittee on behalf of Jon Westling and all of Boston University for its leadership and vision. I can only imagine the number and variety of difficult choices it faces every day, but I know how much I admire the service of you and your fellow Subcommittee members and what it has meant to the American people.

With warm personal regards,

Sincerely,

JOHN SILBER.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 4666

Mr. STEVENS. Mr. President, I send to the desk an amendment I offer on behalf of Senator COCHRAN and Senator LOTT. If I may first just explain it, this entitles the Secretary of Navy to lease to the State of Mississippi 5 acres of the property located at the naval air station at Meridian, MS, for use only by the State to construct a reserve center of approximately 22,000 square feet and ancillary supporting facilities. This will be for the co-use of the State and Federal Government, as I understand it. It does provide for the renting of this facility by the United States, once it is contracted by the State, at a rate not to exceed $200,000 a year.

We have examined this lease-back concept of the reserve center and believe it is in the interests of the taxpayers of the United States to proceed in this fashion because it will mean we will have the facility and have it at an annual lease cost which is a substantial advantage to the Government.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. COCHRAN, for himself and Mr. LOTT, proposes an amendment numbered 4666.

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

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

The amendment is as follows:

At the end of the bill, insert:

SEC. . LEASE TO FACILITATE CONSTRUCTION OF RESERVE CENTER, NAVAL AIR STATION, MERIDIAN, MISSISSIPPI.

(a) LEASE OF PROPERTY FOR CONSTRUCTION OF RESERVE CENTER.—(1) The Secretary of the Navy may lease, without reimbursement, to the State of Mississippi (in this section referred to as the "State"), approximately five acres of real property located at Naval Air Station, Meridian, Mississippi, only for use by the State to construct a reserve center of approximately 22,000 square feet and ancillary supporting facilities.

(2) The term of the lease under this subsection shall expire on the same date that the lease authorized by subsection (b) expires.

(b) LEASEBACK OF RESERVE CENTER.—(1) The Secretary may lease from the State the property and improvements constructed pursuant to subsection (a) for a five-year period. The term of the lease shall begin on the date on which the improvements are available for occupancy, as determined by the Secretary.

(2) Rental payments under the lease under paragraph (1) may not exceed $200,000 per year, and the total amount of the rental payments for the entire period may not exceed 20 percent of the total cost of constructing the reserve center and ancillary supporting facilities.

(3) Subject to the availability of appropriations for this purpose, the Secretary may use funds appropriated pursuant to an authorization of appropriations for the operation and maintenance of the Naval Reserve to make rental payments required under this subsection.

(c) EFFECT OF TERMINATION OF LEASES.—At the end of the lease term under subsection (b), the State shall convey, without reimbursement, to the United States all right, title, and interest of the State in the reserve center and ancillary supporting facilities subject to the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the leases under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. INOUYE. Mr. President, this amendment has been cleared and approved by both managers.

The PRESIDING OFFICER. Without objection, amendment No. 4666 is agreed to.

The amendment (No. 4666) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I am going to suggest the absence of a quorum as we go through our files to see if there are any other amendments we can go through in the manner we have thus far. I congratulate the Chair and clerk for assisting us in this manner. Again, I will announce the vote on the motion to table the Simon amendment will take place at 1 p.m.

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

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

The Senator from Alaska.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, we have now, since we started on this bill, whether Senators realize it or not, disposed of almost 50 amendments. In the process of doing that, under the circumstances, again having to deal with the cloture problem, we filed the amendments so they only hit the bill at one point. We have been able to consolidate those. As we consolidated them, we may have made some technical errors. I ask unanimous consent that the staff and the clerk be authorize to make technical, clerical changes in numbers, et cetera, that might be required.

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

Mr. STEVENS. Mr. President, I ask the unanimous-consent agreement we have concerning these technical changes to our amendments apply to all amendments we accept by unanimous consent today.

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

AMENDMENT NO. 4528

(Purpose: To require certification of competition prior to the appropriation of funds for the T-39N)

Mr. STEVENS. Now I ask the Chair lay before the Senate amendment No. 4528.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mrs. FRAHM, proposes an amendment numbered 4528.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . None of the funds provided for the purchase of the T-39N may be obligated until the Under Secretary of Defense for Acquisition certifies to the defense committees that the contract was awarded on the basis of and following a full and open competition consistent with current federal acquisition statutes.

Mrs. FRAHM. Mr. President, my amendment is quite simple. It requires the Secretary of Defense for acquisition to certify to the Congress that he has conducted a full and open competition, consistent with current acquisition policies prior to awarding any contract for purchasing the T-39N or its replacement. This amendment reflects the stated position of the Navy, the Department of Defense, and it reflects good government.

The Navy is currently using a 1950's technology aircraft to train our pilots. This aircraft is expensive to fly and maintain, thus wasting precious defense resources. Further, the T-39N does not provide the kind of state-of-the-art training or pilots need and deserve. I believe that the Navy, our pilots, and the Nation can be better served with a more modern and cost-effective aircraft for this purpose.

With that said, I believe that the Navy should be left to make their own choice and that their choice be based upon a full and open competition. It is through the competitive process that we can best meet the needs of our future pilots. And it is through competition that the taxpayer will be best served.

Mr. President, I urge the adoption of my amendment.

Mr. BOND. Mr. President, I rise to address the issues raised by Senator FRAHM's amendment. I must first note that the T-39N aircraft currently in use by the U.S. Navy has been performing its duties for over 5 years and it will perform the same duties in the future. This is not a new program nor a new aircraft. I also understand the concern of some that the aircraft may be too old, however Navy analysis indicates this aircraft will provide valuable service through 2025. The Sabreliner T-39N has a mission completion rate of 98 percent. The U.S. Air Force in fact has consolidated its tactical navigator and weapon sensor operator training under the Navy umbrella with the understanding that the T-39N would be the trainer aircraft. Our allies who conduct the same type of training have also elected to use the U.S. Navy's T-39 Flight Officer Training Program.

Future concerns of system upgrades would be the same regardless of the aircraft flown and any other modernization upgrades would also be figured into any new aircraft purchase.

So, how does the T-39N stack up to the Navy's mission requirements?

First, the men and women who fly it, love it. The aircraft possesses the speed and range they desire and the swept wing design makes it much more adaptable to the harsh conditions of low level flight required in their training. Straight wing aircraft experience a much rougher ride at low level and may have lower mission completion rates.

In terms of flight characteristics the T-39N has been and is closest to the rise and performance of the jets the Navy, U.S. Air Force, and allied Air Force personnel will find in their inventories. I would also point out that this aircraft has had years of "fly before you buy" experience without complaint.

The aircraft has performed superbly as opposed to other aircraft used in the program in the past. As I noted before, this aircraft is currently in use as we

speak, turning out the finest tactical flight officers in the world. These men and women will be going to the same aircraft they have been going to since the current contract began over 5 years ago.

There are no new design aircraft on the drawing boards which require a new airframe; any avionics systems upgrades or radar upgrades can be accommodated by the T-39N. This is the right aircraft, at the right time, and for the right cost.

Mr. STEVENS. Mr. President, this is to require certification of competition prior to appropriation of funds for the T-39N. We have discussed this matter with the Senator from Kansas and are prepared to recommend to the Senate we adopt this amendment. We will consider it in conference. There are similar provisions—the matter is discussed in the House bill, and it will be a controversy in conference.

Mr. INOUYE. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4528) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

REPAIR AND MAINTENANCE OF CARGO AND PERSONNEL PARACHUTES

Mr. HELMS. Mr. President, it would be helpful if I can discuss, for the Record, with the distinguished chairman of the Defense Appropriations Subcommittee, a matter of importance concerning the readiness of the Airborne units of my State.

Mr. STEVENS. I will be delighted to discuss this matter with my colleague from North Carolina.

Mr. HELMS. I thank the able Senator. At the outset, let me state I am proud that my State is home to several important military installations and thousands of fine members of the Armed Forces of our Nation. North Carolinians are especially proud that the U.S. Army's XVIII Airborne Corps and the 82d Airborne Division call Ft. Bragg home. These men and women are the front line of our Nation's defense and they are among the best trained, most dedicated and professional soldiers in the world.

When there is a need for equipment or technology to make these soldiers' tasks easier or safer, it is the responsibility of the Congress to provide for it. The modification of the Army's T-10R reserve parachute is an example of one such initiative. A study showed that a modified design would increase effectiveness to almost 100 percent. This modification was developed by the Army through a partnership between the Army and a private company. As a result of this successful partnership, Airborne troops now have a highly effective, low cost parachute that should help save lives.

I ask the able Senator from Alaska if my understanding is correct that there is a backlog in the performance of repair and maintenance work on cargo and personnel parachutes. To alleviate this backlog and thereby enhance readiness, would it be a wise use of Army resources to contract out the repair and maintenance of these chutes to a qualified manufacturer of similar parachutes? Would this not allow the backlog to be addressed in a cost-efficient manner?

Mr. STEVENS. The Senator from North Carolina is correct. In the current fiscal environment, it is important that each service seek innovative, cost-saving ways to provide support for our men and women in uniform. The Army Airborne has experienced an increase in training requirements. While the T-10R reserve parachute modification work has been successful, the Army is required to repack the parachutes after the modifications are performed and, as a result, the repair and maintenance of personnel and cargo parachutes has fallen behind. Therefore, I agree that repair and maintenance work, as well as cargo parachute repacking, would be excellent candidates for contracting out.

Mr. HELMS. I thank the distinguished Senator. I think it is obvious that my goal is to make certain that the Army has the ability to use the operations and maintenance funds appropriated within this bill to contract for parachute repair and maintenance work, as well as the cargo repacking efforts. Can the Senator give me that assurance?

Mr. STEVENS. Yes, nothing in this bill will prevent the Army from using funds in the operations and maintenance account. These funds are not earmarked because the committee frowns upon earmarking this account. However, I will bring this issue to my House colleagues during conference to gain their support for this initiative.

Mr. HELMS. I thank the distinguished chairman for his support. I will, of course, work with him as he considers this issue with Members of the House.

RAID FUNDING

Mr. JEFFORDS. Mr. President, I would like to bring to your attention two items in this bill that relate to the Reconnaissance and Interdiction Detachment, RAID, funding that fall within the budget of the Drug Interdiction and Counterdrug Activities of the Department of Defense, DOD.

Vermont, as a border State, is in a very strategic position in the country's efforts to combat drugs. Since 1991 the Vermont State Police have been successfully working with the Army National Guard for the interdiction and eradication during the comparatively short but very productive marijuana growing season. The efforts of the Vermont Army National Guard have contributed to the eradication of approximately 70–80 percent of all confiscated marijuana reported by the Vermont State Police.

Thanks to the cooperation of my colleague from Alaska, this bill will help Vermont's law enforcement community continue its successful counterdrug and interdiction efforts. I appreciate the Senator's concurrence with me and other Senators who believe the National Guard has made important and valuable contributions to the Nation's counterdrug efforts. Mr. President, this issue has bipartisan support. Both sides recognize the National Guard's efforts to interdict and eradicate illegal drugs deserve sufficient funding and have wisely indicated this in their bill. Language in the committee report states that the DOD should ensure the RAID program is fully funded and supported.

More specific to Vermont's needs, the committee included my request for $500,000 to assist in the implementation of a more focused RAID program. These funds will directly benefit Vermont's RAID program by making available two OH-58 helicopters, as well as the necessary personnel and infra-red equipment to carry out the mission. I greatly appreciate the chairman's cooperation and accommodation of my request. I also understand his feeling that the allocation of these funds should be postponed until the present National Guard Review of the State Governors' programs is completed. As it appears the review is very close to completion, there should be little delay once the appropriations bill is enacted.

Mr. President, I am pleased that my colleague from Alaska has joined me in a discussion of this important matter on the floor of the Senate, and I commend him for including these important items in the bill before us.

Mr. STEVENS. Mr. President, I was very pleased to accommodate my colleague's request on RAID. I agree with my colleague from Vermont on the importance of providing adequate funding for the National Guard Governors' State Counterdrug Plans and will keep his request in mind when the House and Senate go to conference on the Defense Appropriations bill.

AMENDMENT NO. 4591

Mr. STEVENS. Mr. President, I now move to table the amendment of the

Senator from Illinois, the pending amendment, and state, again, that the Senator from Hawaii and I have opposed this amendment at the request of the Department of Defense, the defense industrial base and on our own behalf based on our analysis of this amendment.

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 (Mr. CAMPBELL). The question is on agreeing to the motion to lay on the table the Simon amendment No. 4591. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—69

Abraham	Feinstein	Lieberman
Ashcroft	Ford	Lott
Bennett	Frahm	Lugar
Bingaman	Frist	Mack
Bond	Glenn	McCain
Bradley	Gorton	McConnell
Breaux	Graham	Moynihan
Brown	Gramm	Murkowski
Bryan	Grams	Nickles
Burns	Grassley	Nunn
Campbell	Gregg	Pressler
Chafee	Hatch	Reid
Coats	Hatfield	Robb
Cochran	Heflin	Roth
Cohen	Helms	Santorum
Coverdell	Hutchison	Shelby
Craig	Inhofe	Simpson
D'Amato	Inouye	Smith
DeWine	Kassebaum	Stevens
Dodd	Kempthorne	Thomas
Domenici	Kerrey	Thompson
Exon	Kyl	Thurmond
Faircloth	Lautenberg	Warner

NAYS—29

Akaka	Harkin	Pell
Baucus	Hollings	Pryor
Biden	Kennedy	Rockefeller
Boxer	Kerry	Sarbanes
Bumpers	Kohl	Simon
Byrd	Leahy	Snowe
Conrad	Levin	Specter
Daschle	Mikulski	Wellstone
Dorgan	Moseley-Braun	Wyden
Feingold	Murray	

NOT VOTING—2

Jeffords	Johnston

The motion to lay on the table the amendment (No. 4591) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 4852

(Purpose: To improve the National Security Education Program)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 4852.

Mr. SIMON. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104-61; 109 Stat. 650), is amended under the heading "NATIONAL SECURITY EDUCATION TRUST FUND" by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

"(A) awarding scholarships to undergraduate students who—

"(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

"(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;"; and

(2) in subparagraph (B)—

(A) in clause (i), by inserting "relating to the national security interests of the United States" after "international fields"; and

(B) in clause (ii)—

(i) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(2)(B)"; and

(ii) by striking out "work for an agency or office of the Federal Government or in" and inserting in lieu thereof "work for, and make their language skills available to, an agency or office of the Federal Government or work in".

(c) SERVICE AGREEMENT.—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out ", or of scholarships" and all that follows through "12 months or more," and inserting in lieu thereof "or any scholarship".

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

"(2) will—

"(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

"(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

"(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

"(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.".

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting ", including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities" before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out "Make recommendations" and inserting in lieu thereof "After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations";

(B) in subparagraph (A), by inserting "and countries which are of importance to the national security interests of the United States" after "are studying"; and

(C) in subparagraph (B), by inserting "relating to the national security interests of the United States" after "of this title";

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by inserting after paragraph (4) the following new paragraphs:

"(5) Encourage applications for fellowships under this title from graduate students having an educational background in disciplines relating to science or technology.

"(6) Provide the Secretary on an on-going basis with a list of scholarship recipients and fellowship recipients who are available to work for, or make their language skills available to, an agency or office of the Federal Government having national security responsibilities.".

(f) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall also include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

Mr. SIMON. Mr. President, this corrects an error made in the National Security Education Program legislation and is supported by the Defense Department. It is agreed to on both sides.

Mr. INOUYE. Mr. President, both managers approve of the amendment.

Mr. STEVENS. Mr. President, this amendment clarifies the eligibility for security education funds, as I understand it, and it has been modified to meet our request.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 4852) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4568

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator MOSELEY-BRAUN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Ms. MOSELEY-BRAUN, proposes an amendment numbered 4568.

Mr. INOUYE. 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:

Any college or university that receives federal funding under this bill must report annually to the Office of Management and Budget on the average cost of tuition at their school for that year and the previous two years.

Mr. INOUYE. Mr. President, this is a simple amendment. It says, "Any college or university that receives Federal funding under this bill must report annually to the Office of Management and Budget * * *"

This matter has been cleared by both sides.

Mr. STEVENS. Mr. President, we have cleared that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4568) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

PRIVILEGE OF THE FLOOR

Mr. MCCAIN. Mr. President, I ask unanimous consent that a fellow in our office, Craig Williams, be granted the privilege of the floor during the discussion of S. 1894.

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

AMENDMENT NO. 4440

(Purpose: To require an audit and report of security measures at all United States military installations outside the United States)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. WARNER, Mr. COATS, Mr. INHOFE, Mr. KERREY of Nebraska, Mr. LUGAR, Mr. SMITH, Mr. HELMS, Mr. D'AMATO, and Mr. COVERDELL, proposes an amendment numbered 4440.

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 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) The Secretary of Defense and the Secretary of State shall jointly conduct an audit of security measures at all United States military installations outside the United States to determine the adequacy of such measures to prevent or limit the effects of terrorist attacks on United States military personnel.

(b) Not later than March 31, 1997, the Secretary of Defense and the Secretary of State shall jointly submit to Congress a report on the results of the audit conducted under subsection (a), including a description of the adequacy of—

(1) physical and operational security measures;

(2) access and perimeter control;

(3) communications security;

(4) crisis planning in the event of a terrorist attack, including evacuation and medical planning;

(5) special security considerations at nonpermanent facilities;

(6) potential solutions to inadequate security, where identified; and

(7) cooperative security measures with host nations.

Mr. MCCAIN. Mr. President, I ask unanimous consent to add as cosponsors to the bill Senators MOSELEY-BRAUN, MURKOWSKI, WARNER, COATS, INHOFE, KERREY of Nebraska, LUGAR, SMITH, HELMS, D'AMATO and COVERDELL.

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

Mr. MCCAIN. Mr. President, I am going to have a total of four amendments. I believe that three of them will be acceptable to the managers of the bill. The fourth one, I understand, will require a vote. On the fourth one, I would be more than happy to enter into a time agreement of 20 minutes on each side. When I get to it, perhaps we can get the managers' agreement at that time.

Mr. President, just over 2 weeks ago, 19 young men and women of the U.S. military were killed in a brutal terrorist attack on a housing complex in Dhahran, Saudi Arabia. There is nothing we can do to bring these men and women back to life, but it is our responsibility to make every effort to ensure this tragedy does not occur again.

Today, I am introducing an amendment that requires the Secretary of Defense and Secretary of State to jointly conduct an audit of security at all U.S. military installations overseas. Currently there are eight cosponsors including Senators MOSELEY-BRAUN, MURKOWSKI, WARNER, COATS, INHOFE, KERREY of Nebraska, LUGAR, and SMITH.

Specifically, the audit will focus on the adequacy of security measures currently in place to prevent or limit the effects of terrorist attacks on U.S. military personnel. The Secretaries would be required to report to Congress an assessment of the adequacy of existing security measures at our permanent bases overseas, including both physical and operational security measures, and any recommended remedial action where necessary.

The report would also provide information regarding cooperative security measures with host nations. Finally,

the report would provide an assessment of the special security considerations at temporary basing locations, like the Khobar Towers complex, and possible solutions to these unique problems.

In these times of peace in this post-cold-war world, the No. 1 threat to our servicemembers, in addition to the normal hazards and risks associated with the job, is terrorism. This is the most difficult threat to predict, as well as prevent.

Prior to the tragedy of June 25, measures to protect our forces from terrorist attacks were clearly inadequate. The President waged war against terrorism by means of a summit meeting in a resort town in Egypt where there were 240 minutes of opening statements, 40 minutes of discussion, and a photo opportunity.

The summit produced a lot of symbolism, but little in the way of concrete recommendations to combat terrorism. Syria—identified by the State Department as one of the world's leading sponsors of terrorism—did not attend the meeting. The participants couldn't even agree to specifically condemn Iran for aiding and abetting terrorist groups. The only result of the summit was a lofty joint statement by President Clinton and Egyptian President Mubarek, condemning terrorism and promising future cooperation and consultation on ways to halt these terrorist attacks.

And, now, little more than 3 months after the summit in Egypt, and after another couple of international get-togethers to talk tough on terrorism, 19 more Americans have been killed by a terrorist bomb.

Now is the time to act. We must stop all of this talking and act on what we say we must accomplish. This amendment is designed to protect our troops who continue to make the sacrifices on a daily basis. I believe this measure deserves our careful and full review, and I hope that you will all support me on this very important issue.

Just today I received a letter from the Military Coalition offering strong support for this amendment. They stated:

Our soldiers, sailors, airmen, and marines deserve the best we can provide and it is our continuing responsibility to provide for their safety and well being. This legislation remains consistent with that objective.

As I stated previously, it is our responsibility to provide for our men and women stationed across the globe. It is our responsibility because we, the Congress, are accountable to not just those men and women serving in the military, but to their families and the American people.

Mr. President, the pending amendment, No. 4440, is a requirement that the Secretary of Defense and Secretary of State jointly conduct an audit of security measures at all U.S. military installations overseas. It requires a report to Congress on March 31, 1997.

The specific requirements of the audit include adequacy of physical and operational security measures; access and perimeter control; crisis planning in the event of a terrorist attack, including evacuation and medical planning; special security considerations at nonpermanent facilities; potential solutions to inadequate security, where identified; and cooperative security measures with host nations.

Mr. President, there is no sense in rehashing the tragic events that took place 2 weeks ago on June 25. The terrorist attack in Dhahran in Saudi Arabia, which killed 19 brave young Americans, is well known to all of us. But it is important for us to, again, reaffirm our responsibility to ensure that we have made every effort to prevent this tragedy from occurring again.

Mr. President, this amendment calls for the audit of security measures at all U.S. military installations overseas. I am aware that the Secretary of Defense and the Secretary of State have made efforts in this direction.

I believe Congress needs to be more involved in knowing the results of those audits, and, very frankly, the American people need to know it as well.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a letter from the Military Coalition supporting this amendment.

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

THE MILITARY COALITION,
Alexandria, VA, July 10, 1996.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: The Military Coalition, a consortium of military and veteran organizations representing more than five million current and former members of the uniformed services, supports your efforts to ensure the safety of our military men and women serving overseas. Providing the best possible security and assuring those measures are never compromised should be, and always remain, a top priority.

The recent terrorist attack in Dhahran that claimed the lives of 19 American service members emphasizes the need for Congress and the Department of Defense to address the adequacy of protective measures afforded our troops serving outside the country. Questions raised about the security of U.S. foreign military installations further indicates the need to audit and assess current safety and security standards practiced at U.S. overseas facilities.

The Military Coalition is pleased to offer its strong support for your legislative initiative to protect American service members. Our soldiers, sailors, airmen, and marines deserve the best we can provide and it is our continuing responsibility to provide for their safety and well being. This legislation remains consistent with that objective.

Sincerely,

The Military Coalition:
Air Force Association.
Assn. of Military Surgeons of the United States.
Commissioned Officers Assn. of the U.S. Public Health Service, Inc.
CWO & WO Assn. U.S. Coast Guard.
Enlisted Association of the National Guard of the United States.
Fleet Reserve Assn.
Jewish War Veterans of the USA.
Marine Corps League.
Marine Corps Reserve Officers Assn.
National Military Family Assn.
National Order of Battlefield Commissions.
Naval Enlisted Reserve Assn.
Navy League of the United States.
Reserve Officers Assn.
The Military Chaplains Assn. of the USA.
The Retired Enlisted Assn.
The Retired Officers Assn.
USCG Chief Petty Officers Assn.
U.S. Army Warrant Officers Assn.
Veterans of Foreign Wars of the United States.

Mr. MCCAIN. Mr. President, as I stated previously, it is our responsibility to provide for the men and women stationed overseas the maximum amount of security that we can provide. We ask them to embark on very difficult and sometimes dangerous missions, and obviously our obligation to them in return for that service and sacrifice is that we provide them with the maximum amount of security possible.

Again, Mr. President, I do not think it is either necessary or particularly appropriate at this time for me to go through the entire tragedy that took place a few weeks ago. Suffice it to say, this and the next amendment I will be proposing are very modest steps in trying to ensure the goal that all of us seek, and that is that there never is repetition of such a tragedy.

Mr. President, I yield the floor and urge adoption of the amendment.

Mr. STEVENS. Mr. President, we concur in this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4440) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4444, AS MODIFIED

(Purpose: To provide $14,000,000 for anti-terrorism activities of the Department of Defense)

Mr. MCCAIN. Mr. President, I call up amendment No. 4444 and send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. LEVIN, proposes an amendment numbered 4444, as modified.

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 34, between lines 19 and 20, insert the following:

ANTI-TERRORISM ACTIVITIES, DEFENSE
(INCLUDING TRANSFER OF FUNDS)

For anti-terrorism activities of the Department of Defense, $14,000,000, subject to authorization for transfer to appropriations available to the Department of Defense for operation and maintenance, for procurement, and for research, development, test, and evaluation: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same period and for the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained in this Act.

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. Beginning with fiscal year 1997, the Secretary of Defense shall establish a program element for the Office of the Secretary of Defense for the purpose of funding emergency anti-terrorism activities. Funds available for that program element for fiscal year 1997 shall be in addition to funds appropriated under other provisions of this Act for anti-terrorism and are available for the Secretary of Defense to respond quickly to emergency anti-terrorism requirements that are identified by commanders of the unified combatant commands or commanders of joint task forces in response to a change in terrorist threat level.

Mr. McCAIN. Mr. President, this amendment is a natural follow-on to the previous amendment. It provides $14 million to the Department of Defense specifically for antiterrorism measures.

Mr. President, the threat of terrorism to Americans living overseas has never been greater. In particular, our men and women serving in the armed forces are at great risk as they are targeted by various terrorist organizations and activities. This continues to be a reality our troops must face when we send them to lands far away from our great Nation. This was never more evident than the brutal attack in Dhahran, Saudi Arabia just over 2 weeks ago when 19 young men and women were tragically killed when a truck loaded with explosives detonated within 100 feet of their housing complex.

Today I am introducing an amendment that will provide $14 million in additional funding to the Department of Defense for antiterrorism measures. These funds will be specifically used for intelligence support, physical security measures, education, training, and any other additional measures the Secretary of Defense determines are necessary.

A report recently conducted by the Department of Defense noted that antiterrorism funding is not specifically identified in many instances since it is a part of a larger effort, primarily in physical security programs. There was an 82-percent—$8.7 million—reduction in Air Force funding, 55 percent—$43.4 million—in Army funding, and 62 percent—$4.5 million—in Navy funding.

On Tuesday, the Secretary of Defense and Chairman of the Joint Chiefs of Staff appeared before the SASC and testified in both open and closed sessions that the Department of Defense lacked sufficient funds for antiterrorism measures as a result of poor decisions by this administration to cut funds in this area. During this hearing Secretary Perry confirmed, "I think that was a bad cut. I have directed the services to increase the funding in antiterrorism." Additionally, General Shalikashvili stated,

The antiterrorism study identified two issues pertaining to funding of antiterrorism things. One, that the services increased their funding and secondly, . . . that we create a program line under the Secretary of Defense with which he can fund high priority antiterrorism programs that need to be funded.

As a result of this review, the Secretary has recommended the establishment of a separate OSD program of $7–$14 million annually as a contingency account to be available for antiterrorism requirements. These funds would be used to ensure adequate funding for intelligence support, physical security measures, education, training, and any other additional measures the Secretary determines are necessary.

Mr. President, if we cannot afford to provide adequate protection for our men and women serving overseas, then we should not put them in those areas with high threats of terrorism. We must give them every means available to prevent, protect, and defend against terrorist attacks. It is our responsibility.

This amendment is designed to provide additional funds for the Department of Defense to protect our troops. I believe this measure deserves our careful and full review, and I hope that you will all support me on this very important issue.

I note the presence of Senator LEVIN, who is an original cosponsor of this amendment, in the Chamber.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the McCAIN amendment?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan, Mr. LEVIN, is recognized.

Mr. LEVIN. Mr. President, I am a cosponsor of this amendment, and I want to just ask my friend from Arizona as to the modification. I have not had a chance to review it. Is this modification that was sent to the desk the language which I had suggested to him might be an improvement in terms of the nature of the funds and how the funds would operate? I have not had a chance to review the language which was actually sent to the desk. Is this the language which I spoke to his staff about?

Mr. McCAIN. It is.

Mr. LEVIN. Mr. President, I very much support this amendment. We are too often fighting in our appropriations and the add-ons to the appropriations the battles of the cold war instead of the future battles which we are all going to face in the area of terrorism. Many of us had an opportunity to meet with the Secretary of Defense and the Chairman of the Joint Chiefs this morning, and the efforts which are being made in the fight against terrorism, particularly in the Middle East, were outlined in some detail to us. It is also becoming more and more clear that too much of our defense dollar is being spent on refighting battles which are no longer looming before us and on buying equipment and investing in equipment which is no longer as relevant as it once was, adding on things which may or may not have been useful 5 years ago but which are not now as much needed as are new weapons in the war against terrorism, which is going to be a growing battle. The new cold war is the war against terrorism.

There was a request of the Secretary of Defense for an analysis of how many dollars are being invested in the war against terrorism, and we got a letter back addressed to Senator NUNN from the Assistant Secretary of Defense, Sandra Stuart, outlining some of the antiterrorist activities. I want to just quote two paragraphs from that letter dated July 16, and then I will ask unanimous consent that the entire letter be printed in the RECORD.

The first paragraph I want to quote is the following:

Anti-terrorism activities deal with traditional defensive measures such as barriers, fences, detection devices and Defense personnel who have as part of their mission protecting DOD personnel and facilities against the threat of terrorism. The Defense Department spends nearly $2 billion annually on such anti-terrorism activity overall. Traditionally we have not budgeted anti-terrorism activities in a single program because force protection is part of each individual commander's responsibility and is therefore budgeted by every installation in, for example, their operation and maintenance accounts.

The second paragraph from this letter that I will quote is the following:

In the area of counter-terrorism, DOD has many programs and activities which are more often associated with proactive activities undertaken to neutralize the terrorist threat or respond to terrorist acts. All combatant forces in Defense potentially have as part of their mission a counter-terrorism function; however, these activities are more commonly associated with special operations forces, which have annual budgets in excess of $3 billion. That amount is in addition to the considerable sum spent from our intelligence portion of the budget to counter terrorism.

Mr. President, the letter does point out something which our amendment is aimed at correcting, and that is that a report which has been given some notice faulted DOD procedures relative to the funding of unanticipated contingencies. And the Secretary has directed

corrective action in this area, according to Assistant Secretary of Defense Stuart.

So I commend the Senator from Arizona for the amendment, which I cosponsored, because it does address this question of a fund for unanticipated contingencies which I think we have to focus on more and more. We can spend the $3 billion which is referred to in terms of counterterrorism efforts and the $2 billion annually which is referred to on antiterrorism activities which are described, but we still have a need for funding unanticipated contingencies in the fight against terrorism.

This amendment is just a beginning in terms of funding that kind of a fund for unanticipated contingencies in the fight against terrorism. I am happy to cosponsor this amendment. While it is just a small beginning in that unanticipated contingencies effort, I hope we will be able to supplement it later. But it is an important step, and I commend the Senator from Arizona. I am happy to cosponsor that amendment.

Mr. President, I ask unanimous consent the entire letter I referred to be printed in the RECORD.

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

OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE,
Washington, DC, July 16, 1996.

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

DEAR SENATOR NUNN: The Secretary is looking forward to having breakfast with you and your colleagues to discuss the tragic terrorist bombing in Dhahran, Saudi Arabia, and also to have an opportunity to talk about the broader issue of terrorism and the consequences in the Persian Gulf. Force protection is the number one priority of Secretary Perry and General Shalikashvili. This is a responsibility that they take very seriously and is central to every deployment decision they approve.

Prior to the breakfast, I wanted to mention a few issues which have been reported in the press and which we feel need some clarification.

As you know, shortly after the bombing, Secretary Perry appointed retired General Wayne Downing to conduct a thorough investigation of the security situation in Dhahran, Riyadh and the balance of the U.S. Central Command facilities in the AOR. General Downing's charter empowers him to make findings and conclusions about pertinent acts or omissions on the part of individuals. In the event General Downing makes such findings and conclusions, they will be transmitted to the cognizant supervising officials for action. General Downing has assembled a qualified team who have already begun this review and will depart for Dhahran to continue his investigation by mid-week.

The Secretary has further directed General Downing to assess immediately the situation regarding moving the perimeter fence. There has been a good bit of speculation as to who spoke with the Saudis about moving this fence, what their reply was and whether this information was passed up the chain of command. Once General Downing reports his findings to Secretary Perry, we will inform you of the details.

There are two other matters which we believe need to be clarified.

The first involves the June 17 DIA Military Intelligence Digest (MID) that has been referred to in the press as an "alert". The MID is a daily publication that covers a wide array of topics of interest to policy makers, force planners, and operational forces. Additionally, the MID is delivered, also daily, to the Senate Armed Services Committee, the House National Security Committee, and the two Intelligence committees. While the MID is a classified document, there are several points that can be made for the record concerning this particular article.

Contrary to press reporting, the MID article on June 17 was not an "alert". Rather it was a compilation of previously reported security incidents that had occurred in the Khobar Towers area over the past several months. The value of this particular article was that it provided intelligence confirmation that security had been increased outside the complex and that the threat was taken seriously.

There was no warning in the article of an impending terrorist incident. When such warnings exist, they are provided to Defense decision makers immediately and directly, rather than through a publication like the MID which goes through an extensive editorial review and follows a days-long publication timeline. The article did recommend that, due to the incidents that had occurred over the past several months, security should be further increased and, indeed, approximately 130 distinct security enhancements were being implemented at Khobar Towers.

The second remaining issue deals with the level of funding within the Pentagon budget for anti-terrorism activities. Unfortunately, there is a misperception about the amount of money the Department spends. This misperception resulted from a review of one document, a JCS report which dealt with only a fraction of the total DoD funding which supports anti-terrorist activities. A portion of the report described some program funding reductions, which resulted from personnel reductions, domestic base closings, completed construction projects or program completions, but those items were just a minor portion of the overall DoD expenditures on anti-terrorism. There are two categories normally associated with Defense activities to combat terrorism: anti-terrorism and counter-terrorism.

Anti-terrorism activities deal with traditional defensive measures such as barriers, fences, detection devices and Defense personnel who have as part of their mission protecting DoD personnel and facilities against the threat of terrorism. The Defense Department spends nearly $2 billion annually on such anti-terrorism activity overall. Traditionally we have not budgeted anti-terrorism activities in a single program because force protection is part of each individual commander's responsibility and is therefore budgeted by every installation in, for example, their operation and maintenance accounts.

In the area of counter-terrorism, DoD has many programs and activities which are more often associated with proactive activities undertaken to neutralize the terrorist threat or respond to terrorist acts. All combatant forces in Defense potentially have as part of their mission a counter-terrorism function; however, these activities are more commonly associated with special operations forces, which have annual budgets in excess of $3 billion. That amount is in addition to the considerable sums spent from our intelligence portion of the budget to counter terrorism.

The JCS report was commissioned by Secretary Perry and CJCS Shalikashvili following the Riyadh bombing. Its purpose was to identify and assess all of the anti-terrorism programs, actions and preparedness of the DoD and possible areas for additional action. The report did fault DoD procedures for funding unanticipated contingencies, and the Secretary directed corrective action in this area. It is unfortunate that a minuscule portion of the JCS review is now being used to draw wider, and inappropriate, conclusions in light of the Dhahran bombing.

I hope this information is helpful. Secretary Perry looks forward to seeing you soon and discussing the issues of Saudi Arabia and terrorism in the Persian Gulf area.

Sincerely,

SANDRA K. STUART,
Assistant Secretary of Defense (Legislative Affairs).

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 4444), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4441

(Purpose: To require the submittal to Congress of the future-years defense programs prepared by the Chief of the National Guard Bureau and the chiefs of the reserve components)

Mr. MCCAIN. Mr. President, I send amendment No. 4441 to the desk and ask for its immediate consideration. I ask unanimous consent Senator GRAMS of Minnesota be added as a cosponsor of this amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. GRAMS, proposes an amendment numbered 4441.

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 88, between lines 7 and 8, insert the following:

SEC. 8099. Section 221 of title 10, United States Code, is amended by adding at the end the following:

"(d) The President shall submit to Congress each year, at the same time the President submits to Congress the budget for that year under section 1105(a) of title 31, the future-years defense program (including associated annexes) that the Chief of the National Guard Bureau and the chiefs of the reserve components submitted to the Secretary of Defense in that year in order to assist the Secretary in preparing the future-years defense program in that year under subsection (a).".

Effective Date. This section shall take effect beginning with the President's budget submission for fiscal year 1999.

Mr. McCAIN. Mr. President, this amendment would require the President to submit, with his annual budget request, the future years defense plans of the National Guard and Reserve components. The Chiefs would prepare their long-range spending plans, which would then be forward to the Congress.

For years, the Congress has added billions of dollars to the defense budget for equipment and building projects for the Guard and Reserve components. These add-ons are usually based on the assertion that the Department of Defense does not provide sufficient resources for the Guard and Reserve in its annual budget requests and long-term funding plans, and that is an assertion that I cannot dispute.

The problem, however, is the Congress does not now have the necessary information to properly prioritize among the requests of individual Members of Congress for added funding for the Guard and Reserve units in their States and districts. As a result, we have earmarked billions of dollars for construction projects and procurement items based on their location, not their priority and utility to the missions of the Guard and Reserve.

A few weeks ago, the Senate passed a military construction appropriations bill containing $700 million for unrequested projects, the majority of which were for guard and reserve projects. The bill before the Senate today contains $759.8 million for unrequested equipment for the Guard and Reserve. For the most part, the allocation of this funding to meet the requirements of the Guard and Reserve is left to the appropriate officials in those organizations.

Again this year, I applaud Senators STEVENS and INOUYE for resisting the temptation to earmark these funds, unlike the Senate Armed Services Committee and the House defense committees. I wish they had also left out the earmark for six additional C130–J aircraft, but, unfortunately, this bit of perennial pork is in the bill.

Mr. President, a few weeks ago I met with the Chief of the Guard Bureau, representatives of the Reserve components and officials from the Department of Defense responsible for oversight of the Guard and Reserve. In this meeting, we discussed the need to provide adequate funding for the Guard and Reserve components. We discussed the perception that the Department of Defense does not include sufficient funds in its budget requests for the Guard and Reserve, relying instead on the Congress to add these funds each year.

Unfortunately, we do not come up with a clear way of dealing with this problem, leaving the Congress in a catch-22 situation. If we support a strong national defense which requires the Guard and Reserve be appropriately equipped and trained for their assigned missions, we have to add money for the Guard and Reserve.

Mr. President, I reiterate: The problem is that over the years, the Department of Defense is shortchanging the Guard and Reserve in their budget request because they know—they know—the Congress will add on the funding necessary to adequately equip the Guard and Reserve in their military construction projects. So we are in a terrible situation where everybody knows. It is kind of a dirty little secret. The Department of Defense knows we will add the money, so they do not request the money. And, therefore, the Guard gets the money.

Mr. President, that is not any way to run a railroad, much less a defense appropriations process.

This amendment would address this problem with respect to the Congress by ensuring we have full information on the long-range plans of the Guard and Reserve components. Basically, we are saying the Guard and Reserve need a future years defense plan just as the active duty forces will as well. In this way, as we evaluate the Department's budget request for the Guard and Reserve, we will also have before us information on the long-term requirements of the Guard and Reserve.

Mr. President, I think this amendment will serve the best interests of the Guard and Reserve in two ways. First, the Department of Defense, knowing that the Congress will have full access to long-range requirements of the Guard and Reserve, will perhaps feel compelled to better accommodate these requirements in the Department's annual budget request. Second, if Guard and Reserve programs are still underfunded, the Congress will be better informed in making allocations of any additional funds for equipment and construction projects.

I believe this amendment is a positive step forward. I believe it will reduce some of the add-ons that, frankly, have more to do with location and geography as opposed to national security needs. I believe this will give us a much better blueprint to make the very difficult decisions as to how we spend the taxpayers' hard-earned dollars which are earmarked for defense.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? The Senator from Alaska.

Mr. STEVENS. Mr. President, as I understand the amendment, it will require the President to submit to Congress the request of the Chiefs of the National Guard Bureau and respective Reserve components which was submitted to the Secretary of Defense that year, in order to assist the Secretary in preparing the defense program.

I might say to the Senator from Arizona, there is not a similar provision with regard to the Marines or the Air Force or the Army or the Navy. They all submit requests, really, to the President through the Secretary of Defense.

I do believe that the Senator from Arizona is right about his assertion that the Congress does respond to the requests of the National Guard Bureau and the Reserve components in a unique way. I do believe they are closer to the people and they are closer to the Members of Congress because, when we all go home we see our Reserve components, we see the members of our National Guard, and they tell us what they have asked of the National Guard Bureau. When we come back, we inquire what is in the budget. We find it is not there, so we seek it. He has a point there. But the same point might be valid as to the requests that the Chief of Naval Operations made to the Secretary, or to the Chief of Staff of the Air Force or the Army.

I do not argue with the Senator about his proposition. I am prepared to take the amendment to conference and see what the will of the House will be in that regard. I think we will probably work out something that will require an annex to the report, to have all of the requests of the various Chiefs be provided to Congress.

Let us explore that, if the Senator will, but I am happy to recommend we take it to the conference.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I appreciate the effort on the part of the Senator from Alaska to help solve this dilemma. I believe it is a dilemma, as I stated before. The Department of Defense—and I must place great responsibility on them—know full well Congress is going to add this money on. So, therefore, they will request funding for, perhaps, less popular and certainly programs with less constituent support, knowing full well the Congress is going to add on additional money. That is what I am trying to do. The Senator from Alaska obviously appreciates what I am trying to get at.

Basically what I am asking for, in some respects, is a future years defense plan for the Guard and Reserve to try to identify and prioritize their requirements.

If there is a way I can work with the Senator from Alaska and the other conferees and the Senator from Hawaii in trying to achieve this goal—I am not saying this amendment is the best way, but I think it is an issue that must be addressed, and I believe the amendment addresses it.

I, again, appreciate the understanding of the dilemma on the part of the Senator from Alaska.

The PRESIDING OFFICER. Is there further debate on the McCain amendment?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I commend my friend from Arizona for this amendment. This is a subject which has been discussed at some length in the Armed Services Committee. He has consistently fought for and has been on the side of trying to identify what the priorities of the Guard and Reserve are so that we could at least consider those priorities when it comes time to identifying the items in the authorization bill. As a matter of fact, he was very forthright in his support of that position on the authorization bill.

We did adopt an amendment which I offered, I believe, on the authorization bill a few weeks ago. The question I would like to ask of the Senator from Arizona is this: Is the approach in this amendment either similar to or, at a minimum, consistent with the requirement that we added to the authorization bill on the floor, that the Guard and the Reserve components identify, prior to submission of the budget, what their priorities are so that they could be considered by the Congress when the time comes, if we add money to identify what those items are?

Mr. McCAIN. Mr. President, I say to my friend from Michigan, indeed, I believe this amendment is complementary to the amendment—a very thoughtful and important amendment—that the Senator from Michigan added to the defense authorization bill.

I also express my appreciation to the Senator from Michigan who has also fought against this earmarking of funds. Again, I would like to point out, the Appropriations Committee has simply added the money and they have not earmarked those funds, which I think is a significant improvement over what the authorizing committee has been doing. But in response to the question from my friend from Michigan, I believe this is a complementary amendment to that which the Senator from Michigan had added to the authorization bill.

Mr. LEVIN. Mr. President, I think it would be useful, assuming this amendment is adopted, for the appropriators to harmonize this language with the language that is in the authorization bill, to make sure we have precisely the same requirement, whatever it ends up being, assuming that it remains in the two bills following conference.

I also want to commend the Appropriations Committee, Senator STEVENS and Senator INOUYE, for following the generic approach on this Guard and Reserve issue. They have taken the correct position in terms of giving the Guard and Reserve components the greatest flexibility to do what is most needed by those components, rather than just some add-ons by Members of the Congress.

This is an important issue. It has been raised with great frequency on this floor. The Senate has generally taken the approach that we are going to give them the greatest flexibility rather than doing the earmarking.

I hope we prevail both in conference on the authorizing bill and on the appropriations bill. I join my friend from Arizona in thanking the Appropriations Committee for taking the position that they have and for accepting this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I say to my friend from Michigan that our flexibility in this bill is hampered by the earmarking in the authorization bill. I am not sure that we will survive conference so long as the authorization bill insists on pinning down the limited amount of money. It will lead to demands from both the House and Senate appropriators to challenge that.

I agree with the Senator from Arizona and the Senator from Michigan, Mr. President, but we have to have it in both committees in order to succeed. I do urge acceptance of the amendment.

Mr. LEVIN. If the Senator from Alaska will yield on that point, I do happen to agree with him in terms of his comment on the authorizing committee. Some of us made an effort in committee to totally eliminate those earmarks. We failed by, I think, one vote in committee. We ended with a sort of hybrid: some of the money earmarked and some not.

I agree, the fact some of it is earmarked in the Senate authorization bill does make your work more difficult in conference. I happen to regret that because I am on the generic side of this debate, but it is a fact of life.

Mr. STEVENS. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4441, the amendment offered by the Senator from Arizona.

The amendment (No. 4441) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, on the next amendment, I understand the Senator from Arizona would like a time agreement. Will he state that again, please?

Mr. McCAIN. I am more than happy to agree to any time agreement. I suggest 20 minutes equally divided on the amendment, if that is agreeable to the Senator from Alaska, or any other time agreement that he chooses to enter into.

Mr. STEVENS. I am pleased to enter into that agreement. That means this amendment will be voted on at quarter after 2.

The PRESIDING OFFICER. Without objection, it is so ordered. The vote will be taken at quarter after 2.

The Senator from Arizona is recognized.

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

AMENDMENT NO. 4442

(Purpose: To limit the use of funds for programs, projects, and activities not included in the most recent future-years defense program)

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 4442.

Mr. McCAIN. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. Notwithstanding any other provision of law, no funds appropriated or otherwise made available by this Act may be obligated or expended for any program, project, or activity which is not included in the future-years defense program of the Department of Defense for fiscal years 1997 through 2002 submitted to Congress in 1996 under section 221 of title 10, United States Code, unless the Secretary of Defense certifies to Congress that—

(1) the program, project, or activity fulfills an existing, validated military requirement;

(2) the program, project, or activity is of a higher priority than any other program, project, or activity included in that future-years defense program for which no funds are appropriated or otherwise made available by this Act; and

(3) if additional funds will be required for the program, project, or activity in future fiscal years, such funds will be included in the future-years defense program to be submitted to Congress under such section in 1997.

Mr. STEVENS. Mr. President, I ask unanimous consent that we amend the unanimous consent agreement to include that it not be subject to an amendment in the second degree.

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

The Senator from Arizona.

Mr. McCAIN. Mr. President, the amendment would require an assessment by the Department of Defense programs included in the appropriations bill which are not in the administration's future years defense plan. The Secretary of Defense would be required to certify that the program fulfills a military requirement, that it is a higher priority than any other unfunded program in the future years defense plan, and any future funding requirement associated with the program will be included in next year's future years defense plan. Until the assessment is complete and the certification provided to Congress, no funds for these programs could be obligated or expended.

Mr. President, I ask unanimous consent that there be a time agreement of 20 minutes equally divided, if that has not already been agreed to.

The PRESIDING OFFICER. It has been agreed to.

Mr. McCAIN. Mr. President, this amendment is needed. The amendment would impose some degree of restraint on the Congress' seemingly unlimited desire to waste scarce defense resources on unnecessary projects.

This Congress has succeeded in increasing the President's inadequate defense budget requests of the last 2 years, adding a total of $18 billion. I fully supported these increases which have slowed, although not halted, the too-rapid decline in the defense budget over the past decade. Failure to provide adequate funding for defense will seriously hinder the ability of our military services to ensure our future security and have a deleterious effect on our Nation's ability to influence world events and maintain peace.

However, much of this additional $18 billion is devoted to unnecessary and unwarranted projects. Last year, the Congress wasted $4 billion of the defense budget on unnecessary projects. These included $700 million for unrequested, low-priority military construction projects, $1.2 billion for B-2 bombers and *Seawolf* submarines, another $2.2 billion for unrequested projects of special interest, such as earmarks for specific universities, centers, or other entities; nondefense activities, such as Coast Guard operations, support to the Atlanta Olympics, medical research education and programs; and unrequested Guard and Reserve equipment.

Mr. President, that adds up to $4.1 billion, which did little or nothing to enhance the readiness of our forces today or to modernize our forces. This year, while it appears the Senate may be exercising restraint, I have identified only $2 billion in this year's as opposed to last year's budget.

I know this is sometimes an unpleasant experience, but I have to identify some of these projects that honestly have no relation to defense spending. There is nonauthorized add-ons and earmarks—I am not going to go through all of them:

A $3.4 million add-on for "Med teams";

A $14 million add-on for Akamai program, to continue telemedicine efforts at Tripler Army Medical Center in Hawaii;

Earmarks $2.7 million for development of "dual-mode hyperspectral/fluorescence imaging technology";

The sum of $8 million for the mitigation of environmental impacts on Indian lands;

A $477,000 grant to Kansas Unified School District 207 to integrate schools at Fort Leavenworth into post-fiber-optic network;

There is $100 million for prostate cancer research; $93 million of that is earmarked in the bill. The report specifies a total of $100 million for research to be conducted in conjunction with the Center for Prostate Disease Research.

There is a $2 million add-on for the National Automotive Center; a $5.4 million add-on for Hawaii Small Business Development Center; a $4 million add-on for Instrumented Factory for gears; $900,000 earmarked for National Center for Physical Acoustics for research on ocean acoustics for purchase of special equipment; $7 million add-on for Center of Excellence for Research in Ocean Sciences in Oregon.

There is an $8 million add-on to support Pacific Disaster Center; a $3 million add-on for Southern Observatory for Astronomical Research; $4.75 million earmarked for Charleston Navy Hospital for a cancer control program conducted in conjunction with a State-owned cancer center serving coastal South Carolina.

There is a $350,000 add-on for a DOD-State-local government joint task force studying wastewater treatment, management, and disposal; $10 million earmarked for joint Army-Tennessee Valley Authority project to "develop, demonstrate, and validate a plasma energy pyrolysis system * * * to render hazardous, chemical, and medical waste into an inert glass slag byproduct."

There is $1 million for brown tree snake control; again, a $2 million add-on for natural gas boiler demonstration; $2.5 million add-on for carbon reinforced recycled thermoplastic engineered lumber; $7 million earmarked for evaluation of a multithread architecture experimental computer; a $26.8 million add-on to initiate program using DOD satellite capabilities in support of civil needs, such as detecting forest fires and volcanic activity; a $20 million add-on for Electric and Hybrid Electric Vehicle Consortia program.

There is a $25 million add-on for Optoelectronics consortia. By the way, only $20 million was authorized. There is a $13 million add-on for oceanographic partnership programs.

Mr. President, I know that the argument can be and will be made that each of those programs I talked about are worthy and important programs. Most of those that I identified have little, if anything, to do with national defense. They were not requested by the Department of Defense, nor in many cases were they authorized in the authorizing bill.

I think this amendment is a necessary starting point for curbing this kind of spending. It is aimed only at projects that are not included in the spending plans of the military services until after the year 2002.

Perhaps my colleagues are unaware of what a future years defense plan is. It is the plan the Department of Defense documents which specifies the programs, projects, and activities that are planned for a 6-year period. The current FYDP was submitted to Congress earlier this year and covers fiscal years 1997 through 2002. The services' highest priority programs are included in that document.

Mr. President, I point out that the total funding for defense in the current future years defense program is $1.5 trillion—$1.5 trillion—which means there are lots and lots and lots of projects in there. Lots of those projects are not funded in the decisions made by the Congress of the United States.

Mr. President, I understand the opposition to this amendment and have very few illusions as to its chance of passage, but I feel that it is my obligation to seek its passage.

I also ask unanimous consent, Mr. President, that a letter from the Citizens Against Government Waste in support of this amendment be printed in the RECORD.

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

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, July 11, 1996.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), I am writing to endorse your amendment to the FY 1997 Department of Defense (DOD) Appropriations bill (S. 1894). Your amendment prohibits the use of funds for projects not included in the DOD's Future Years Defense Program (FYDP) unless the Secretary of Defense certifies that those programs are a higher priority than the unfunded FYDP items and will be included in the following year's FYDP. S. 1894 contains over $2 billion worth of items not included in FYDP.

As you know, DOD submits a FYDP every year which specifies programs, projects, and activities that are planned for a six-year period. Only items of the highest priority are included by DOD. The current FYDP was submitted this year and covers FYs 1997 through 2002. This FYDP contains $1.5 trillion worth of spending items, many of which were ignored by Congress and replaced with wasteful items.

Some of the items included in S. 1894 have been listed in our Congressional Pig Book:

$1 million for Brown Tree Snake control.

$15 million for High Frequency Active Auroral Research Program (HAARP). While it was authorized, it is an objectionable add-on.

$4 million add-on for the instrumented factory for gears. In FY 1996,this program received a $5 million add-on in conference.

Wasteful spending crowds out valuable resources for high priority projects. Your amendment would help stop pork-barrel spending hidden under the cloak of defense spending. We urge your colleagues to support this amendment, which will be considered for inclusion in CCAGW's 1996 Congressional Ratings.

Sincerely,

THOMAS A. SCHATZ,
President.

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

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, unfortunately, this is one amendment that we have to disagree with the Senator from Arizona on in regard to his proposal. It would prohibit the obligation of any congressionally approved funds, by definition, funds approved by the President, too, unless those funds were in the President's original plan.

The budget resolution that we have adopted in the Congress is $27.5 billion more than the President's plan. That is the 5-year plan. I stood here listening to the Senator from Arizona, and I was remembering battles that this Senator has been involved in. Three times other committees zeroed out the C–17, and the President did not request it. Our committee insisted on it. Our committee insisted on upgrading the Patriot missile when it had not been requested, was not in anyone's authorization bill. We believed it should have been upgraded. It had a significant role, I think, in the Persian Gulf war.

On the V–22, the Osprey, it was never recommended by the President or by the Secretary of Defense. We had met with the Marines, and they gave us their concept of a new order of battle, really, if they could have this new system. And our subcommittee again battled. I remember the battles here on the floor with some of my former friends about our adding money to the bill that was not authorized or requested. Today the V–22 is the signal part of our defense effort. I think this will be one of the few items of new technology, really innovative technology, in the overall field of aviation. I predict that within 20 years, it will be a significant part of commuter airline transportation throughout the world.

I do not disagree with the Senator from Arizona that we do at times agree to money that has not been requested that could be considered in a subsequent year. But I do not believe we should abandon the total flexibility that Congress has. Congress has the authority to initiate spending in areas where it feels it is necessary to meet the national defense requirements, our national security requirements. Our obligation is to provide for the common defense under the Constitution. I keep repeating that here on the floor.

I must oppose the Senator's amendment because we would have no flexibility whatsoever. Under the current budget resolution, we have programmed even this year $266.362 billion for defense. The President asked for $255.1 billion for defense. Over the period of 5 years, as I said, we asked for $27.5 billion more than the President.

Senator MCCAIN's amendment would say, even if we provided it, the Secretary of Defense would uniquely have impoundment authority, the authority to prioritize spending. In our opinion, it is not the right thing to do. So at the appropriate time, I will make a motion to table the amendment.

This language, as I understand it, would require that the Secretary of Defense, after Congress has passed an act and the President has signed it, that the Secretary of Defense must certify that the program meets valid military requirements. The Osprey stands out in my mind, Mr. President. No Secretary of Defense that I knew ever supported the Osprey, V–22. I do not wish to give the Secretary of Defense a veto power that I would not give to the President of the United States.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 33 seconds.

Mr. MCCAIN. Mr. President, I ask unanimous consent to vitiate the request for the yeas and nays.

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

Mr. MCCAIN. Mr. President, I understand how this vote would come out. I will be satisfied with a voice vote on it. I want to assure the Senator from Alaska and the Senator from Hawaii that I am very appreciative of their very hard work and efforts. I am very appreciative of the fact that we have gone from $4 billion to $2 billion of, in my view, unnecessary and unwarranted and unauthorized spending.

However, Mr. President, I do not intend to quit in trying to stop add-ons such as those that I described before. I believe that the American people deserve to have a thorough ventilation and thorough hearing of the requirements and the appropriations that are included in this bill. I do, as I said before, appreciate the reductions in unauthorized earmarks and spending, and I think we will continue to make progress. At the same time, I have to bring to the attention of my colleagues areas that I feel are absolutely unnecessary and wasteful projects.

I yield the floor.

Mr. INOUYE. Mr. President, of course, I commend my colleague from Arizona for bringing this matter to the attention of the Senate. Every Member of this body is desirous of providing the finest defense at the least cost.

There are a few things that we should remind ourselves. First is the Constitution of the United States. Mr. President, it is not the President who is responsible to declare war, to raise and support armies, to provide and maintain a Navy, to make rules for the Government on regulations of land and naval forces. That is the power of the Congress of the United States. We, the Members of the Congress, were not elected by our constituents to serve as rubber stamps of the Secretary of Defense or, for that matter, of the President of the United States.

As my distinguished colleague from Alaska pointed out, if it were not for the initiative taken by this committee, the C–17 would not be in existence, the V–22 would be a thing of the past, the Patriot upgrade would not have helped our troops in Desert Storm.

For that matter, I think we should recall, in early 1990, when the seas were calm and the Middle East seemed to be a tranquil place, the Pentagon was considering doing away with the central command. That is fact, Mr. President. They were about to break up the central command and retire General Schwarzkopf. When this subcommittee heard about that, we called upon the Secretary of Defense to delay that decision for at least a year because we, on this subcommittee, felt the seas were not tranquil in the Middle East, that the air was not calm in the Middle East, that something was brewing, and within 8 months, we were shooting and they were shooting at us. If we had served as rubberstamps for the President of the United States and the Department of Defense, General Schwarzkopf would now be retired and Desert Storm would have been a disaster.

The weapon that most people credit with the great successes of Desert Storm is the F–117, the stealth fighter, the fighter that was able, in a stealthy fashion, to knock out all of the radar positions of the Iraqis. I believe we should recall that the administration did not want any more F–117's. For that matter, our companion committees in the Congress of the United States did not favor the F–117. Thank God for this subcommittee; we got the F–117.

Mr. President, I think we should always remind ourselves that the Congress shall have the power to raise armies, to support armies, to provide and maintain a Navy, to provide for calling forth the militia to execute the law of the Union against suppressions and insurrections, and to repel invasions. We are the people who are responsible for the Defense Department. We are the people who are responsible to declare war.

Mr. President, we take our responsibilities very seriously. We will do our very best to help our Senator from Arizona to bring down the costs of defense. This is not the way to do it, sir.

The PRESIDING OFFICER. There are 45 seconds remaining.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4442) is rejected.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4582, AS MODIFIED

(Purpose: To provide funds for preparing the application for renewal of the use of the McGregor Range at Fort Bliss, Texas)

Mr. STEVENS. Mr. President, I send to the desk a modification of amendment No. 4582.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GRAMM, proposes an amendment numbered 4582, as modified.

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

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

The amendment is as follows:

At the end of the bill add the following:

SEC. . Of the funds appropriated in title II of this Act, not less than $7.1 million is available to perform the environmental impact statement and associated baseline studies necessary to prepare an application for renewal of use of the McGregor Range at Fort Bliss, Texas.

Mr. STEVENS. As amended, this makes funds available for a project in Texas which the Senator from Texas wishes to be certain is authorized and the moneys are available for.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that the managers have approved this measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4582), as modified, was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4883

(Purpose: To provide $7,5000,000 to fund 1.5 ship years in the university research fleet under the Oceanographic and Atmospheric Technology program)

Mr. GORTON. Mr. President, I have an amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 4883.

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

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

The amendment is as follows:

On page 29, line 20, strike out "Forces." and insert in lieu thereof "Forces: *Provided further*, That of the funds appropriated in this paragraph, $7,500,000 shall be available for 1.5 ship years in the university research fleet under the Oceanographic and Atmospheric Technology program.".

Mr. GORTON. Mr. President, this has to do with the military oceanographic research survey administered by the Dept. of the Navy. I understand it has been cleared by both of the distinguished managers. I want to tell them how much I appreciate their cooperation in this respect.

Mr. President, today I am offering an amendment which will increase funding for the Navy's military oceanographic research survey capabilities. With enhanced survey capabilities, university research fleets will be able to help the Navy in the important work of oceanographic research.

This amendment will reduce an approximately 240 ship-year backlog in military oceanographic survey vessels which are operated by the Oceanographer of the Navy. It allows the Navy to use non-military research ships as a supplement to its own fleet.

Most of the Navy's surveys are overseas; some are in American waters. Clearly, the Navy Oceanographer's eight ships cannot, by themselves, do all the work for 240 ship-years of backlog. They need help. The University Oceanographic Laboratory System [UNOLS], an umbrella organization of oceanographic research ships, can provide that help. These research ships are owned and operated by a variety of agencies and private organizations, including the University of Washington in Seattle. With the additional funds provided by this amendment, the Navy can enlist the aid of UNOLS in reducing its backlog.

This initiative will bring military and civilian oceanographers, together, in a spirit of partnership, for exchanges of ideas and capabilities. I thank the committee for agreeing to this amendment.

Mr. STEVENS. The Senator from Washington has identified that immediate attention be paid to this activity. We support his position that it should be maintained at the current level, and urge adoption.

Mr. INOUYE. Mr. President, the managers are pleased to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4883) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to table the motion.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Sharon Dunbar be permitted privileges of the floor during consideration of this bill.

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

AMENDMENT NO. 4884

(Purpose: To provide $12,000,000 for the Pulse Doppler Upgrade modification to the AN/SPS–48E radar system)

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of Senator FEINSTEIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mrs. FEINSTEIN, proposes an amendment numbered 4884.

Mr. INOUYE. 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 29, line 20, strike out "Forces." and insert in lieu thereof "Forces: *Provided further*, That of the funds available under this paragraph, $12,000,000 is available for the Pulse Doppler Upgrade modification to the AN/SPS–48E radar system.".

Mrs. FEINSTEIN. Mr. President, I rise today in support of my amendment to authorize $12 million for the development of a pulse doppler upgrade to the AN/SPS–48E radar system.

The AN/SPS–48E is currently the only surveillance radar capable of detecting low flying cruise missiles coming out of the severe ground clutter that is typical of littoral warfare over water or land. Given the proper funding, the Navy agrees that the AN/SPS–48E pulse doppler upgrade would re-initiate clutter reduction engineering activities, thereby improving their ability to meet current and emerging threats. Present lack of funding for this one-of-a-kind, superior radar system leaves our large deck amphibious ships and the new LPD–17 class ships and their crews unprotected and vulnerable to attack.

I am pleased that this amendment is acceptable and I thank the managers of the bill.

Mr. INOUYE. Mr. President, this amendment has been cleared by both sides. We are pleased to support it.

Mr. STEVENS. Mr. President, I concur in adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4884) was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay it on the table.

The motion to lay on the table was agreed to.

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

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

AIR BATTLE CAPTAIN PROGRAM AT THE CENTER FOR AEROSPACE SCIENCES, UNIVERSITY OF NORTH DAKOTA

Mr. CONRAD. Mr. President, I see that my esteemed colleague, Senator

INOUYE, the ranking member of the Defense Appropriations Subcommittee, is on the floor. I wonder if the Senator from Hawaii would be willing to engage in a colloquy with my friend from North Dakota and me over a matter of importance to our State and the U.S. Army.

Mr. INOUYE. I would be happy to do so.

Mr. CONRAD. I thank the Senator. As my friend from Hawaii may recall, the internationally recognized Center for Aerospace Sciences [CAS] at the University of North Dakota [UND] has been conducting intensive helicopter flight training for U.S. Army Reserve Officer Training Corps [ROTC] scholarship recipients for the past decade and a half. The 1995-96 school year was the last year of a 5-year test program designed to produce 15 second lieutenants every year for the Army Aviation branch who are ready for tactical aircraft training and further assignment as combat-ready aviators upon graduation from UND. Because of the unique flight training students receive at CAS, the entire UND class has almost always received active duty helicopter assignments upon graduation.

Mr. INOUYE. Yes, I am aware of this program. Has this training been cost-effective for the Army?

Mr. CONRAD. Yes, it has. In fact, it costs approximately 40 percent less to train helicopter pilots at UND than at the Army's usual facility at Fort Rucker.

Mr. DORGAN. If my senior colleague from North Dakota would yield for a moment, I would also like to note that the recent proposal for program continuation forwarded to the commanding general at Fort Rucker suggests that we will save even more than that. My friend from Hawaii and all Senators should also be aware that the Army has consistently praised UND graduates for their excellent performance and superior airmanship. The CAS program is unique in the United States, and consequently its aviator graduates in the Air Battle Captain Program are better trained than any other ROTC graduates seeking Army aviation assignments. Appropriately, the entire UND Air Battle Captain class has consistently received active duty helicopter assignments upon graduation.

Mr. INOUYE. Considering both the cost savings and the excellent performance of UND's graduates, this program appears to be an excellent buy.

Mr. DORGAN. It is, and consequently I and my colleague from North Dakota were very surprised to learn that only 2 of this year's class of 15 graduates were assigned to active duty aviation. Clearly, many programs within the Armed Services are undergoing reorganization as part of the defense-wide effort to cut costs, but to reject the graduates from the aviation program at UND Aerospace does not make any sense to me. After all, these young officers have been handpicked and well trained. To reject these young men and women after this special training seems wasteful.

Mr. INOUYE. I understand the concern of my friends from North Dakota. From what I have heard today, rejecting these fine young men and women for the positions for which their country has trained them does not appear to make much sense.

Mr. CONRAD. That is also our thinking, and Senator DORGAN and I, with our friend from the other body, Congressman EARL POMEROY, wrote to the Secretary of Defense on May 31, asking that the assignments given to this year's graduates be reexamined. We are hopeful that it is not too late for the members of class of 1996 to receive the assignments they had every right to expect when they enrolled in the program over 3 year ago. Every member of this year's ABC class made time-consuming, costly commitments to this excellent program. In addition, the funds spent by the Army over the past 3 years on their training is in danger of going to waste if current orders are not reviewed. All 15 students are uniquely qualified to be Army helicopter pilots, and we believe it is only right to give these young people the opportunity to serve their country in this capacity, especially now that significant tax dollars have been invested in their training.

It is our hope that any procedural error which may have hindered UND's graduates during this year's selection process can be corrected for this year's class. We are also concerned, however, about future classes. We hope that UND students will be able to benefit from this excellent program for many years to come.

Mr. INOUYE. Has the Defense Department responded to your letter or taken action in light of your very understandable concern?

Mr. CONRAD. Unfortunately, we have not yet received a substantive response.

Mr. INOUYE. In light of the stress that this delay must be inflicting on this year's graduates, I would hope that the Defense Department would expedite action in this matter. I look forward to a favorable response to the letter my friends from North Dakota have sent to Secretary Perry, and would hope that Senators CONRAD and DORGAN would not hesitate to let me know if I can be of assistance.

Mr. DORGAN. I thank my esteemed colleague from Hawaii. We will be sure to do so.

Mr. CONRAD. I also thank the distinguished ranking member for his time and support. I thank the Chair, and yield the floor.

LAST CENTER

Mr. JEFFORDS. Mr. President, I would like to bring to your attention an item in this bill which is listed under the heading of Industrial Preparedness, namely the Lithographic and Alternative Semiconductor Processing Techniques [LAST] Center. This Center will play a major role in the development of a critical technology for our national defense. As you know, our national defense is heavily dependent on the electronics industry, in which there are certain critical tools and technologies. Of these, lithography is pivotal to our Nation's continued success. This is the technology used to create the ever-shrinking patterns found on integrated circuit chips and is an area where we face fierce international competition. The United States must retain leadership in this dual-use technology area through the continued investments by government, industry, universities, and industrial associations.

Since 1988, the Defense Advanced Research Projects Agency [DARPA] has been working with the Naval Air Systems Command and the Naval Research Laboratory to develop alternative lithographic technologies. Proximity x-ray lithography is considered to be the primary backup to the optical lithography technologies currently used, and to have the most promise for manufacturing future generations of chips. Yet by fiscal year 1998, DARPA plans to curtail the bulk of its funding in proximity x-ray technology.

This technology is at the delicate point where DARPA believes it is too mature to meet its development investment profile, yet the industrial infrastructure is not yet sufficient to sustain it. Therefore, DOD investment is needed to continue development of x-ray lithography and other mask technologies and to demonstrate how semiconductor processes can be used in leading edge military applications. This work more clearly fits the needs of the services than the mission of DARPA.

The bill the Senate is considering today begins a smooth transition of the results of DARPA's Advanced Lithography Program in proximity x-ray lithography to the Navy in fiscal year 1997. It establishes a Manufacturing Technology Program Center of Excellence, which would be based at the IBM research facility in Essex Junction, VT.

The bill provides for the extension of efforts begun in the DARPA Advanced Lithography Program through transition to the Lithographic and Alternative Semiconductor Processing Techniques [LAST] Center and funds the Center at $15 million in fiscal year 1997, from the manufacturing technology budget, PE78011N. It increases the request in that line by $15 million. This increase is in addition to any other planned increases.

The Naval Air Systems Command should manage this Center since it currently is the agent for most of the

DARPA contracts in this technology area. As the LAST Center's programs are part of a larger ongoing government, university, industry effort to nurture advanced lithography, both the Center's program and DARPA's X-ray Proximity Printing Program must be viewed as an ongoing effort. A coordinating effort for the LAST Program should be established and the Navy should chair a coordinating panel including representatives of DARPA and the three services, as appropriate.

This is extremely important in light of recent developments in Asia, in particular, NTT's announcement of .07 micron device demonstrations using proximity x-ray technology and Mitsubishi's recent announcement that it is proceeding with a $1 billion semiconductor fabrication facility built around synchrotron x-ray lithography technology. These, along with the fabrication of the Pohang beam line for x-ray lithography in Korea, underscore the worldwide investment being made in this critical technology.

The LAST Center will allow DOD to begin the insertion of x-ray technology and alternative semiconductor processing techniques into military applications. This Center will be of high value to military systems. I believe the Secretary of the Navy should support its continuation for a period of 5 years beginning in the Navy's fiscal year 1998 budget request.

Mr. President, I would like to thank my colleague from Alaska for joining me in a discussion of this important matter on the floor of the Senate, and I commend him for including this important item in the bill before us.

Mr. STEVENS. Mr. President, I am pleased to agree with my colleague from Vermont on the importance of maintaining the defense investment in advanced lithography, including proximity x-ray lithography. In particular, the research and development that would be undertaken at this LAST Center should provide advanced electronics manufacturing capabilities, which are essential to our national defense.

UH-60 AIR AMBULANCE COMPANIES FOR THE NATIONAL GUARD

Mr. DOMENICI. Mr. President, I would like to briefly share my concerns about an issue of importance to National Guard medical operations and capabilities in New Mexico and Nevada.

Mr. STEVENS. I appreciate the Senator coming to the floor to share his concerns on this issue with his colleagues.

Mr. DOMENICI. I understand that at the end of fiscal year 1997, the National Guard bureau will only have four National Guard UH-60 air ambulance companies throughout the United States. I am greatly concerned about the overall lack of air ambulance capability supporting our National Guard Forces.

Mr. DOMENICI. In order to address this shortfall, it would be appropriate for the Department of Defense to assess the requirements for additional UH-60 air ambulance companies beyond what currently exists in the current DOD plan for the National Guard. This review should identify the procurement profile for this aircraft, as well as associated funding and number of aircraft, in order to satisfy these requirements over the next 5 years.

Mr. STEVENS. I wholeheartedly endorse this review by the Department of Defense, which should be completed and submitted to the Congressional Defense Committees no later than April 30, 1997. I applaud the Senator from New Mexico for Bringing this issue to the committee's attention.

MILITARY USE OF A METAL CONDITIONER

Mr. WARNER. Mr. President, I would like to discuss an important matter with my distinguished colleague, the chairman of the Defense Appropriations Subcommittee. I bring to the chairman's attention a remarkable product called MILITEC-1, which is manufactured by a small Virginia company. The product is a synthetic metal conditioner that makes machines run better, and makes weapons more reliable. This permits smoother running machines that consume less power, are more reliable, and require less maintenance and parts replacement. MILITEC-1 can help our military forces save money and human resources on repairs, while at the same time have equipment that runs better.

Tests and extensive experience by both government and commercial users have proven MILITEC-1's effectiveness. The Department of Defense has issued national stock numbers to facilitate purchase of the product by all Federal Government activities, including military units, as well as by state and local law enforcement agencies.

In fact, several Federal law enforcement agencies direct the use of MILITEC-1. Indeed, in a recent issue of the Washington Post, a spokesman for the U.S. Secret Service was quoted as saying,

"Our 2,000 agents and 1,200 officers are issued a small bottle of the stuff with their guns. We've found that it repels water extremely well and keeps weapons operating smoothly. Obviously, that is a high priority for us."

I appreciate the Service's concern for its special mission, and I believe our troops should have that same advantage.

Mr. STEVENS. I have heard of the Virginia product my distinguished colleague describes, and I concur with his interest in giving our military the opportunity to have the advantage that many law enforcement agencies already enjoy.

Mr. WARNER. Mr. President, I understand that some officials in the Defense Department have been hesitant to employ a synthetic metal conditioner, even for testing, preferring to use only traditional lubricants. This is in spite of the fact that a great many field users in the military services strongly prefer it over standard-issue products. Would the chairman agree that, if the Department requires formal performance testing to determine the value of a synthetic metal conditioner before approving services-wide use, they should provide adequate resources from appropriated funds to conduct such performance testing?

Mr. STEVENS. I agree with the distinguished Senator from Virginia that if the Department of Defense wishes to conduct performance tests to determine the merit of a synthetic metal conditioner for military use, the Department should consider funding such tests from within available funds.

PCB AND ASBESTOS REMOVAL

Mr. KERREY. Mr. President, will the Senator from Alaska help me understand a part of the bill. Within the Formerly Used Defense Site Program you have added $25,000,000 for PCB and asbestos removal. We have a situation out at the University of Nebraska where the Department turned over some land and buildings to the university in the 1960's. The problem is that the buildings contained ammunition and are contaminated. We now need to tear them down. However, the cost of structural demolition and removal of the asbestos and contamination within these buildings is considerable. Is the purpose of this $25,000,000 for problems like we have at the University of Nebraska?

Mr. STEVENS. This is exactly the kind of problem we have heard about. That is why we added this funding. We want to accelerate the cleanup of these sites wherever possible.

Mr. KERREY. I will work with the Department to help the University of Nebraska to demolish these structures and remove this asbestos. I thank the Senator from Alaska.

EOA-TYPE SYSTEMS

Mr. HEFLIN. Mr. President, I would like to take a moment to enter into colloquy with the distinguished Senator from Alaska, my friend, Mr. STEVENS.

Mr. STEVENS. Mr. President, I would be pleased to enter into a colloquy with my friend from Alabama.

Mr. HEFLIN. First let me compliment the Senator on the excellent work the committee has done this year. This is an outstanding bill. I would also like to thank staff for their hard work and dedication. As you know, I have a keen interest in the Army's electronic maintenance programs. I would, therefore, appreciate a clarification of the guidance provided in the committee report dealing with the purchase of electro optic test equipment.

The report directs the Army not to procure any sole-source off-vehicle E-O

test equipment until the results of a study have been provided to the defense committees of Congress. My question is, Does this guidance restrict the procurement of variants of the Electro Optic Augmentation System, an on-vehicle tester?

Mr. STEVENS. Let me assure the Senator that the committee's guidance was not intended to restrict the purchase of EOA-type systems.

Mr. HEFLIN. I appreciate the clarification of this important matter. I thank the Senator.

WHITE HOUSE COMMUNICATIONS SUPPORT

Mr. SHELBY. Mr. President, historically the White House Communications Agency, commonly referred to as WHCA, has provided telecommunications support for the President in his role as Commander in Chief. WHCA, as part of its mission, has provided radio communications, telephone, and other telecommunications resources to the Secret Service under the authority of the Presidential Protection Assistance Act of 1976. This act states that the assistance is provided to the Secret Service without reimbursement provided that the assistance is on a "temporary basis".

Mr. STEVENS. That is correct. This WHCA support to the Secret Service had been provided on a non-reimbursable basis for 15 years, absent a clear definition of "temporary basis." As I understand the issue, this support which is provided to the Secret Service is essential and must be provided regardless of the funding source.

Mr. SHELBY. Absolutely, the support is essential in order for the Secret Service to effectively carry out their protective mission. The 15-year practice of providing this support under the Presidential Assistance Act has worked well. Recently, because of strict interpretations of that act it has been suggested that the funding to cover the cost of this support be transferred to the Secret Service so that they can then return the funds to the Defense Department to cover the cost.

Mr. STEVENS. In other words, there is no savings and there is increased redtape. This appears to be a typical bureaucratic solution—fix something that is not broken.

Mr. SHELBY. Exactly. For 15 years this essential support is provided by WHCA and funded through the Defense Department. Now, because after 15 years someone has decided to interpret guidelines differently, we must alter the funding process and add bureaucratic redtape to the process that works just fine. Providing the funds to the Secret Service so that they can return it to the White House Communications Agency is a waste of time and effort. There are no savings, just added redtape.

Mr. STEVENS. Was this change requested by the Secret Service or WHCA?

Mr. SHELBY. To my knowledge, these agencies did not request such a change. The system which existed for 15 years was fine. Certainly, if required to proceed with this reimbursement procedure they will comply. The support services are essential. Once again, however, if it isn't broke, don't fix it.

Mr. STEVENS. I agree. If the support is essential and has been provided for so many years there is no need to create more administrative redtape. Not only won't this process save taxpayer dollars, it will cost more money due to the increased administrative processes. The support is essential and should be funded in the most streamlined of methods. We should continue to fund this support directly to WHCA and their support of the Secret Service should continue.

Mr. SHELBY. Mr. President, I understand that the House has included language in their bill regarding this issue. I would hope that we can examine this issue closely in conference to ensure that the most efficient and cost-effective procedure to address this issue will be implemented.

Mr. STEVENS. We will certainly address it, and hopefully continue to fund this support program without added redtape.

B-52H BOMBERS

Mr. CONRAD. Mr. President, I note that the distinguished chairman and ranking member of the Defense Appropriations Subcommittee are on the floor, and I would like to engage in a colloquy for the purposes of discussing the subcommittee's intentions regarding B-52H bombers.

As my colleagues are aware, during floor consideration of the fiscal year 1997 Defense Authorization bill, I offered an amendment with my distinguished colleague from North Dakota which clarified the Senate's intent regarding B-52's by instructing the Secretary of the Air Force to retain the entire inventory of these battle tested, dual-capable bombers in active status, and to ensure that aircraft in attrition reserve would receive the standard maintenance and upgrades just like other B-52's. Our amendment was unanimously approved by the Senate with the full support of the Armed Services Committee, which again this year has clearly instructed the Air Force not to retire, or to prepare to retire, any B-52's during the fiscal year.

With passage of an amendment offered by Senator STEVENS to the defense appropriations bill, a total of $69,500,000 will have been added to the fiscal year 1997 defense budget request to maintain the entire fleet of 94 B-52H aircraft. In light of this additional funding, is my understanding correct that the Defense Appropriations Subcommittee agrees that the Defense Department should not retire, or prepare to retire, any B-52's during fiscal year 1997?

Mr. STEVENS. The Senator is correct. Additional funds have been provided for operations and maintenance, militaray personnel, and procurement at levels considered appropriate to allow all B-52's to be retained in active and attrition reserve status.

Mr. CONRAD. Would the chairman also agree that all the B-52's should receive standard maintenance and upgrades?

Mr. STEVENS. That is the subcommittee's intent. Depriving the attrition reserve bombers of the maintenance and modifications required for them to operate in combat would be inconsistent with the subcommitte's understanding of what attrition reserve status entails.

Mr. CONRAD. I thank the chairman for this strong statement of support. Might I ask the distinguished ranking member whether he shares this understanding?

Mr. INOUYE. I certainly do. I am pleased that we were able to provide the funding necessary to ensure that there be no question that B-52's should not be retired, or prepared for retirement, during fiscal year 1997.

Mr. CONRAD. Again, I thank the chairman and ranking member for their help on this extremely important matter, and would like to clarify a last point for the Record. As my friends on the Defense Subcommittee are aware, the Air Force's estimates of the additional funding required to maintain these aircraft have fluctuated over the past several months. Would the subcommittee be willing to reallocate B-52 funds between appropriations accounts in conference, or to describe in the conference managers' statement, the subcommittee's understanding of how the additional $69,500,000 is to be spent, should clarification be necessary?

Mr. STEVENS. I understand my friend's concerns, and, if necessary, we could raise these matters in the conference with our House counterparts. I also would add, in recognition of my friend's interests in this matter, that we will do our best to come out of conference with the full $69,500,000 we have allocated for the B-52's.

Mr. INOUYE. The Senator from North Dakota raises a valid point, and I know that the chairman and I will try to accommodate him should it become clear that some reallocation of B-52 funds between appropriations accounts, or further language clarification, is advisable.

Mr. CONRAD. Once again I thank the Defense Subcommittee's distinguished leadership for their strong support. I greatly appreciate their cooperation throughout this process and the hard work of their able staff members, and am pleased that we have been able to work together to maintain our entire fleet of B-52's.

TELEMEDICINE

Mr. SPECTER. Mr. President, I have sought recognition for the purpose of

engaging my good friend, the distinguished chairman of the Defense Appropriations Subcommittee, in a colloquy regarding support to the Army, Navy, Air Force, and other branches of the military in their efforts to promote and utilize the innovative delivery of telemedicine processes and techniques which improve the responsiveness and quality of care.

A coordinated and innovative telemedicine system designed to enhance the medical and behavioral care provided to personnel who have been exposed to high-trauma events would be of considerable benefit to the U.S. military. It would expand the knowledge base needed for successfully delivering both emergency and disaster management services and would also expand the applications of telemedicine and enhance diagnostic and treatment coordination and delivery. Given the experience of the U.S. military during and since the Persian Gulf war and the increased threat posed by weapons of mass destruction the military could benefit greatly from such a resource.

I would further note that the northeast region of the United States is inadequately represented in national telemedicine research. I urge the conferees to consider directing the Department of Defense to allocate a portion of the $20 million for telemedicine in the Defense appropriation's fiscal year 1997 bill, to an organization in the northeastern United States with lengthy experience in organizing and providing comprehensive medical and behavioral services. A not-for-profit health care organization engaged in the delivery of medical care, in medical and allied health education and training, and in medical research would be the most appropriate type of entity for achieving expanded applications and coordination of telemedicine efforts. Both the U.S. military and the northeast region would benefit from allocating funds to a qualified entity in the region.

Mr. STEVENS. Mr. President, I would say to the distinguished senior Senator from Pennsylvania that I have long been a supporter of telemedicine and its application to military medicine. I believe that telemedicine can significantly enhance medical readiness and I encourage the Department of Defense to seek innovative opportunities to expand those capabilities. I will be happy to work with the senior Senator from Pennsylvania and the Department of Defense to ensure that such proposals, especially those qualified proposals being put forward in the northeast region of the United States, receive a thorough review for possible inclusion into the fiscal year 1997 Department of Defense telemedicine programs.

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

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

Mr. STEVENS. Mr. President, I see the Senator from Iowa is here. We have discussed an agreement concerning an amendment he is to offer.

He is going to offer an amendment to the bill pertaining to the number of general officers, I believe, in the Marine Corps.

I just simply want to ask unanimous consent that his amendment not be subject to a second-degree amendment but that he be permitted to modify that amendment during the debate if he so wishes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. 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. GRASSLEY. 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. GRASSLEY. I have an amendment I am going to offer, but I do not want to send it to the desk at this point. I hope we will be able to do today what we were not able to do in late June when I discussed this very same issue on the Defense authorization bill. I hope that I have a chance to have some dialog in a very formal way of educating our colleagues about this issue I am raising, and I hope to have that with some members of the Senate Armed Services Committee as well as prominent members of the Senate Appropriations Committee who are in the Chamber.

To remind my colleagues, this is the issue of whether or not we need 12 more Marine generals. This issue, I admit, appears to be micromanaging the Defense Department. Most of my speeches on the Defense Department come during the budget debate, the budget resolution debate which is very much a macro-approach on defense expenditures.

I think, however, that in the sense of micromanaging we raise a point of how money is being spent because if my amendment which I will offer would be adopted, I do not pretend to subtract big dollars from the appropriations bill that is before us. The issue here is a broader issue of what are the priorities within our military establishment. We hear from the Secretary of Defense, we hear from the Senate Armed Services Committee, and maybe we all agree, of the need for modernization of the military, the updating of our capabilities, that spending money on that is a very high priority. And so we are seeing in the days now beyond the cold war era and also in the era of efforts to reduce the deficit and hopefully to balance the budget, a military force structure that is downsizing.

So if it appears to be micromanaging, it is only because it is so very obvious that when you have a downsizing taking place, why are we "topsizing" the administrative overhead in the form of more brass at the top. The Marines like to say—and I think they have every right to say this—they are looking for "a few good men." Obviously, today we amend that, that the Marines are looking for a few good men and women.

I think most of us remember that slogan on TV or we saw it in a magazine or we even saw it on bumper stickers. For me, these words always spoke the truth, because even though I have not been in the military I had a brother that proudly served in World War II in the Marines, and I remember as a teenager putting as many of his Marine emblems on as I could because I wanted to be just like my brother. And so I have great admiration for any branch of military service, but if there is one that I always thought most of it was the Marines because of my brother. And whether then in World War II, when they had 485,000 troops with 70 generals, or today, when they have 173,000 with 68 generals, you can only conclude that the Marine Corps is small but it is very tough, it is very disciplined, and, quite frankly, in every sense it is very different from the Army, the Navy, and the Air Force. The Marines are proud of it, and Americans ought to be proud of it.

But when I see these proposals that come before us, I think something has changed, that the Marines are not just looking for a few good men and women anymore. With this appropriation bill, and with the authorization bill, they are looking for a few more generals, 12 to be exact. The Marines want the extra generals at a time when the Marine Corps is getting smaller.

Let me say, I hoped to have dialog with the Senate Armed Services Committee on this. But this issue that is included in the Senate Armed Services Committee bill was very hotly debated in the deliberations of the House Armed Services Committee, and the House Armed Services Committee rejected—rejected—the Marine Corps' attempt to authorize 12 more generals. So, even within this Congress there is a diverse opinion on whether or not this is justified. So they want extra generals.

The other services downsizing like the Marine Corps. The Department of Defense has cut the number of general officers in the other services by 20 percent. You will see from the chart here how this is divided up, but a total figure has dropped by 204 since we have

had the downsizing of the military, from 1,055 in 1987 to 851 in 1995. So, why does the Marine Corps need a few more generals to lead fewer men and women?

You see here, the Army has gone from about 400 in 1987 down to this figure that is under 300. The Air Force has gone from 335 down to just a little over 300. The Navy, at 250-plus admirals, down just a little bit, but down some. The Marine Corps has been very steady right here—very steady during this period of time. I am not arguing here that the Marines should have downsized in the number of general officers. I am not arguing that at all. I am just arguing for the point of view that the downsizing has gone on and there has been a downsizing in the number of generals and admirals. The Marines have been very steady. I am arguing that they should not be going up.

While this is going down, why, then, do we raise this up considerably, by 12, by another 20 percent, more generals to lead fewer men and women? Why is the Marine Corps trying to have more brass at the top when the bottom is getting smaller? Why is the Marine Corps top-sizing when, in fact, throughout the branches it is downsizing? Why does the Marine Corps want more generals when junior officers and sergeants are getting thrown out?

Of course, Mr. President, the heart and soul of the Marine Corps are its 27 infantry battalions. This is what the Marine Corps is all about. Everything the Marine Corps does is focused on moving, protecting, and supporting these 27 battalions. If those 27 battalions are not healthy, then the Marine Corps is not strong.

A doctor has been examining the vital signs of the 27 battalions, and they are not up to snuff. There are, in fact, critical shortages within the Marines. It does not happen to be whether or not they need 12 more generals. The critical shortage is of platoon commanders and sergeants. Lieutenants and sergeants are the ones who train the force and keep it ready to go. If war broke out, they would lead these units in battle. So why is the Marine Corps adding generals when there is a critical shortage of sergeants? The Marine Corps could buy the sergeants it needs at the price of the 12 generals it is asking for.

I raised, as I said before, these questions on June 26 when the Defense authorization bill was on the floor. Senator WARNER responded to my question on June 28. I did not have an opportunity to have a dialog with him on the floor of the Senate on it, but he spent a great deal of time, I am sure, putting together a statement. It was in the RECORD, and I have had a chance to study that. Frankly, I still do not understand the answers. So that is why I am here today.

I raise these questions again for one reason. The Defense authorization bill as approved by this body on July 10 contains a special provision. That special provision is section 405. Section 405 increases the number of generals from 68 to 80. That is 12 more generals. The House-passed version of the bill contains no such authority. As I said, there was very heated debate on this in the House Armed Services Committee. The House rejected the request for more Marine generals.

In 1987, as you can see here, the end strength of the marines was, to be exact, 199,525. At that time, the Marine Corps had a total of 70 generals, 2 more than what they have right now. Those 70 generals led the Marine Corps through the gulf war, which would have been here in 1990–91. And then, like every other branch, the Marine Corps began downsizing. The number of generals during this period of time dropped by just 2, to 68. But marine end strength continued a gradual decline until fiscal year 1994, right here, when it got down to 174,158. This year it dropped off again to, to be exact, 172,434. That is a reduction of 27,091 marines since fiscal year 1987. Despite the continuing drop in end strength, the number of generals stayed, as I said here—the number of generals has been very constant during this period of time, and it is still constant over here at 68 to 70; 68 right now is the exact number.

Despite the continuing drop in end strength, we see this level at 68 provided for until section 405 came along, to authorize 80 Marine generals. That would cause this figure to head north. My question is, why?

I am sure we are going to have an answer to that. I hope it is an answer that will negate my need for this amendment. But, frankly, I think I have had a chance to study several documents. I have had a chance to study several documents that I am going to make some reference to in further debate on my amendment, that tell me that, first of all, some of the things that have been told to Senators about why these additional Marine generals are needed, are simply not true. I will also try to demonstrate where the real need in the military is.

I said more sergeants and more commanding officers. We have evidence of that. There are papers prepared by a Marine Corps major that raise questions about the need for certain redundant commands and the extra generals to run them, and also the issue of the layers of command that we have, unnecessary duplication.

Then there is a KAPOS study referred to by Senator WARNER in his statement that I think shows me something different than what it showed to Senator WARNER that I want to discuss with my colleagues.

So why do 27,000 fewer Marines need more generals giving them orders? These are the reasons that I have heard so far, and I am going to lay these out, but my colleagues on the opposite side of this issue will discuss these as well.

First, we have the explanation given on page 279 of the Armed Services Committee report:

> This increase is intended to permit the Marine Corps to have greater representation at the general officer level on the Department of Navy/Secretariat staff and in the joint arena. . . .

So, are these folks then, by that explanation, to become bureaucratic warriors?

The second argument that is given is that technology has changed the nature of warfare. More generals are needed to run the battle. Some would say this is an exact outgrowth of the Goldwater-Nichols Act of 1986, and that is why this is necessary. I think there is an awful lot about Goldwater-Nichols that we need to look at that is very legitimate. But it is in regard to the efficiency that comes as a result of Goldwater-Nichols, not the administrative overhead and waste that Goldwater-Nichols might generate if misinterpreted and used as an excuse for in justifying 12 additional generals at this point.

Last, another rationale given. Some contend that the Marines need the additional 12 general officers to fill critical war-fighting billets. Who is going to argue with that one?

But I have some points I want to make about that. I think we will show, at most, a very, very small minority of these might go to that purpose, because we want to make sure that we maintain the war-fighting capability of every service. National defense is a primary responsibility of the Federal Government, and no other level of government in the United States contributes to that.

So, as I said, we have these four arguments, and many more, that might be given. I do not understand these arguments. Why do the Marines need more generals when the Marine Corps is downsizing, as you see what has happened since 1986. Why increase the number of generals when there is a critical shortage of sergeants and lieutenants in the infantry battalions? These critical war-fighting billets need to be filled before we add wasteful and unnecessary brass at the top.

I want to yield the floor now, because I hope to encourage discussion on this. I will have some further responses, but I hope I have more specific comments from the other side. I do not mean the Democratic side, I mean people presumably on the Armed Services Committee, both Republican and Democrat, who disagree with my point of view, and then I would like to speak again.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I am not going to take but just a few minutes. The point that has been raised by

the able Senator is in conference now. This is not an appropriations matter. It is in the bill we passed in the Senate. It will be decided in conference. This is not an authorization bill, this is an appropriations bill. The authorization bill that the Senate passed includes certain figures for the Marine Corps and the number of generals. The House is different. So they will decide that issue there.

This is an appropriations measure, and I think it will be a mistake to even consider this here, because it will be settled in conference. The conference will determine this matter, and since it is not an appropriations matter, I suggest that we not consider it here, and I ask the able Senator if he will withdraw his amendment and let it be settled in conference?

Mr. GRASSLEY. You have asked a very legitimate question, but I was hoping to have discussion on it on the floor during the debate on the armed services bill. I had asked Senator WARNER, who offered to respond to it, but on that particular day I was speaking, he could not respond because he did not have the answer right then, he wanted to study it. And that is legitimate.

I asked him if he would call me to the floor the next day and to give me an opportunity to respond. He probably did not have time, so I am not stating there is fault. I am simply stating what I believe to be a fact. So we did not have a discussion of this.

Mr. THURMOND. I assure the Senator, it will receive careful consideration in the conference.

Mr. GRASSLEY. I know that, but I think the conference will benefit from a discussion of this issue on the floor of the Senate that we did not have during the authorization bill. That is why I bring it here. I legitimately bring it here because I am not trying to cut out x number of dollars to take it away from the Defense Department, I am only asking my colleagues to choose the necessity of 12 additional generals in the Marine Corps versus the needs of modernization and a lot of other needs of the military and have the money spent on those needs that Secretary Perry has put forth.

So I hope that you will agree with me that even though this does involve the priority of money within the Defense Department, and that makes it an appropriations issue, as I see it, I say to my distinguished colleague from South Carolina, I do not want to withdraw it at this point.

Mr. STEVENS. Will the Senator yield?

Mr. THURMOND. I will be pleased to yield.

Mr. STEVENS. Mr. President, the ratio of general officers to enlisted ranks in the Air Force is 1 to 1,380; in the Army, it is 1 to 1,552; in the Navy, it is 1 to 2,143; in the Marine Corps, it is 1 to 2,558.

There are 57 members of the headquarters staff who are of general rank; they are admirals in the Navy. There are 51 in the Army, 45 in the Air Force and 18 in the Marine Corps. The Marine Corps has the lowest number of generals. That is the lowest number of generals per enlisted ranks, and it has the lowest number of generals in the service headquarters. They are more with their troops than the others. The others have probably more sweeping responsibilities in terms of headquarters staff. I am not being critical to the alignment.

I say, I do agree with the Senator from South Carolina. We have never tried to regulate through the appropriations process the number of general officers. The time might come when we take that battle on. But we have not done it so far. I see no reason to do it now.

The Senator's amendment would say that none of the funds appropriated by this act could be used to support more than 68 general officers on active duty in the Marine Corps. It is opposed by the Marine Corps, obviously, because they have this, what we call, the tooth to tail ratio of 1 to 2,568, which is almost twice that of the Army. And they have one-third of the general officers in their headquarters staff than the Army does.

So I really urge the Senator again to not persist. This matter was debated on the Armed Services bill. It is in conference.

I see the Senator from Idaho, who is the chairman of that subcommittee, is here now. I will be happy not to make a motion to table yet if he wishes to speak to the matter. But it is my feeling that this is not an appropriate debate for an appropriations bill.

We do not deal with force structure. We do not deal with the allocation between the generals and the enlisted, and officers in general, between officers and the enlisted corps, except at the request of the Armed Services Committee when we do fund separate items they have requested.

So I believe, I say to the Senator, this is not a proper debate for the appropriations process. I do not say that in the sense of judging this Senator's right to bring the matter to the floor. But I intend to make a motion to table as soon as the Senator has completed his statement.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to say this again. This is not an authorization bill. This is an appropriations bill. This very item is in conference now between the Senate and the House, because they did not agree with this. I want to assure the Senator that his point will be carefully considered and given every consideration in that conference. I will see, myself, that it gets careful consideration.

The House and the Senate differ. They can arrive at a conclusion as to what decisions should be made. But to bring it up on the floor on another bill, an appropriations bill, is really not appropriate. I assure the Senator again that we will give it careful consideration when we have a conference. And the conference will begin in a few days. In fact, the chairman of the House committee and I have talked today about starting this conference right away. We expect to meet tomorrow to begin this conference.

The PRESIDING OFFICER. Who seeks time?

Mr. STEVENS. May I inquire of the Senator from Iowa, does he wish to make any further statement in this regard?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. First of all, to comment on the figures, the ratio, that the Senator from Alaska gave. I do not think these numbers are exactly like what he gave, but I think they are very close. I have a chart here because I want to make the very point that the Senator was making.

But what the Senator is suggesting, the distinguished chairman of the committee, is that we should solve this problem that the Marines have—and the Marine ratio is not a problem, the fact that they have one general for 2,568 Marines. That is good. That is lean.

There has been a downsizing here. And it seems to me that you keep the Marine ratio where it is. You do not solve the problem by making the Marine Corps chubby with generals like the Navy is chubby with admirals.

This is what should happen in this normal downsizing. The number of Marines go down, as we have seen here from 199,000 down to 172,000. The Army has been downsized. The Air Force has been downsized and the Navy has been downsized. You have seen a reduction in the number of general officers. You have seen the Marines keep constant during this period of time of downsizing.

I do not find fault with that. I am not saying that should be necessarily reduced like the Army, Navy, and Air Force. But more generals would bring the Marine Corps number down. At a time of budget constraints and at a time when the Secretary of Defense is advising us he has to have more money for the modernization of our military force, I just think that this is a very wise expenditure of money or a good way to set our priorities in the Defense Department.

So, as I said, I was hoping that there would be a willingness on the part of the Armed Services Committee to discuss these issues. I see one of the subcommittee chairman of the Armed Services Committee here. I would like

to defer to the Senator to speak on this point because obviously he is here because he disagrees with me. But I want to answer some of the points he brings up, if the Senator has strong opposition to my amendment.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I am here to affirm what the chairman of the Senate Armed Services Committee has stated, what the chairman of the Senate Subcommittee on Defense Appropriations has stated, and the ranking member. This is not the appropriate bill for this type of legislation to be attached to.

In the subcommittee dealing with military personnel, which I am the chairman of, we are dealing with this very issue. I will tell the Senator, without going into all the details, because, again, I say to my friend from Iowa, we are right in the midst of the very discussions that he is suggesting should take place, we are having them, both among the Senate conferees and the House conferees, as to whether or not this is an appropriate proposal, and also what the appropriate number should be.

I tell the Senator, the Secretary of Defense, the Secretary of Navy, they all support this proposal. In fact, we have a letter from the Secretary of the Navy to Congressman SONNY MONTGOMERY discussing this whole issue. Part of the rationale for this is because of the Goldwater-Nichols joint operation. We have situations where, in joint command, the marines have had to forego their responsibility because they do not have the generals to fulfill that role in that joint command.

So we have some legitimate reasons why the marines have asked for this. And you do have, again, the Navy and the Secretary of Defense that support this. But as the chairman of the full Armed Services Committee has said, we are in conference discussing this on the appropriate bill, which is the defense authorization bill, not the appropriations bill. So, again, I just say to the Senator from Iowa, I think it would be in our best interest if we could remove this amendment from the discussion on the appropriations bill. I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Alaska.

Mr. STEVENS. Does the Senator from Iowa wish to respond to that again?

Mr. GRASSLEY. I will take some time.

Mr. STEVENS. The Senator from Alaska is going to move to table the Senator from Iowa's amendment, but I want to be courteous.

Mr. GRASSLEY. I have not sent the amendment to the desk yet. I will go ahead, if that is what the Senator wants me to do. I think the statement by the Senator from Idaho, the statement by the Senator from South Carolina indicate that they want to discuss this on the basis of procedure and not on the basis of substance. So if we cannot have a debate on this, then I guess I will take advantage of the time for offering my amendment to express my views in the way of informing my colleagues in this body why I think some of the arguments that have been used in support of these 12 additional Marines are not legitimate arguments. I appreciate the attention of people who are involved in this debate.

There is only one point of procedure that I will take advantage of now before I save some time on the substance of my amendment. That is, remember, this bill that is before us has the appropriations for the personnel accounts of the Department of Defense.

The point being made by my two colleagues on the Armed Services Committee that this is not something legitimately discussed in a bill that provides the money for the salaries of the people in the military, including whether or not we ought to have 12 additional marine generals, just is not legitimate. There is no more legitimate point of discussing appropriations and the number of slots you are going to fund than in the very bill that has the appropriated money for the personnel accounts.

Now, the distinguished Senator from Idaho, who is now in the chair, stated the rationale of the Goldwater-Nichols legislation. I will respond to that because I think that if that is the reason for this, then the rationale behind the Goldwater-Nichols legislation of reducing interservice conflict and the duplication between services for getting to the mission of each service is not being properly met, because the Goldwater-Nichols Act placed special emphasis upon joint operations, joint staff, and joint duty.

Now, we agree on that, I am sure. The present Goldwater-Nichols legislation presently exempts 12 joint general officer billets from statutory service seals. So there is already consideration in Goldwater-Nichols for the needs of joint command, joint operations, joint staff, and all of that. We should not consider Goldwater-Nichols—which, by the way, was passed in 1986—as constituting a license to expand joint and service headquarters when the force structure is shrinking.

Now, I quoted in June quite liberally from Marine Gen. John Sheehan. I am sure the Marine command has gotten to General Sheehan and said to him, "General Sheehan, call up some Senators and tell them that GRASSLEY might be misquoting you or using your statement out of context." Let me assure you, I have studied what General Sheehan has said and what I said in June, and I am going to say that what General Sheehan said is not out of context. It is a voice within the Marines arguing that we not have a lot of waste on overhead and command, so that the Marines can fulfill their responsibility. General Sheehan talks about excess headquarters, but the need for excess headquarters is generated by general officers who occupy those headquarters that General Sheehan is so worried about.

He said this: "Headquarters in defense agencies should not be growing as the force shrinks. At the end of the day, we need combat capability in the field." He is—General Sheehan—is commander and head of the U.S. Atlantic Command.

Headquarters should shrink as the force shrinks. I believe that is what he is saying. The joint headquarters should replace redundant service headquarters. This should happen as the joint headquarters begin to perform the missions previously done by service headquarters. Joint headquarters were not formed to create another redundant layer of bureaucracy. Service headquarters should be reduced or eliminated as joint headquarters take charge. That was the whole idea behind the Goldwater-Nichols reform: to fuse, to integrate, and to consolidate, get rid of wasteful, overlapping commands, headquarters, operations, and equipment.

Marine Corps commands in North Carolina are prime examples of redundancy. There are four layers of command headquarters for the 2d Marine Division and the 2d Marine Air Wing based in North Carolina. Each layer has command headquarters, generals, large staff, buildings, vehicles, airplanes—the whole works. The four layers are as follows: Layer 1 is the 2d Marine Division and the 2d Marine Air Wing; layer 2 is the 2d Marine Expeditionary Force colocated with the division; layer 3 is the Marine Corps Forces Atlantic colocated with the division; and layer 4 is the U.S. Atlantic Command at Norfolk, VA, under Marine Corps General Sheehan.

Mr. President, how many of these layers are really needed? Each layer exists to command and control ground air teams of the 2d Marine Division and the 2d Marine Air Wing. Two layers will get the job done. So, two layers are redundant.

I am not alone in that view. Maj. David A. Anderson—and, of course, I do not know Major Anderson, but he wrote an article called "Stretched Too Thin," raising questions about our shrinking budget and about the challenges before us to do more with less. This is an issue from the U.S. Naval Institute proceedings, July of this year, right now, in fact.

I ask unanimous consent the article of this Marine Corps major be printed in the RECORD. It is from inside the

Marines, another very good document for my colleagues if this thing is going to be considered in conference, that my colleagues ought to take into consideration.

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

STRETCHED TOO THIN

(By Major David A. Anderson, U.S. Marine Corps)

Realigning to meet the nation's changing needs will require a painful reorganization—to include standing down the III Marine Expeditionary Force on Okinawa—but the Marine Corps that emerges can provide a better capability for the nation and an improved quality of life for the troops.

The Marine Corps has embarked on a journey into a new era, filled with much uncertainty. This is not new for us; our history is filled with such times of challenge and duress that we as Marines have overcome—a time-honored tradition that we have come to expect of ourselves and our nation of us. This time, however, our challenge is made greater by the environmental turbulence within which we operate; global political uncertainty, downsizing, shrinking defense budgets, changing and competing roles and missions, increasing societal expectations, the ever-increasing pace of technology, and the upswing in jointness and operations other than war.

The challenge before us is to do more with less. We have done this and continue to do so with uncommon vigor and resourcefulness. In fact, no other organization—military or otherwise—does a better job of allocating scarce resources to competing needs and maximizing the benefits than the Marine Corps. In spite of this, we are approaching our threshold of effectiveness, because our strategy and capabilities are not in sync with today's environment.

The Marine Corps is affected by two environments—external and internal—each of which consists of five broad elements; political, economic, physical, technological, and societal. The external factors influence the internal policies and practices, which in turn influence our values, attitudes, and behavior.

Political Elements. The Department of Defense is in the midst of a congressionally mandated reduction in force. But what we have discovered is that because of the unstable nature of global politics, U.S. willingness to intervene, and additional requirements to operate in joint arenas and conduct operations other than war, operational tempo has not been reduced in proportion to force reductions. The Marine Corps' response has been to improve existing capabilities within the reduced force structure and to operate smarter, using advanced technology and our inherent ingenuity.

The nut that has yet to be cracked, however, is the one that balances operational training, operational deployments, and the morale and welfare of our Marines within current personnel and budget restraints. It is well documented that 10–25% of our active-duty force is operationally deployed at any one time. The Marine Corps currently is at approximately 87% manning from its peak years of the mid-1980s. It has the longest training pipeline of all the armed services, along with requisite school requirements, joint billet requirements, the manning of a joint task force headquarters, and an inordinately high first-term attrition rate (approximately 30%). This leaves an effective operating force of 50–70% of total personnel strength.

In an effort to minimize the impact on the operational force, we have established personal staffing goals, prorate distributions of critical military occupational specialties (MOSs) and ranks, and out-of-hide tables of organization (T/Os). This has created a phenomenon I call "peg-holing." Let's say there are six people qualified to fill ten billet requirements. Essentially what happens is that respective monitors chase these billets through continuous reassignment, with the squeaky-wheeled command getting the grease, leaving some other command bone dry. As an extreme example, consider the shortage of 0402 logistics majors within the 2d Force Service Support Group. While I was assigned to 2d Landing Support Battalion—from August 1993 to July 1995—the battalion's T/O called for six majors; the staffing goal was two; one was on hand. Another example within the same battalion is 0481 landing support specialists. The T/O calls for 312; on hand were 277, of whom 119 were deployed. The remaining 158 Marines then must support day-to-day II Marine Expeditionary Force operations, meet annual training requirements, fill out-of-hide T/O requirements, and maintain an Air Contingency Force detachment (and also squeeze in schooling or annual leave).

As additional challenge to our operational force has been the establishment of such new military occupation specialities as computer small systems specialists and the adoption of systems such as the MAGTF Deployment Support System II, which reflect our incorporation of advanced technologies. They have come at the expense of other MOSs, because we have imposed the requirement without increasing overall force strength or compromising mission capabilities. The result—once again—is an overextended operational force.

Economic Element. Ever deeper defense cuts have come at great expense to the Marine Corps, despite our ability to squeeze more value out of every dollar spent. Those who entered active service after 1 August 1986, upon retiring at 20 years, will receive 40% of their base pay instead of the 50% received by those who entered prior to this date. Dependent health care is costing active-duty members more each year. Collectively, our equipment has exceeded it service life. The Marine Corps procurement budget is averaging only 50% of the $1.2 billion it needs annually. Prepositioned war reserves have been depleted to offset nonrepairable equipment, and a growing portion of our budget is being spent to repair aging equipment. The Army is acquiring additional bigger, faster, more capable ships in support of its maritime prepositioning force. We are forced to buy and fix less-capable ships.

Most of our shrinking budget, out of necessity, is being spent to sustain operational forces. This leaves little money to maintain or upgrade existing facilities, including base housing (which is substandard, inadequate, or un-inhabitable in several locations), or to purchase garrison property. Most alarming is the backlog of military construction projects the Marine Corps has accumulated. During a recent visit to the 2d Force Service Support Group, Major General B. Don Lynch noted that at current funding levels, it could take another 100 years to fund our current military construction requirements.

Physical Element. Many of the facilities in which we work and live require extensive renovation or replacement. Complicating our housing problems is the shortage of base quarters in high-cost geographical areas such as Washington, D.C., Southern California, and Hawaii. Often the wait for quarters is as long as 12–24 months, and the best off-base housing locations are well beyond the means of most Marine families. Many Marines must deal with an excessive commute time because they cannot find affordable off-base housing close to work. Those who can afford to buy homes often are reluctant to do so, because they fear having to sell or rent when they are transferred after their typical three-year tours. Furthermore, housing allowances often fall short of the true cost of housing.

Technological Element. In our rapidly changing age of technology, the accumulation of technology doubles every seven years—faster in some fields. The Marine Corps is doing its best to sort through what it can and cannot use or afford. We are discovering that what we can afford will not keep us at the forefront in operational readiness. In many instances, we are able to buy only enough promising technologies to keep our foot in the door. Often by the time we can afford and fully implement a technology it has become obsolete.

We are even having difficulty assessing the value of technologies because of personnel shortages. A significant part of adopting new technologies is recognizing the personnel requirements to operate and maintain them. This has placed us in the situation of having to create new MOSs at the expense of others—and thus continue to expand the mission requirements of our Marines.

Social Element. The word's out on the street that what you will get from the Marine Corps is demanding work, frequent deployments, substandard living quarters, little free time, slow promotions, and fewer reenlistment opportunities. These impressions, the abolishment of the draft, and eroding benefits are making it difficult for the service to attract society's best and brightest young men and women. It is showing in the Marine Corps' first-term enlistments: one-third fail to complete their enlistment contracts. This problem probably is multifaceted: there is a prevailing societal attitude of "If it doesn't feel good, don't do it"; many young people are growing up without healthy role models; and some become disillusioned with the Marine Corps when it fails to meet their expectations. But the most serious contributing factor is that more than 45% of our first-termers enter under some type of enlistment waiver—and not just for minor traffic violations. They include admitted and frequent drug use, serious offenses, juvenile felonies, and medical (to include psychological) waivers.

I found this figure appalling and unbelievable, so I decided to put it to the test. I randomly surveyed 125 of my first-termers. To my surprise, 57—or 45.6%—had entered with waivers other than for minor traffic violations. As many as 49 of the 57 waivers were given at individual recruiting stations. We are having to compromise our institutional standards to meet our enlistment goals. In addition, I found a direct positive correlation between those enlisting with waivers and those who were subject to nonjudicial punishment and first-term attrition.

Societal pressures and expectations add to our challenge. For example, we must allow for and accommodate marriages of our junior Marines, further exacerbating our leadership challenge and our need to stretch a dollar. Many of these young marriages fail, adding to an already inordinately high divorce rate among Marines. As these marriages deteriorate, we spend significant time providing counseling and dealing with issues such as

bad debts and alcohol or spousal and child abuse.

Reshaping for the Future

This picture leaves much to be desired, but it is not all gloom and doom. The short answer to our problems is a lot more money and many more quality young men and women with moral fiber and a strong work ethic. Unfortunately, the reality is that our budget most likely will be cut further, our force will get smaller, and societal values and expectations will not change anytime soon. What remains for the Corps to do is to assess more realistic options—those that meet the needs of our nation, preserve our integrity, and stay in line with our Commandant's planning guidance—and choose the one that best meets the challenges of current and future environmental turbulence and is responsive and quickly adaptable to both new threats and emerging opportunities.

The first step in the process is to re-identify ourselves. Who are we, and what is our role/mission? As the Commandant has stated, "The Marine Corps is the nation's naval, combined arms, expeditionary force in readiness. Our reason for being is what it always has been—warfighting." He further states, "It is vital that our organization be designed with one goal in mind: success on the battlefield." To this end, the Marine Corps should be measured by the return on investment it offers the nation. The two key factors that determine return on investment are competitive effectiveness and strategic responsiveness.

Competitive effectiveness is a measure of how well we operate. It can be divided into two submeasures: efficiency in swiftly and decisively responding to our nation's needs, and effectiveness in getting the job done. Strategic responsiveness is a measure of how well we relate to the environment. It also can be divided into two submeasures: attractiveness, that is, being the force of choice; and capability responsiveness, or whether capabilities match battlefield needs.

I believe that our force can be structured and equipped better—to meet the changing needs of our nation and our Commandant's vision for the future, to preserve the integrity of our institutions, improve quality of life for our Marines, and maximize return on investment—within current operating restraints. The proposal is a painful one, but it can preserve our future as the force of choice. We cannot sustain today's Marine Corps and meet tomorrow's needs. A leaner, better-equipped, and more-prepared force should be our objective.

Our warfighting capabilities should focus on:

One warfighting Marine expeditionary force (MEF) capable of organizing a Marine air-ground task force (MAGTF) in support of a major regional contingency.

One warfighting MEF capable of organizing a MAGTF in support of a small-scale regional contingency.

One MEF maintaining a fully capable, expeditionary, joint task force headquarters.

One MEF capable of executing the full range of operations other than war.

The capability to employ three forward operating Marine forces in the form of Marine expeditionary units (special operations capable) (MEU/SOCs).

The capability to employ forward operating maritime prepositioning squadrons (MPSs) as part of the Marine Corps Maritime Prepositioning Force as logistics support to a contingency MAGTF.

A fully integrated indivisible reserve force.

A force built around this concept could look something like this:

Commander, Marine Forces Pacific/I MEF, with a colocated headquarters at Camp Pendleton, California, capable of organizing a MAGTF in support of one major regional contingency; employing two forward operating Marine forces in the form of a MEU(SOC), with one in reserve; and employing one operating MPS—with current staffing goal force structure.

I MEF (Forward), located in Guam or Australia and capable of orchestrating Asian/Pacific Rim contingency operations; a forward logistics base in support of regional contingencies and joint training operations; employing one forward operating MPS.

III MEF would be stood down entirely (personnel and equipment), with equipment redistributed to I MEF, II MEF, and prepositioned war reserves; personnel reassigned as needed to support I MEF (Forward) mission and to fill I MEF and II MEF shortfalls, as well as joint task force headquarters, joint, and critical non-FMF billets; remaining forced reduced through end-of-active-service and retirement attrition.

Commander, Marine Forces Atlantic/II MEF/Joint Task Force Headquarters, with co-located headquarters at Camp Lejeune, North Carolina, and joint headquarters at Norfolk, Virginia, tasked with employing one warfighting MEF capable of organizing a MAGTF in support of a small-scale regional contingency; employing a fully capable, expeditionary, joint task force headquarters; executing the full range of operations other than war; employing one forward-operating Marine force in the form of a MEU(SOC) with one in reserve; employing one forward-operating MPS. This includes standing down one infantry-regiment equivalent and proportionate support personnel/equipment, reassigning personnel and reducing strength equivalent through end-of-active-service and retirement attrition and redistributing equipment.

Non-FMF/Support Commands capable of sustaining or improving current FMF support within the present command structure, with a reduction of personnel strength in line with FMF force reduction and an increased number of joint billets, as required.

This plan reduces our force strength by 17,000–22,000, with the following advantages:

It complies with the Commandant's planning guidance.

It reduces force strength 10–12 percent without significantly compromising operational capabilities.

It reduces overseas deployments by 40–60%, thus saving money and improving force morale.

It allows us to divert dollars previously committed to support deployments and procurement dollars planned for replacing aging equipment to other areas historically neglected because of funding shortages, as well as to innovative technologies and concepts that will put us at the cutting edge in expeditionary force readiness.

It makes the Marine Corps more appealing to young men and women, which eventually will allow for more selective recruiting.

It increases the nation's return on its investment in the Marine Corps.

It shrinks the strategy-capability gap.

This is not a panacea for all our ailments, nor does it completely close our strategy-capability gap. It is, however, a necessary step in the right direction, when coupled with initiatives to get more Department of the Navy/Defense dollars, divest ourselves of unproductive areas, streamline processes, lengthen tours, shorten promotion time, and improve reenlistment incentives.

Mr. GRASSLEY. By eliminating redundant commands, more marine generals would be available for joint duty. Unfortunately, that is not what the Marine Corps has in mind. The Marine Corps wants, obviously, to have it both ways. They want to keep generals in the old redundant marine headquarters. In fact, the Marine Corps would like to place at least three of these 12 new generals in these overlapping commands.

Get this: We have 12 more generals. You say we need them because of Goldwater-Nichols. They want to place three of these new generals in these overlapping commands. They want to assign more generals to the new joint headquarters, too. I think the Marine Corps needs to make a choice and to place priorities where they belong. That is the argument, my comment, on Goldwater-Nichols.

The second is the use by the Senate Armed Services Committee of the rationale in its report language where it wants to make very clear that the extra generals are not needed for warfighting jobs. It kind of backs up what I said in regard to the supposed argument that we need more generals because of the requirements of Goldwater-Nichols. The Armed Services Committee says they are not needed for war-fighting jobs. Remember, the purpose of our defense is the defense of the country. That involves the potential of going to war. That is war fighting.

I want to read the language one more time:

> The increase is intended to permit the Marine Corps to have greater representation at the general officer level on the Department of Navy Secretariat staff and in the joint arena.

Now, that is not war fighting. The committee is saying that these generals are needed for bureaucratic infighting. That is the way I read it. And where? Maybe in the Pentagon budget wars.

Now, the Marine Corps tells an entirely different story. The Marine Corps has provided a list of 14 positions that might be filled with new generals.

Now, I know the legislation only called for 12, but the list covers 14 slots. I ask unanimous consent to have the list of these 14 generals for the Marine Corps printed in the RECORD.

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

USMC ADDITIONAL AUTHORIZATION REQUEST

CG, II Marine Expeditionary Force.
DepCG, I Marine Expeditionary Force.
DepComdr, MarForLant.
ADC, 1st Marine Division.
ADC, 2d Marine Division.
AWC, 2d Marine Aircraft Wing.
CG, MCRC/ERR.
CG, MCRC/WRR.
Dir, Warfighting Development Integration Division.

ADC/S P&R (Programs).
Joint (NMCC-4).
Joint (USPACOM).
Joint (USCentCom).
Joint (USSouthCom).

Mr. GRASSLEY. The Marine Corps says that 12 additional generals are needed to fill vacant war-fighting positions. To the members of the Senate Armed Services Committee, you say in your report that they are not needed for war fighting, that they are needed because of the needs within the Pentagon, within the bureaucracy. The marines themselves say they need the additional generals to fill vacant war-fighting positions.

Now, it seems to me that we ought to be able to have the Armed Services Committee and the Marine Corps talking off the same song sheet if there is a need for it. Those are the Marine Corps' own words. I underscore in this effort the word "vacant"—to fill vacant war-fighting positions.

First, if you look at these, to say that these are war-fighting positions—and I am using the Marine Corps' rationale, not the Armed Services Committee's rationale—I think that would really be stretching the point. Three of the positions, by the Marine Corps' own request, are in the Pentagon. I hope I do not insult people when I say that is not war fighting. I understand that the entire military is dedicated to war fighting, yes, but close to the battlefield, no.

Two of these generals are for recruiting. That is not war fighting. Three are high-level joint headquarters positions. That is not war fighting. Five or six are connected with Marine combat forces, and that is getting close to war fighting. But now, just reading the request of what the marines want to do with 14 additional generals does not fully explain the issue. So you have to dig deeper.

When you get down to the nitty-gritty, Mr. President, you see that few, if any, of the new generals would actually fill vacant—emphasis on "vacant"—war-fighting positions. Now, that is, again, the Marine Corps rationale for these generals, not the Senate Armed Services Committee rationale for generals. So to back up the assertion I just made, you need to examine each proposed billet. I have done that. To do that, you need two documents. You need the Department of Defense directory entitled "General Officer Worldwide Roster." I have it here. This is the March 1996 issue. And you also need the "United States Marine Corps General Officers Position List," provided by the Director of Personnel Management on July 9, 1996.

If you go down the list—and I am not going to go through all these positions because I do not think I have to in order to justify my statements—you can look at the first position at the top of the list. No. 1, commanding general of the Second Marine Expeditionary Force. Now then, if you consult the Department of Defense directory, they say the position is already filled by Lt. Gen. Charles E. Wilhelm. General Wilhelm wears a second hat as commander of the Marine Corps Forces Atlantic.

If you look at the second position on the list, it is deputy commanding general, First Marine Expeditionary Force. If you look at the directory in the Department of Defense, that position is also filled. It is filled by an acting brigadier general, Edward R. Langston, Jr., a senior colonel doing a general's job. He wears a general's insignia but is paid as a colonel. In military language, he is "frocked." General Langston is the deputy under Gen. Anthony C. Zinni, the commanding general. Mr. President, I could go through all the positions, but the results are the same.

Bottom line: All but one of the existing positions is filled. Only one is actually vacant. That is why I have said that the marines say they want an additional 14 marines to fill vacant war-fighting positions. The Senate Armed Services Committee says they need them not for war fighting, but for other purposes.

I want to place in the RECORD the status of each of the proposed posts that I have referred to. 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:

POSSIBLE ASSIGNMENTS FOR NEW GENERALS

Main argument: The Marine Corps says it needs the additional 12 generals to fill critical billets as follows:

No. 1. Position: Commanding General, 2ND Marine Expeditionary Force.—Current Status: Filled by Lieutenant General Charles E. Wilhelm.

No. 2. Position: Deputy Commanding General, 1ST Marine Expeditionary Forces—Current Status: Filled by acting** Brigadier General Edward R. Langston, Jr.

No. 3. Position: Deputy Commander, Marine Corps Forces Atlantic.—Current Status: Filled by acting** Brigadier General Martin R. Berndt.

No. 4. Position: Assistant Division Commander, 1st Marine Division.—Current Status: Filled by acting** Brigadier General Jan C. Huly.

No. 5. Position: Assistant Division Commander, 2ND Marine Division.—Current Status: Vacant.

No. 6. Position: Assistant Wing Commander, 2ND Marine Air Wing.—Current Status: Filled by colonel selected for general.

No. 7. Position: Commanding General, Marine Corps Recruit Depot/Eastern Recruiting Region.—Current Status: Filled by acting** Brigadier General Jerry F. Humble.

No. 8. Position: Commanding General, Marine Corps Recruit Depot/Western Recruiting Region.—Current Status: Filled by acting** Brigadier General Garry L. Parks.

No. 9. Position: Director, Warfighting Development Integration Division.—Current Status: New Position.

No. 10. Position: Assistant Deputy Chief of Staff for Programs and Resources (Programs).—Current Status: Filled by Major General Thomas A. Braaten (Deputy Chief of Staff for Programs & Resources is Major General Jeffrey W. Oster).

No. 11. Position: Joint Staff, National Military Command Center.—Current Status: Filled by acting** Brigadier General Dennis T. Krupp.

No. 12. Position: Joint, U.S. Southern Command—Current Status: New Position.

No. 13. Position: Joint, U.S. Pacific Command—Current Status: New Position (Marine Corps is represented by Major General Martin R. Steele as Director for Strategic Planning & Policy).

No. 14. Position: Joint, U.S. Central Command—Current Status: New Position (Marine Corps is represented by Lieutenant General Richard I. Neal as Deputy CINC and by Brigadier General Matthew E. Brodrick as Commander Forward Headquarters Element/Inspector General).

Recap: 9 filled**; 1 vacant; and 4 new.

**Six of the nine positions are filled by acting brigadier generals. These are senior colonels who occupy a general's billet. He or she wears the insignia of a brigadier general but is paid as a colonel. The Marine Corps refers to this status as "frocked."

Source: Department of Defense, General/Flag Officer Worldwide Roster, March 1996; Updated and verified by Marine Corps document dated July 9, 1996.

Mr. GRASSLEY. Mr. President, as I have said, 9 of the 14 proposed general officers positions are already occupied. Of the nine occupied positions, one is filled by a lieutenant general, one is filled by a major general, one is filled by a general selectee, and six are filled by acting brigadier generals.

So, Mr. President, it seems like these vacant—again, I emphasize the word "vacant"—war-fighting positions are already well covered. They are filled.

Mr. President, there is one thing about all this that really bothers me, and that is the one vacant position. I want to talk about that one vacant position. Of all of the positions, the vacant one seems like the most important one, and ought to be filled: assistant commander of the 2d Marine Division. It is not like there is a gaping hole in the command structure. As I understand it, the division's chief of staff is doing the job. He is a senior colonel, who is getting excellent experience, experience that is preparing him for promotion to general. But if this position is as important as I think it is, why is this position not filled? Why is the Marine Corps fattening up headquarters staff with generals when one of its three divisions is short a general officer?

If war fighting is the top priority—and that is what the Marines say, not what the Senate Armed Services Committee said—why are so few generals assigned to war-fighting billets? Only 25 percent of all Marine generals are in combat posts. About 50 percent of the Marine generals are in the Washington, DC, area. Are these misplaced priorities? Are Marine generals in the wrong place? If the Marine Corps is short of generals in war-fighting commands, then some generals should be moved.

They should be moved from lower priority command headquarters to top priority combat jobs.

Mr. President, war fighting is not the driving force behind the proposal for additional Marine generals. If it were, the proposal would be linked to force structure. But it cannot be linked to force structure because, as I have shown so many times with my charts—and I will not get them out again—the structure is shrinking. This happens to be the Marines—down from 199,000 in 1987 to 172,000 right now.

So it seems to me that might not argue for fewer generals, but it surely does not argue for 12 more generals. So it had to be hooked up to something else. That something else is vacant headquarter billets. That is what is driving this.

The Marine Corps commissioned an independent study to figure out exactly how many more generals were needed to fill these posts. The study was conducted by Kapos Associates, Inc. That study is fairly thick, and it was referred to by Senator WARNER in his response to my statement in June. I do not know whether he actually labeled it as the Kapos study. But I think it is the only one he could have been referring to. It is entitled "An Analysis of U.S. Marine Corps General Officers Billet Requirements." It is dated March 20, 1996. The Kapos study concluded—this study that I just held up—that the Marine Corps needed—get this. This study recommended 37-to-95 more generals to fill key positions. I suppose I ought to look at that 37 to 95 and say to myself, "Well, heavens. If they are only going to suggest 12 more, we ought to be happy, and just sit down and shut up." But the Kapos study did not look at the war-fighting requirements. That is very basic to why I think you had better be careful when you quote from this study. It did not look at force structure. It had one goal—fill those big, fat headquarter jobs sitting out there. The question was not in this study: How many generals do we need? Instead it was: How many positions do we fill? In no way did this Kapos study address the threat. It did not look at future force requirements or the need to downsize. This was a study about how to take and hold important bureaucratic real estate—pure and simple. That is the engine driving the mushrooming headquarters problem that is so much of a concern to General Sheehan of the Atlantic Command.

As a force shrinks, generals are flocking to the headquarters. That is my response to the second argument. The first one was the Goldwater-Nichols rationale.

The second is what is stated in the U.S. Senate Armed Services Committee report saying that these are not needed for war-fighting capability, and that is opposite what the Marine Corps said in this document that I put in the RECORD, where they want these 14 Marine generals, that that is for war fighting.

It also sounds like the Marines want to be top-heavy with rank like the other services. As I said, the other services are top-heavy. The Marines, from the standpoint of general to marine ratio, is a lot more efficient and effective. It's less top-heavy but if this goes through, then that means that the Marine Corps will be chubby with general officers the same way the Navy is chubby with admirals at a time of the force is shrinking. I suppose the Marines feel like they have been shortchanged.

The other services have far more generals. They probably want a place at the negotiating table in the Pentagon, too. The Army has 291 generals, or 1 general for every 1,748 soldiers. The Navy has 218 admirals, or 1 admiral for every 1,994 sailors. The Air Force has 274, 1 general for every 1,461 airmen. The Marine Corps, 68 generals, or 1 for every 2,568 Marines. Big is good. Small is bad. The Air Force is the smallest, or the fattest. The Marine Corps is the leanest. But we do not fix this problem by making the Marine Corps chubby like the Navy, for example. But that is what happens if we give the Marine Corps 12 additional generals. We fix this problem by making other services lean like the Marine Corps.

In other words, I am suggesting that, at a time when the Secretary of Defense is saying that our primary responsibility is improvement and modernization of our capability, we ought to be very cautious about wasting money on administrative overhead. The Marine Corps used to be really lean and mean.

You will see here, at the height of World War II, there were 485,000 marines, 72 generals. The 72 generals is about the same as today, 68 to be exact. But the Marine Corps was three times bigger back then—1 general for every 6,838 marines.

Clearly, the other services are top-heavy compared to the Marines. You do not balance the load by making the Marine Corps top-heavy like the other services. You fix it by making the others less top-heavy, by reducing the number of generals. You fix it by giving them the right number of generals, a number that matches force structure.

Lastly, the proponents for more Marine generals suggest that technology creates a need for more generals. That is possible. But the reverse is also possible. Technology could reduce the need for so many generals and admirals.

When it comes to technology, you ought to take, for instance, CCCI. That stands for Command, Control, Communications, and Intelligence. Billions of dollars are going to be spent for CCCI. That technology gives the top generals and admirals the capability to run the battle from the Pentagon. It gives them the ability to communicate directly down to the smallest units operating anywhere in the world. Just read Colin Powell's book "My American Journey," and you can see how he did it. He just by-passed all the redundant service headquarters in between.

So CCCI could reduce the need for having so many generals forward deployed with the infantry battalions.

So I do not understand the need for more Marine Corps generals when the Marine Corps is downsizing. The number of generals should be decreased as the Marine Corps gets smaller.

The request for more generals reminds me of the recent words of Marine Corps Gen. John Sheehan, Atlantic Command. I quote him extensively on June 18 in my case to freeze the defense infrastructure costs. General Sheehan argues that "Headquarters should not be growing as the force shrinks."

Continuing to quote, "The growth in headquarter staff jobs is threatening the military's war-fighting capabilities."

So I think General Sheehan from inside the Marines hits the nail on the head. He has identified the root cause of the problem. He helps me understand why the Department of Defense cannot cut infrastructure costs. The growth in headquarter staff is being driven by one powerful force—excess generals and admirals searching for a mission. Each senior officer needs a place to call a home and to hoist a flag. Every senior officer needs a command, a headquarters, a base, a staff, or a large department of some kind somewhere someplace. Each new general funded in this bill will need some new piece of real estate.

All of this makes me think that more Marine generals now is not a good idea. Responding instead, as the Secretary of Defense, Mr. Perry, says, modernization is our greatest need.

So the amendment that I am going to offer this afternoon would put a lid on the number of Marine generals at 68 where it is today, not making a decision for the authorization committee, as the distinguished members of the authorization committee are saying that I am impinging upon their decision. You go ahead and make whatever decision you want. But should we spend money on 12 more Marine generals when the force structure has shrunk by 27,000? Or should that money instead be spent on modernization, as the Secretary of Defense says? It seems to me that is where it belongs.

I am going to yield the floor. I still have some other pieces of supporting information and documentation I want to put in the RECORD, and I ask to do that.

I yield the floor.

AMENDMENT NO. 4453

(Purpose: To provide $150,000,000 for defending the United States against weapons of mass destruction, and to provide offsetting reductions in other appropriation amounts)

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, as I understand it, there is no amendment pending at this point.

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, if it is satisfactory with the Senator from Alaska, the chairman of the committee and manager of the bill, I will present an amendment at this time, but I would like to make sure it is satisfactory to him.

Mr. STEVENS. We are prepared for the Senator's amendment and welcome it.

Mr. NUNN. I thank the Senator from Alaska.

Mr. President, this amendment on behalf of myself and Senator LUGAR, Senator DOMENICI, Senator WARNER, Senator HARKIN, and others, is filed at the desk as amendment No. 4453, so I call up the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. LUGAR, Mr. DOMENICI, Mr. WARNER, and Mr. HARKIN, proposes an amendment numbered 4453.

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:

SEC. . In addition to amounts provided elsewhere in this act, $150,000,000 is appropriated for defense against weapons of mass destruction, including domestic preparedness, interdiction of weapons of mass destruction and related materials, control and disposition of weapons of mass destruction and related materials threatening the United States, coordination of policy and countermeasures against proliferation of weapons of mass destruction, and miscellaneous related programs, projects, and activities as authorized by law: *Provided*, That the total amount available under the heading "Research, Development, Test and Evaluation, Defense-Wide" for the Joint Technology Insertion Program shall be $2,523,000: *Provided further*, That the total amount appropriated under the heading "Research, Development, Test and Evaluation, Defense-Wide" is hereby reduced by $12,000,000: *Provided further*, That the total amount appropriated under the heading "Operation and Maintenance, Defense-Wide" is hereby reduced by $138,000,000.

Mr. NUNN. Mr. President, I ask unanimous consent that minority staff members on the Armed Services Committee and two congressional fellows—and I send a list to the desk—be accorded privileges of the floor during the Senate's consideration of votes relating to the Department of Defense appropriations bill for fiscal year 1997.

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

The list is as follows:

MINORITY STAFF MEMBERS

Christine E. Cowart.
Richard D. DeBobes.
Andrew S. Effron.
Andrew B. Fulford.
Daniel B. Ginsberg.
Mickie Jan Gordon.
Creighton Greene.
Patrick T. Henry.
William E. Hoehn, Jr.
Jennifer A. Lambert.
Michael McCord.
Frank Norton, Jr.
Arnold L. Punaro.
Julie K. Rief.
James R. Thompson III.

CONGRESSIONAL FELLOWS

Maurice B. Hutchinson.
DeNeige V. Watson.

Mr. NUNN. Mr. President, the amendment that is now the pending business provides funding for Defense Department activities authorized by the Defense Against Weapons of Mass Destruction Act which was accepted by a 96-to-0 vote 2 weeks ago in this Chamber. That program deals with one of the most urgent national security problems America faces today, and this amendment funds the DOD part of that authorization. We have worked very carefully and constructively with the appropriations staff, our friends from Alaska and Hawaii, Senator STEVENS and Senator INOUYE. They have both been very strong supporters of this overall initiative, and they have been very cooperative in working with us. We did not have the authorization bill drafted in time to get that to the appropriators for their consideration in their normal markup activities. Therefore, we have this amendment in the Chamber today.

This amendment, as I have said, deals with one of the most urgent national security problems facing America today. I have just come from a press conference with Bob Ellsworth and General Goodpaster and others, Dr. Rita Hauser, where they have spent a number of months with a very distinguished panel, including the Senator from Arizona, Mr. MCCAIN; the Senator from Florida, Mr. GRAHAM; Congressman PAT ROBERTS; Brent Scowcroft; and others.

That report, which sets forth America's vital interests and distinguishes those vital interests from extremely important interests and distinguishes both of those categories from less important interests, makes an enormous contribution to the dialog we should have in this country about what is truly in the vital interests of America.

By the term "vital," I mean interests that are so strong and have so much effect on the American people, their security and their well-being that we are willing to fight if necessary and send our young men and women to war if necessary to protect those interests.

It is very clear in reading that report that one of the top vital interests of the United States is to prevent this country from being the victim of attacks with weapons of mass destruction from terrorist groups and, in order to do that, to do everything we can possibly do to get ready for that and to deter it and prevent it by stopping these weapons at the source before they get to this country and, if they do get here, God forbid, doing something about it and being prepared to deal with it.

This threat of attack on American cities and towns by terrorists, malcontents, or representatives of hostile powers using radiological, chemical, biological, and nuclear weapons, in my view, is a top and vital national security interest of this country.

This threat is very different from the threat of nuclear annihilation with which our Nation and the world dealt in the cold war after World War II. During the cold war, both we and the Soviet Union recognized that either side could destroy the other within a matter of hours but only at the price of its own destruction.

Today, this kind of cataclysmic threat is greatly reduced, but tragically the end of the cold war has not brought peace and stability. As a matter of fact, I think we can describe the period of the cold war as being one where we had very high risks because of the likelihood of escalation, and escalation would mean the use of weapons of mass destruction when two superpowers confront each other all over the globe. But during that period of high risk we also had high stability because both superpowers understood the consequence of getting into a nuclear war and therefore did everything they could to prevent it, including controlling clients and allies so that we would not have wars that could escalate involving the two superpowers.

We have moved into another era now. We are in a period of much lower risk, but because we do not have those superpowers contending and constraining, we are in a period of lower stability, lower risk but lower stability. Some of those States that we call rogue nations, fanatic groups, small disaffected groups, and subnational factions or movements that hold various grievances against the U.S. Government have increasing access to and knowledge about the construction of weapons of mass destruction. Individuals and groups are not likely to be deterred from using weapons of mass destruction by the classical threat of overwhelming retaliation. Most of them do not have a return address so we do not know where they are in many cases, let alone have a real fix on how to deter them. These groups are not deterred by the threat of a nuclear

counterstrike, and a national missile defense system, no matter how capable, is irrelevant to them. These subnational groups and terrorist groups are the primary focus of our threat today.

Mr. President, the Permanent Subcommittee on Investigations held a series of hearings over the last year, the subcommittee chaired by Senator ROTH. I have chaired it in the past and am now the ranking Democrat member on it. We had hearings, a whole series of hearings over the last year. Senator LUGAR has had hearings in the Foreign Relations Committee, and the hearings have been about the proliferation of weapons of mass destruction. At those hearings, we heard from representatives of the intelligence and law enforcement communities, the Defense Department, private industry, State and local governments, academia and foreign officials. These witnesses described the threat that we cannot ignore and which we are, without any doubt, unprepared to handle. CIA Director John Deutch, for one, candidly observed, "We have been lucky so far."

The release of deadly sarin gas in the Tokyo subway was a warning bell for America. Prior to those attacks in Japan, the sect that carried out those attacks was unknown to United States intelligence and poorly monitored by Japanese authorities.

We received a louder warning bell in the World Trade Center bombing in New York. It was here in the United States, not half a world away. The trial judge at the sentencing of those responsible for the New York Trade Center bombing pointed out that the killers in that case had access to chemicals to make lethal cyanide gas. According to this trial judge, they probably put those chemicals into that bomb that exploded. Fortunately, the chemicals appeared to have been vaporized by the force of the blast. Otherwise, the smoke and fumes that were drawn into and up through the tower in New York would have been far, far more lethal.

So according to this opinion by the trial judge, Mr. President, we have already had a major chemical attempt in this country.

We had a third warning bell in the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. This showed yet again the ease of access to simple, widely available commercial products that, when combined, can provide powerful explosives.

This kind of knowledge can also give us the threat of chemical weapons. This knowledge and much more is available over the Internet today to millions and millions of people.

Our purpose here today is not to frighten anyone, certainly not to frighten the American people. It is to persuade the Congress that we face a new and a very severe national security threat for which American Government at all levels—State, local and Federal—are at this stage woefully and inadequately prepared. We must begin now, today, to prepare for what surely threatens us already. To do this effectively we must take the expertise that has been built up over the years in both the Department of Defense and Department of Energy and make it available to Federal, State and local emergency preparedness and emergency response teams. There is much to do to prepare our State and local governments for this threat. Doing it will require leadership from the people who know about it and who have expertise in it, that is the Department of Defense and the Department of Energy. There is simply no other practical source.

In the authorization bill we make it clear we hope to move this function over a period of time to the Federal Emergency Management Agency or other appropriate agencies, but today we have no choice. If we are going to deal with this problem, it has to be dealt with by people who have the training and equipment and know-how and expertise, and that is the Department of Energy and the Department of Defense.

The time to do this is now, not after we suffer a great tragedy. Like many of my colleagues, I believe there is a high likelihood that a chemical or biological incident will take place on American soil in the next several years. I hope and pray that does not happen. But we do not want to be in a posture of demanding to know why were we not prepared.

This training and equipment function is the heart of the act, but it is not the whole act. Other parts are designed to beef up our capability to detect and interdict weapons of mass destruction and their components before they reach the United States. In addition, the authorization act allocates some funds for expansion and continuation of the original Nunn-Lugar concept through very important high-priority programs run both by the Department of Energy and by the Department of Defense.

Finally, the act establishes a coordinator in the office of the President of the United States, to address serious deficiencies in the coordination of activities across the many Federal, State and local agencies who have some responsibility for portions of the overall program.

The amendment I propose today, with my colleague and partner, Senator LUGAR, and Senator DOMENICI, provides funds for the portions of this act that are conducted by the Department of Defense. It is certainly my hope the Department of Energy funding will be in the appropriate appropriation bill when it comes forward. Specifically, these activities include the training of local first responders on dealing with a chemical or biological terrorist incident; providing assistance to the U.S. Customs Service and customs services in the former Soviet Union, Baltics, and Eastern Europe in interdicting such materials; stepping up research and development efforts—and this is enormously important—in developing technologies that can detect chemical and biological weapons and materials; and bolstering programs in the original Nunn-Lugar program that are designed to stop these materials at their source, which is by far the best way and most efficient way and the safest way to protect our own country and prevent the use of such materials here in America.

Mr. President, when I use the term "first providers," I am talking primarily about firemen, policemen and health officials who would rush to the scene and, in virtually every exercise we have had, the second tier fatalities have come in these categories, people who rush to the scene to help the victims and end up being victims themselves because they are not equipped or trained to deal with this kind of threat.

This amendment is fully offset in achievable savings from various Department of Defense accounts. The total here is $150 million, which is completely offset so this does not increase the bill in terms of total amount. I am convinced we must address this issue before the unthinkable happens in this country.

Can we afford to dismiss the possibility that another World Trade Center or Oklahoma City bombing could involve chemicals, biological weapons, or radioactive materials? If we do ignore this threat, we do so at our own great peril. The trends are clear. More nations and groups are exploiting the increased availability of information, technology and materials to acquire mass destruction or mass terror capabilities. There is no reason to believe that they are not willing to use them. I have heard too many experts, whose opinions and credentials I respect who have vast experience in this area, tell me it is not a question of if, but only of when.

I believe this legislation, while only a beginning, responds to a very urgent national security concern of our Nation and I believe it is a strong beginning. So I urge my colleagues to support the amendment.

I see my colleague and friend on the floor, the Senator from Indiana, so I yield the floor.

Mr. STEVENS. Will the Senator yield just one moment? Would he be interested in a time agreement on this amendment?

Mr. NUNN. I would say, we can enter into a time agreement very easily. I think we could also simply make a couple of more speeches and have a vote or

order a vote and stack the vote, whenever the Senator from Alaska would like to do so.

Mr. STEVENS. We are prepared to accept the amendment without a vote.

Mr. NUNN. I would like to consult and talk with the Senator from Indiana on that, but I appreciate the Senator's expression.

Mr. STEVENS. Could we agree to another 20 minutes on this amendment?

Mr. NUNN. I have concluded my remarks. I think the Senator from Indiana indicates that will be acceptable to him.

Mr. STEVENS. Mr. President, I ask unanimous consent there be a vote on this amendment—we will not make a motion to table it—if desired by the sponsors, at no later than 4:15 today.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I will withhold that request for a minute.

Mr. NUNN. Just reserving the right to object, whatever the Senator wants to do on a rollcall vote will be fine. I would like to have a rollcall vote but I will consult with him on that. But in terms of the order, if the Senator prefers to order this at some later time and stack it with some other amendment if we do have a rollcall, that is fine with the authors.

Mr. STEVENS. We are using rollcall votes, when we do have them, to sort of flush out other amendments, so I would be pleased to have a vote or not have a vote but we will discuss it and I will withhold the request.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, prior to the Fourth of July recess, the Senate passed an amendment to the DOD authorization bill offered by Senators NUNN and DOMENICI and myself that was entitled the "Defense Against Weapons of Mass Destruction Act of 1996." The vote on that amendment was 96 to 0.

Last week, the Senate voted final passage of the Defense authorization bill, that contained our amendment.

The amendment we are offering to the DOD appropriations bill is designed to appropriate the resources to implement the programs outlined in our amendment to the DOD authorization bill, and to provide offsetting reductions in other appropriation amounts.

To refresh the memories of my colleagues, our amendment to the authorizing legislation dealt with one of the most urgent national security problems America faces. That is, the threat of attack on American cities and towns by terrorists or representatives of hostile powers using radiological, chemical, biological, or nuclear weapons.

The current state of our domestic readiness to deal with these kind of attacks is woefully inadequate. Our amendment sought to begin today to prepare for what surely threatens us already.

There were three basic elements or components to our amendment to the DOD authorization bill. The first component stemmed from the recognition that the United States cannot afford to rely on a policy of prevention and deterrence alone, and therefore must prudently move forward with mechanisms to enhance preparedness domestically not only for nuclear but chemical and biological incidents as well.

Our hearings over the past year demonstrated that the United States is woefully unprepared for domestic terrorist incidents involving weapons of mass destruction. Although recent Presidential decision directives address the coordination of both crisis and consequence management of a WMD incident, the Federal Government has done too little to prepare for a nuclear threat or nuclear detonation on American soil, and even less for a biological or chemical threat or incident.

This is particularly true with regard to the training and equipping of the local first responders—the firemen, police, emergency management teams, and medical personnel who will be on the frontlines if deterrence and prevention of such incidents fail. Our amendment sets forth several common-sense measures that could greatly improve our readiness to cope with a domestic incident involving weapons of mass destruction.

Almost all of the expertise in defending against and acting in response to such chemical and biological threats and their execution resides in the Department of Defense which has worked to protect our Armed Forces against chemical and biological attack. It is our belief that this expertise must be utilized and can be utilized without infringing on DOD's major missions or on our civil liberties.

The second component addressed the supply side of these materials, weapons, and know-how in the states of the former Soviet Union and elsewhere. Building on our prior Nunn-Lugar/CTR experience, and recognizing that it is far more effective, and less expensive, to prevent proliferation in the first place than to face such weapons on the battlefield or the school playground, our amendment included countermeasures intended to firm up border and export controls, measures to promote and support counterproliferation research and development, and enhanced efforts to prevent the brain-drain of lethal know-how to rogue states and terrorist groups.

We seek to capitalize on the progress achieved in dismantling nuclear weapons of the former Soviet states and in preventing the flight of weapons scientists over the past 5 years and to expand the core mission of the program so as to address strategically the emerging threats that compromise our domestic security. The resources that will be required to implement programs proposed in the amendment are not intended to supplant, but rather to supplement, current Nunn-Lugar funding levels.

In addition to enhanced efforts to secure the weapons and materials of mass destruction, we must recognize that the combination of organized crime, porous borders, severe economic dislocation, and corruption in the states of the former Soviet Union has greatly increased the risk that lethal materials of mass destruction as well as the know-how for producing them can pass rather easily through the borders of the former Soviet Union. While much of the risk still resides in the four nuclear states of the former Soviet Union, there is also great risk in the states of the southern tier and the Caucasus. This region shares common borders with nations in the Middle East and poses a substantial smuggling threat.

Although Nunn-Lugar programs have begun to offer training and equipment to establish controls on borders and exports throughout the former Soviet Union, much more needs to be done.

The last and major component of our amendment to the Department of Defense authorization bill stemmed from the recognition much of the current effort to deal with the NBC threat crosscuts numerous Federal departments and agencies and highlights the need for the creation of a national coordinator for nonproliferation and counterproliferation policy in order to provide a more strategic and coordinated vision and response.

This portion of our amendment addressed three serious deficiencies in planning for contingencies at home occasioned by the threats posed by weapons of mass destruction. First is the lack of coordination of activities across the many Federal agencies who have some responsibility for some portions of the overall problem. Second is the lack of coordination of Federal agencies and activities with those of the States and local governments who will be the first to bear the brunt of any attacks.

Third, is the lack of national security funding in many of the Federal agencies whose actions must ultimately be integrated with those of the Department of Defense and the Department of Energy.

To support a comprehensive approach to nonproliferation, our amendment provided that a national coordinator should chair a new Committee on Proliferation, Crime, and Terrorism, to be established within the National Security Council. That committee should include the Secretaries of State, Defense, Energy, the Attorney General, the Director for Central Intelligence, and other department and agency heads the President deems necessary. This committee within the National Security Council should serve as the

focal point for all government nonproliferation, counterproliferation, law enforcement, intelligence, counterterrorism, and other efforts to combat threats to the United States posed by weapons of mass destruction.

Mr. President, our colleagues in the Senate gave overwhelming support last month to our amendment by a vote of 96 to 0.

This amendment to the Department of Defense appropriations bill provides the resources to carry out the critically important programs established in our amendment to the authorization bill.

We hope for an equally overwhelming vote in support of this amendment to fully fund these programs.

I thank the Chair.

Mr. HARKIN. Mr. President, I commend my colleagues, Senators NUNN, LUGAR, and DOMENICI, for developing this amendment which is a good first step in addressing the principal security threat facing the citizens of the United States today. I am pleased to join them in sponsoring this important antiterrorism proposal. I have always been in favor of the wise use of taxpayers' funds and this amendment meets that test. We have to be prepared to combat terrorism.

Currently we have precious few means to deal with the threat of a terrorist attack of any kind, let alone nuclear, chemical, or biological terrorism. This amendment focuses on that vacuum.

Events from Oklahoma City to Tokyo show that there is a major security risk in the ordinary—a rental truck or a subway. Training local emergency officials to recognize the signs of weapons of mass destruction in these mundane circumstances will help prevent these insidious attacks in the first place. Further training will allow local officials to ameliorate the impact should such a tragedy occur.

Mr. President, this is the right amendment at the right time for the people of Iowa and the United States. If my colleagues care about protecting Americans on American soil, I urge them to support this amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Alaska.

Mr. STEVENS. Mr. President, we concur in the statements made by the Senator from Georgia and the Senator from Indiana. The Senator from Hawaii and I support the amendment. We are prepared to either accept it or to have a rollcall vote. What is the desire of the Senator from Georgia?

Mr. NUNN. I would like to have a rollcall vote, if that is satisfactory with the floor managers, but I will do it at whatever time is convenient.

Mr. STEVENS. Mr. President, I ask unanimous consent that the rollcall vote on this amendment take place at 4:15 and not be subject to second-degree amendments; that the rollcall start at 4:15.

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

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

Mr. INOUYE addressed the Chair.

Mr. STEVENS. I withhold that.

Mr. NUNN. Mr. President, do we need the yeas and nays on the amendment? 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.

AMENDMENT NO. 4885

(Purpose: To provide $3,000,000 for the Operational Field Assessment Program)

Mr. INOUYE. Mr. President, on behalf of Senator HEFLIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HEFLIN, for himself, and Mr. SHELBY, proposes an amendment numbered 4885.

Mr. INOUYE. 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 31, line 6, strike out "1998." and insert in lieu thereof "1998: *Provided*, That of the funds appropriated in this paragraph, $3,000,000 is available for the Operational Field Assessment Program.".

Mr. HEFLIN. Mr. President, I rise today to offer an amendment to the Defense appropriations bill to enable the Department of Defense to initiate a program called Operational Field Assessments. The warfighter, as a result of lessons learned from Desert Storm, Desert Shield, and Bosnia, needs this quicker way of evaluating joint tactics, doctrine and procedures.

The Operational Field Assessment is a nontraditional, field executed evaluation that pits the warfighter, that is the pilot, ship driver, or tank commander, against multiple threat hardware pieces, operated with changeable technical parameters, as would be encountered in a specific unified command's combat environment. The requirements to be satisfied and the scenarios to be executed are driven primarily, by a command intelligence element, working in concert with the command's operations personnel. It is patterned after the threat, conducted with a "human-in-the-loop" approach, and has no preconceived outcomes. The object is to learn from the experience.

The Operational Field Assessment can be conducted on a large scale with multiple weapons and complex scenarios, or on a small scale with a few weapons and simple scenarios as required by the command. It can be executed jointly or in a combined environment with our allies. It involves a host of expert organizations; ranging from the various Scientific and Technical Intelligence Centers, owners of foreign material hardware, test ranges, research and development entities, and the services, to name a few. The DOT&E has assumed OSD advocacy for the OFA because the critical experience and expertise necessary to plan, execute, and evaluate the results of joint operational field assessments resides primarily in the DOT&E Office. The OFA program will also be invaluable in improving the future acquisition oversight of joint OT&E. The Director, OT&E, has created a MOU with Defense Intelligence Agency, the National Security Agency, and the National Reconnaissance Office to assist in support of this program. It is a new approach to provide our warfighters with valuable, needed, and usable intelligence information in an era when we must be smarter with our fiscal resources. Our warfighters need it and I fully support it. Due to the urgent requirement of this program, I urge my colleagues to fully support this amendment.

Mr. INOUYE. Mr. President, this amendment earmarks funds for the Operational Field Assessment Program. It is to provide our commanders an innovative, flexible and timely response in the innovation of solutions to war-fighting identified deficiencies.

This has been cleared by both sides, Mr. President.

Mr. STEVENS. We support the amendment, Mr. President, and I ask for the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4885) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4886

(Purpose: To set aside $3,000,000 for acceleration of a program to develop thermally stable jet fuels using chemicals derived from coal)

Mr. STEVENS. Mr. President, I have an amendment which I send to the desk on behalf of Senator SANTORUM.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SANTORUM, proposes an amendment numbered 4886.

Mr. STEVENS. 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 30, line 2, before the period at the end insert ": *Provided*, That of the funds appropriated under this heading, $3,000,000 shall

be available for acceleration of a program to develop thermally stable jet fuels using chemicals derived from coal".

Mr. STEVENS. Mr. President, this funds an item that is specifically in the authorization bill concerning coal research. It has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4886) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4451

(Purpose: To set aside $20,000,000 for payment to certain Vietnamese commandos captured and interned by North Vietnam)

Mr. INOUYE. Mr. President, on behalf of Senators KERRY and MCCAIN, I ask for the immediate consideration of amendment No. 4451.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. KERRY, for himself, and Mr. MCCAIN, proposes an amendment numbered 4451.

Mr. INOUYE. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. Of the total amount appropriated under title II, $20,000,000 shall be available subject to authorization, until expended, for payments to Vietnamese commandos captured and incarcerated by North Vietnam after having entered the Democratic Republic of Vietnam pursuant to operations under a Vietnam era operation plan known as "OPLAN 34A", or its predecessor, and to Vietnamese operatives captured and incarcerated by North Vietnamese forces while participating in operations in Laos or along the Lao-Vietnamese border pursuant to "OPLAN 35", who died in captivity or who remained in captivity after 1973, and who have not received payment from the United States for the period spent in captivity.

Mr. INOUYE. Mr. President, this amendment appropriates $20 million for payments to Vietnamese commandos who were captured and incarcerated by North Vietnamese forces while they were engaged in covert activities pursuant to United States operations.

These operations were joint United States-South Vietnamese intelligence-gathering operations. And approximately 500 Vietnamese operatives, some civilians, some members of the Army, were recruited by the Government of South Vietnam. And we provided training and funding, including salaries, allowances, bonuses and death benefits. The majority of these operatives were captured. They were tried for treason by the north, and imprisoned in North Vietnam until the 1980's.

Declassified Department of Defense documents suggest that the Defense Department systematically wrote off the commandos known to be in captivity as dead in order to avoid paying monthly salaries. The death benefits were paid to the next of kin. Many of the commandos spent 20 years or more in prison. This amendment would provide the funds to repay each commando a lump sum of $40,000. This amendment has been cleared by the managers of this measure. It has the approval of the administration.

Mr. STEVENS. Mr. President, this amendment, as I understand it, is cosponsored by Senator KERREY and Senator MCCAIN, two of our Members who should know more about this subject than anyone else. I am pleased to support it, but I point out it is limited. It is limited to the authorization. I do not think it ought to be expanded beyond the scope as defined in the original authorization. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4451) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4887

Mr. STEVENS. Mr. President, I send to the desk an amendment for the Senator from Utah, [Mr. BENNETT].

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. BENNETT, proposes amendment numbered 4887.

On page 29, line 20, strike "Forces" and insert in lieu therefore "Forces: *Provided further*, That of the funds available under this heading, $1,000,000 is available for evaluation of a non-developmental Doppler sonar velocity log".

Mr. STEVENS. Mr. President, this is the amendment of the Senator from Utah. It seems to be very much in order as far as we are concerned. It is for an investigation of an entirely new concept. I believe the Senator from Hawaii has also cleared this.

Mr. INOUYE. We have no objection.

Mr. STEVENS. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4887) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4888

(Purpose: To set aside $10,000,000 for independent scientific research on possible causal relationships between gulf war service and gulf war syndrome)

Mr. INOUYE. Mr. President, on behalf of Senator BYRD, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BYRD, proposes an amendment numbered 4888.

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

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

The amendment is as follows:

On page 33, line 2, before the period at the end insert: ": *Provided, further*, That of the funds appropriated under this heading, $10,000,000 shall be available for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between the complex of illnesses and symptoms commonly known as "Gulf War syndrome" and the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War".

PERSIAN GULF SYNDROME

Mr. BYRD. Mr. President, the amendment that I am offering will designate $10 million from within the funds allocated to the Defense Health Program to investigate the possible links between exposure to chemical warfare agents and what has come to be called "Gulf War Syndrome." I understand that the amendment has been cleared by the managers of the bill, and I thank them for their assistance. On June 21, 1996, the Department of Defense announced that between 300 and 400 U.S. soldiers may have been exposed to the chemical warfare agents sarin and mustard gas when they destroyed an Iraqi ammunition storage facility in March, 1991. The Department of Defense further announced that other events and locations would be examined to determine whether or not additional military personnel were exposed to chemical warfare agents. Up to this point, the Department of Defense had maintained that no personnel were exposed to chemical warfare agents, so no scientific research on the link between the soldier's illnesses and these agents had been conducted. My amendment would remedy that situation by providing $10 million for badly needed independent scientific research on this topic.

Many soldiers have maintained that their illnesses resulted from their wartime service in the Gulf, whether from chemical warfare agents or from other

hazardous exposures. Some of these soldiers suffer an additional, tragic, problem. Their children born after the war have birth defects or catastrophic illnesses that these soldiers believe are the result of their wartime exposures. No independent scientific research has been conducted on this link, although medical literature suggests that chemical warfare agents are teratogens. That is, they are believed to cause birth defects and other problems in children of exposure victims, according to the Institute of Medicine and the Stockholm International Peace Research Institute. In the Defense Authorization bill, I offered an amendment that would provide medical care for these children until scientific evidence determines whether this link is verified. So, I expect that the Department of Defense will move quickly to obligate these funds, and to include in the research an examination of the possible link between chemical warfare agent exposure and birth defects.

Mr. INOUYE. Mr. President, this amendment provides $10 million within the funding available for defense health programs to research the gulf war syndrome. This measure has been authorized by the Senate, and it has been cleared by both sides.

Mr. STEVENS. Mr. President, this is money earmarked within existing funds as was previously ordered by the authorization bill, and we believe it is in order.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4888) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I believe it is in order now for us to proceed with the recorded vote.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 4453

Mr. DOMENICI. The Senator has 30 seconds before the vote. I ask the Senator, could I have 30 seconds?

Mr. STEVENS. Yes.

Mr. DOMENICI. I was not here when Senator NUNN and Senator LUGAR spoke on this amendment. I have been part of preparing the amendment. It has more facets than that which we are talking about here. But I want to thank Senator STEVENS. He attended a session where these ideas were thrashed around by some of America's experts and concerned people from the laboratories and various branches of the military.

I wholeheartedly support this amendment. I hope the Senate will adopt it. It is obvious to most of us, who are looking around this world, that America's most serious security problem has changed dramatically, and it is now the threat of biological and chemical weapons of mass destruction. It will be very hard to contain them and locate them and to get a management scheme with high technology and science to find out more about them and to be able to defend ourselves, but I think this is a step in the right direction getting our communities prepared. I wholeheartedly support it.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 4453 offered by the Senator from Georgia [Mr. NUNN]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—100

Abraham	Ford	Mack
Akaka	Frahm	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Pell
Brown	Hatch	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Faircloth	Lieberman	Wyden
Feingold	Lott	
Feinstein	Lugar	

The amendment (No. 4453) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I yield to the leader.

Mr. LOTT. Mr. President, first, I want to thank the two managers to the bill. I have not had too many occasions in the last few days to congratulate Senators for really making good progress and doing a great job.

The Senator from Alaska and the Senator from Hawaii, as always, are really doing a good job in working through the amendments without our having to resort to a cloture motion. They have cleared out a number of amendments. A number have been accepted, and some we are voting on.

I urge colleagues to continue working with the managers, and I believe we can get this done. The leadership is committed to getting the defense appropriations bill done today. If we continue to have good cooperation, we can get it done at a reasonable hour. I thank the Senators for what they have been doing, and I urge them to continue.

THE NATIONAL GAMBLING IMPACT STUDY COMMISSION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 449, S. 704, a bill to establish the Gambling Impact Study Commission.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 704) to establish the Gambling Impact Study Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Gambling Impact Study Commission Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the most recent Federal study of gambling in the United States was completed in 1976;

(2) legalization of gambling has increased substantially over the past 20 years, and State, local, and Native American tribal governments have established gambling as a source of jobs and additional revenue;

(3) the growth of various forms of gambling, including electronic gambling and gambling over the Internet, could affect interstate and international matters under the jurisdiction of the Federal Government;

(4) questions have been raised regarding the social and economic impacts of gambling, and Federal, State, local, and Native American tribal governments lack recent, comprehensive information regarding those impacts; and

(5) a Federal commission should be established to conduct a comprehensive study of the social and economic impacts of gambling in the United States.

SEC. 3. NATIONAL GAMBLING IMPACT STUDY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the National Gambling Impact Study Commission (hereinafter referred to in this Act as "the Commission"). The Commission shall—

(1) be composed of 9 members appointed in accordance with subsection (b); and

(2) conduct its business in accordance with the provisions of this Act.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall be appointed for the life of the Commission as follows:

(A) 3 shall be appointed by the President of the United States.

(B) 3 shall be appointed by the Speaker of the House of Representatives.

(C) 3 shall be appointed by the Majority Leader of the Senate.

(2) PERSONS ELIGIBLE.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission under section 4. The members may be from the public or private sector, and may include Federal, State, local, or Native American tribal officers or employees, members of academia, non-profit organizations, or industry, or other interested individuals.

(3) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under section 4.

(4) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall conduct the consultation required under paragraph (3) and shall each make their respective appointments not later than 60 days after the date of enactment of this Act. Any vacancy that occurs during the life of the Commission shall not affect the powers of the Commission, and shall be filled in the same manner as the original appointment not later than 60 days after the vacancy occurs.

(5) OPERATION OF THE COMMISSION.—

(A) CHAIRMANSHIP.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall jointly designate one member as the Chairman of the Commission. In the event of a disagreement among the appointing authorities, the Chairman shall be determined by a majority vote of the appointing authorities. The determination of which member shall be Chairman shall be made not later than 15 days after the appointment of the last member of the Commission, but in no case later than 75 days after the date of enactment of this Act.

(B) MEETINGS.—The Commission shall meet at the call of the Chairman. The initial meeting of the Commission shall be conducted not later than 30 days after the appointment of the last member of the Commission, or not later than 30 days after the date on which appropriated funds are available for the Commission, whichever is later.

(C) QUORUM; VOTING; RULES.—A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission. Each member of the Commission shall have one vote, and the vote of each member shall be accorded the same weight. The Commission may establish by majority vote any other rules for the conduct of the Commission's business, if such rules are not inconsistent with this Act or other applicable law.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—It shall be the duty of the Commission to conduct a comprehensive legal and factual study of the social and economic impacts of gambling in the United States on—

(A) Federal, State, local, and Native American tribal governments; and

(B) communities and social institutions generally, including individuals, families, and businesses within such communities and institutions.

(2) MATTERS TO BE STUDIED.—The matters studied by the Commission under paragraph (1) shall at a minimum include—

(A) a review of existing Federal, State, local, and Native American tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices;

(B) an assessment of the relationship between gambling and levels of crime, and of existing enforcement and regulatory practices that are intended to address any such relationship;

(C) an assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions, and the economy;

(D) an assessment of the impacts of gambling on individuals, families, businesses, social institutions, and the economy generally, including the role of advertising in promoting gambling and the impact of gambling on depressed economic areas;

(E) an assessment of the extent to which gambling provides revenues to State, local, and Native American tribal governments, and the extent to which possible alternative revenue sources may exist for such governments; and

(F) an assessment of the interstate and international effects of gambling by electronic means, including the use of interactive technologies and the Internet.

(b) REPORT.—No later than 2 years after the date on which the Commission first meets, the Commission shall submit to the President, the Congress, State Governors, and Native American tribal governments a comprehensive report of the Commission's findings and conclusions, together with any recommendations of the Commission. Such report shall include a summary of the reports submitted to the Commission by the Advisory Commission on Intergovernmental Relations and National Research Council under section 7, as well as a summary of any other material relied on by the Commission in the preparation of its report.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under section 4.

(2) WITNESS EXPENSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(b) SUBPOENAS.—

(1) IN GENERAL.—If a person fails to supply information requested by the Commission, the Commission may by majority vote require by subpoena the production of any written or recorded information, document, report, answer, record, account, paper, computer file, or other data or documentary evidence necessary to carry out its duties under section 4. The Commission shall transmit to the Attorney General a confidential, written notice at least 10 days in advance of the issuance of any such subpoena. A subpoena under this paragraph may require the production of materials from any place within the United States.

(2) INTERROGATORIES.—The Commission may, with respect only to information necessary to understand any materials obtained through a subpoena under paragraph (1), issue a subpoena requiring the person producing such materials to answer, either through a sworn deposition or through written answers provided under oath (at the election of the person upon whom the subpoena is served), to interrogatories from the Commission regarding such information. A complete recording or transcription shall be made of any deposition made under this paragraph.

(3) CERTIFICATION.—Each person who submits materials or information to the Commission pursuant to a subpoena issued under paragraph (1) or (2) shall certify to the Commission the authenticity and completeness of all materials or information submitted. The provisions of section 1001 of title 18, United States Code, shall apply to any false statements made with respect to the certification required under this paragraph.

(4) TREATMENT OF SUBPOENAS.—Any subpoena issued by the Commission under paragraph (1) or (2) shall comply with the requirements for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure.

(5) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued by the Commission under paragraph (1) or (2), the Commission may apply to a United States district court for an order requiring that person to comply with such subpoena. The application may be made within the judicial district in which that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under section 4. Upon the request of the Commission, the head of such department or agency may furnish such information to the Commission.

(d) INFORMATION TO BE KEPT CONFIDENTIAL.—The Commission shall be considered an agency of the Federal Government for purposes of section 1905 of title 18, United States Code, and any individual employed by an individual, entity, or organization under contract to the Commission under section 7 shall be considered an employee of the Commission for the purposes of section 1905 of title 18, United States Code. Information obtained by the Commission, other than information available to the public, as the result of a subpoena issued under subsection (b)(1) or subsection (b)(2) shall not be disclosed to any person in any manner, except—

(1) to Commission employees or employees of any individual, entity, or organization under contract to the Commission under section 7 for the purpose of receiving, reviewing, or processing such information;

(2) upon court order; or

(3) when publicly released by the Commission in an aggregate or summary form that does not directly or indirectly disclose—

(A) the identity of any person or business entity; or

(B) any information which could not be released under section 1905 of title 18, United States Code.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for Level V of the Executive Schedule under section 5316 of such title.

SEC. 7. CONTRACTS FOR RESEARCH.

(a) ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.—

(1) IN GENERAL.—In carrying out its duties under section 4, the Commission shall contract with the Advisory Commission on Intergovernmental Relations for—

(A) a thorough review and cataloging of all applicable Federal, State, local, and Native American tribal laws, regulations, and ordinances that pertain to gambling in the United States; and

(B) assistance in conducting the studies required by the Commission under section 4(a), and in particular the review and assessments required in subparagraphs (A), (B), and (E) of paragraph (2) of such section.

(2) REPORT REQUIRED.—The contract entered into under paragraph (1) shall require that the Advisory Commission on Intergovernmental Relations submit a report to the Commission detailing the results of its efforts under the contract no later than 15 months after the date upon which the Commission first meets.

(b) NATIONAL RESEARCH COUNCIL.—

(1) IN GENERAL.—In carrying out its duties under section 4, the Commission shall contract with the National Research Council of the National Academy of Sciences for assistance in conducting the studies required by the Commission under section 4(a), and in particular the assessment required under subparagraph (C) of paragraph (2) of such section.

(2) REPORT REQUIRED.—The contract entered into under paragraph (1) shall require that the National Research Council submit a report to the Commission detailing the results of its efforts under the contract no later than 15 months after the date upon which the Commission first meets.

(c) OTHER ORGANIZATIONS.—Nothing in this section shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the Commission's duties under section 4.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) GAMBLING.—The term "gambling" means any legalized form of wagering or betting conducted in a casino, on a riverboat, on an Indian reservation, or at any other location under the jurisdiction of the United States. Such term includes any casino game, parimutuel betting, sports-related betting, lottery, pull-tab game, slot machine, any type of video gaming, computerized wagering or betting activities (including any such activity conducted over the Internet), and philanthropic or charitable gaming activities.

(2) NATIVE AMERICAN TRIBAL GOVERNMENT.—The term "Native American tribal government" means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2703(5)).

(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Commission, the Advisory Commission on Intergovernmental Relations, and the National Academy of Sciences such sums as may be necessary to carry out the purposes of this Act. Any sums appropriated shall remain available, without fiscal year limitation, until expended.

(b) LIMITATION.—No payment may be made under section 6 or 7 of this Act except to the extent provided for in advance in an appropriation Act.

SEC. 10. TERMINATION OF THE COMMISSION.

The Commission shall terminate 60 days after the Commission submits the report required under section 4(b).

Mr. LUGAR. Mr. President, I rise today in strong support of S. 704, the National Gambling Impact Study Commission Act, and I urge my colleagues to approve this important legislation.

I want to express my appreciation to Chairman STEVENS, Senator GLENN, and the Governmental Affairs Committee for their commitment and careful attention to this important issue. Senator STEVENS and the committee have made significant improvements to the original bill, providing additional resources and appropriate authorities to allow the Commission to conduct a meaningful study of gambling. I also want to thank the author of bill, Senator SIMON, for his steadfast leadership and dedication to this effort.

I want to share with my colleagues some of my thoughts about this important issue and about why I believe the Nation would be served by a national study of gambling.

The rapid spread of legalized gambling in the United States in recent years has raised concerns in Congress and elsewhere about the social and economic impacts of gambling on our States and communities. Throughout our Nation's history, the popularity of gambling has come and gone, and returned again. Public outcry against casinos and State lotteries during the post Civil War period led to a ban on gambling throughout the United States by 1920. During the past 20 years, however, the gambling industry in the United States has experienced unparalleled growth and expansion. In 1978 only two States allowed casinos and a handful of others sponsored lotteries. But today some form of gambling is legal in 48 States.

Gambling revenues grew more than twice the rate of our Nation's manufacturing industries in 1990. Americans wager almost a half a trillion dollars a year and industry profits are estimated to have reached $40 billion annually.

A major reason for this astronomical growth of gambling is that State and local governments facing budget shortfalls are desperate for revenue. State and local government officials all too often accept gambling as the silver bullet solution to balancing their budgets without raising taxes. Even if a State or community is reluctant to host a gambling establishment, it can be drawn over the edge by the threat that gambling operations may locate in a nearby town or neighboring State. For many local officials, the legalization of gambling becomes an economic survival issue rather than a question of developing sound public policy.

The actions of State and local governments that hope to use gambling as a solution to financing the needs of their cities and communities are understandable. Yet, the quick-fix, ready-cash approach can be a shaky foundation upon which to base an economic development strategy.

As mayor of Indianapolis during a difficult period of economic uncertainty and social unrest in the late 1960's, I learned that a community must be built in living rooms, classrooms, and churches.

To strengthen the city's economy, we launched a comprehensive reorganization of local government, consolidating

our city and county. We cut property taxes 5 times in 8 years, attracted businesses, and made Indianapolis the amateur sports capital of the world. Indianapolis is a dynamic and successful city, and it has reduced poverty and crime that plagues many urban areas.

Long-term growth and prosperity for our communities are most often earned the old-fashioned way—through hard work, dedication and commitment to common purpose.

The folks facing the toughest decisions on whether to permit gambling are leaders at the local level. These officials are frequently overwhelmed by the size and complexity of proposals made for casinos and other establishments promising jobs and solutions to local financial dilemmas. They are often forced to make decisions about gambling in a vacuum of reliable, unbiased information—information desperately needed to make sound choices that will affect both the social and economic future of their communities. This is one area where the resources of the Federal Government can help communities by providing them objective, unbiased information they can use to make their own informed decisions about gambling.

Mr. President, while history is replete with examples of communal difficulties associated with gambling, it is difficult to determine the costs—especially in certain human factors related to problem gambling that include alcoholism, divorce, suicide, family dysfunction, and criminal activity.

A number of studies have attempted to address the social costs of gambling; however, they are often regional in focus, limited in scope or funded by subjective interests. A Federal study commission will provide a broad-based, authoritative report on this important aspect of the gambling issue that deserves closer examination.

As a society we appear to have made a piecemeal decision to legalize a wide variety of gambling activities. But this does not obviate the need to be mindful of the underlying problems associated with gambling that lead most of the country to keep it illegal for decades.

We know that the presence of legalized gambling can exacerbate numerous social problems, including crime, alcoholism, corruption, suicide, bankruptcy, family dysfunction, and compulsive or addictive behavior. These side effects can represent an enormous moral and financial cost to communities.

The gambling industry does not choose to confront these moral questions. The gambling industry frequently asserts that what it is providing is an adult entertainment option. Undoubtedly, many adults can gamble responsibly, have a good time, and sustain the financial losses that they incur. But we should not deceive ourselves that gambling is no different than any other entertainment option. Gambling is a complex and problematic activity both in terms of its economic and social impact on communities and its economic and psychological impact on individuals and families.

Gambling-related employment is not comparable to other forms of employment such as manufacturing. Gambling does not produce a value-added product or reinvestment in the market economy. Although gambling operations can contribute lower-paying jobs to a local economy, other businesses in the region often lose as a consumer spending for goods and services shifts to a small number of casinos and casino-related activities.

One does not have to be a gambling prohibitionist to conclude that our Nation needs to know more about where we are headed.

Mr. President, this legislation creates a 2-year, 9-member commission appointed by Congress and the President to conduct a comprehensive legal and factual study of the social and economic impacts of gambling on States and communities. S. 704 does not propose to further tax, regulate or limit gambling activities.

The Commission will be charged with compiling all Federal, State and local laws pertaining to gambling. The Commission also will assess the impact of gambling on local businesses; the relationship between gambling and levels of crime; and the impact of problem and pathological gambling on individuals, families, and the economy.

The Commission will examine electronic gambling involving use of the Internet. Internet gambling is a new and rapidly growing activity in the United States and elsewhere. It allows people using personal computers and credit card accounts to gamble across State lines and national borders. Internet gambling could have serious international policy implications for the United States. Very little is known about the risks associated with citizens who gamble in "virtual" casinos located outside U.S. jurisdiction. We need to learn more about the Internet.

After 2 years, the Commission will submit a comprehensive report to the President, the Congress, Governors, and Native American Tribal governments on its findings. This report will provide objective, unbiased data and analysis that States and communities can use to make their own informed decisions about gambling.

Providing the Commission with adequate resources and authority to perform its duties is essential to developing an authoritative report. Allowing the Commission to conduct hearings, provide recommendations and have a limited, but effective level of subpoena power are essential to achieving this goal. To reduce the cost of the Commission, S. 704 uses existing Government entities—the Advisory Commission on Intergovernmental Relations and the National Research Council of the National Academy of Sciences—to assist in the Commission's efforts to compile existing laws and conduct research on problem and pathological gambling.

Senator STEVENS and the Governmental Affairs Committee have worked to establish a balanced and effective commission that will conduct a thorough review of the social and economic impacts of gambling. At the same time, the committee worked to ensure that information gathered by the Commission would not be misused nor exceed the commonsense bounds of our Federal system. The bill incorporates existing privacy laws under title 18 to ensure protection for individual privacy and for business trade secrets.

The bill allows the Commission to subpoena certain documentation necessary to carry out its duties as outlined in the bill. The Commission is allowed subpoena authority to gather additional information to help the Commission understand documentation received under subpoena.

I have worked with Senator SIMON, Senator STEVENS, the Governmental Affairs Committee and Representative FRANK WOLF to gain approval of this legislation in the Congress because I believe the country would be served by a Federal study. The House of Representatives approved similar legislation this year, and the President has indicated his support for establishing a commission to study gambling. It is my hope the Senate will give swift approval to this important measure to examine this pressing national issue. I believe the Commission's work will be helpful to State and local leaders as they make their own informed decisions about whether or not to allow gambling in their communities.

Information is the goal of this Commission. Information will strengthen the democratic decision-making process.

I urge my colleagues to join me to support passage of S. 704.

Mr. STEVENS. Mr. President, I rise today to support S. 704 as amended by the Governmental Affairs Committee. The bill establishes a national commission to study the social and economic impact of legalized gambling in the United States.

S. 704 was originally introduced on April 6, 1995, by Senator PAUL SIMON and Senator RICHARD LUGAR. Currently, there are 25 Senate cosponsors of this legislation.

On November 2, 1995, the Governmental Affairs Committee held a hearing on S. 704. At that time, concerns were raised about the adequacy of the funding levels and the scope of the original bill.

On May 14, 1996, the Governmental Affairs Committee approved a substitute which was drafted in consultation with the sponsors of the Senate

and House bills and the representatives of various groups.

This bill, as reported by the committee, attempts to address a wide range of concerns, including balancing the needs of the commission to get access to information and protecting the rights of individuals to their personal privacy.

S. 704 as amended creates a nine-member commission—three appointed by President, three by the Speaker of the House, and three by the Senate majority leader. The commission has 2 years to conduct the study and issue a report, which may include findings and recommendations, to the President, the Congress, the Governors, and native American tribal governments.

Under this bill, the commission will utilize the expertise of the Advisory Commission on Intergovernmental Relations and the National Research Council. This will avoid duplicating work already done by the Government, reduce the cost of the commission, and ensure that the States are not left out of the process.

The bill specifies a number of topics that the commission will study, encompassing many aspects of gambling and its effects, including problem gambling and gambling on the Internet. It authorizes "such sums as may be necessary"—the original bill introduced in the Senate only provided $250,000 for the commission. Funding for the commission would be subject to appropriations. The commission will terminate after completing its 2-year study.

The most recent Federal study of the effects of gambling was published 20 years ago—the 1976 Commission on the Review of the National Policy Toward Gambling. At that time, that study cost $3 million—which would be the equivalent of $8.1 million today.

In 1976, only two States—Nevada and New Jersey—had legalized gambling. Currently, 48 States have some form of legalized gambling, and since 1988, 21 States have legalized casino gambling.

There has been rapid growth recently in the gambling industry—it is now a $40 billion industry which includes casinos, riverboats, Indian reservations, State and interstate lotteries, and electronic gambling. Despite the growth in this industry, not much current objective data exists on the impact of legalized gambling in the United States.

Other concerns that the committee addressed include: specifying the areas to be studied; problem gambling; electronic gambling—such as gambling on the Internet; requiring the report to be issued to Governors and native American tribes so that they could make use of the information; and providing a clear definition of gambling.

The House version introduced by Representative FRANK WOLF on January 11, 1995, was passed by the House of Representatives on March 5, 1996, after some modifications by the House Judiciary Committee.

Unlike the House bill, the original Senate bill did not include subpoena power. The House bill allowed the commission to subpoena both individuals and documents. The Congressional Research Service has indicated that based on a review of commissions created in recent years, it is unusual to grant broad subpoena power to this type of commission.

However, recognizing the short period of time in which the commission has to complete its work and the need to be able to obtain relevant information, S. 704 as amended grants the commission the power to subpoena documents.

In order to protect the privacy of individuals, however, information gathered by the commission must be kept confidential. The bill provides criminal penalties under section 1905 of title 18 of the United States Code for the unauthorized disclosure of any confidential personal or business information.

Any information obtained by the commission—whether voluntarily provided or provided under subpoena—may not be disclosed to any person in any manner, except to authorized commission employees; upon court order, or when released by the commission in aggregate or summary form that does not directly or indirectly disclose the identity of any person or business.

In addition, individuals falsifying information to the commission are subject to criminal penalties under section 1001 of title 18 of the United States Code.

The commission may serve a subpoena throughout the United States, and may go to a U.S. district court to enforce it. All subpoenas must comply with the requirements for subpoenas under the Federal Rules of Civil Procedure. The commission is required to notify the U.S. Attorney General at least 10 days in advance of issuing a subpoena. This will allow the Attorney General time to raise objection if the subpoena is going to interfere with an ongoing criminal investigation.

The Congressional Budget Office projects S. 704 as amended will cost $5 million, roughly equal to their revised estimate for the House version, H.R. 497. CBO also projects that the costs to State, local, and tribal governments for complying with information-gathering requests will be minimal. Mr. President, at this point I ask unanimous consent that the CBO's letter on this bill be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 21, 1996.

Hon. TED STEVENS,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 704, the National Gambling Impact Study Commission Act.

Enactment of S. 704 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 704.

2. Bill title: National Gambling Impact Study Commission Act.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on May 14, 1996.

4. Bill purpose: This bill would establish a commission to study the impact of gambling in the United States. The study would cover many issues related to gambling, including the relationship between gambling and crime and the extent to which gambling provides revenues to state, local, and Native American tribal governments. The commission, consisting of nine members, would have two years after it first meets to conduct the study and to present its findings to the Congress. In addition, the chairman of the commission would have the authority to appoint an executive director and other personnel to assist the commission in performing its duties. The bill would require that the commission contract with the Advisory Commission on Intergovernmental Relations and the National Academy of Sciences for assistance in conducting its study. Finally, the bill would grant the commission the authority to hold hearings and subpoena documents.

5. Estimated cost to the Federal Government: As shown in the following table, CBO estimates that enacting S. 704 would increase discretionary spending by about $5 million over the next two years, assuming appropriation of the necessary funds.

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Estimated authorization level	2	3	.....	.....	.....	
Estimated outlays	2	3	.....	.....	.....	

The costs of this bill fall within budget function 750.

6. Basis of estimate: For purposes of this estimate, CBO assumes that S. 704 will be enacted by the end of fiscal year 1996, and that the estimated amounts will be appropriated for each of the next two years. We projected outlays based on the historical rate of spending for similar commissions.

To estimate the cost of S. 704, CBO assumed that the commission would hire about 20 people to provide technical and administrative support, and that the commission would have other costs similar to those incurred by the first commission established to study gambling in 1974—the Commission on the Review of the National Policy Toward Gambling. In total, CBO estimates that the proposed commission would cost about $5 million over the next two years. This cost would cover per diem and travel expenses of the commission's members and witnesses, salaries of the commission staff, contract expenses and other administrative costs.

7. Pay-as-you-go considerations: None.

8. Estimated impact on State, local, and tribal governments: Public Law 104-4, the Unfunded Mandates Reform Act of 1995, defines an intergovernmental mandate as an enforceable duty imposed on state, local, or tribal governments, except a condition of federal assistance or a duty arising from participation in a voluntary federal program.

CBO has determined that providing documents and information, and answering questions about such information under threat of a subpoena, constitutes an enforceable duty on these entities as defined by the law.

Based on information provided to us by eight states with significant gaming operations and from interest groups representing state, local, and tribal governments, CBO estimates that the cost to states, localities, and tribal governments of providing documents and information to the commission is unlikely to exceed, on average, $100,000 per state. Total costs are thus unlikely to exceed $5 million. They would be incurred over the two-year period during which the commission is preparing its study.

9. Estimated impact on the private sector: Public Law 104–4, the Unfunded Mandates Reform Act of 1995, defines a private sector mandate as an enforceable duty imposed on the private sector, except a condition of federal assistance or a duty arising from participation in a voluntary federal program. S. 704, the National Gambling Impact Study Commission Act, contains provisions that require the gaming industry and individuals to provide documents and information, and to respond to questions about such information under threat of a subpoena. Those provisions constitute a private sector mandate. Although the demand for information by the commission from individual operators could impose substantial compliance costs in some cases, CBO estimates that the aggregate annual impact on the private sector would fall well below the $100 million threshold specified in Public Law 104–4.

10. Previous CBO estimate: On November 17, 1995, CBO transmitted a cost estimate for H.R. 497, the National Gambling Impact and Policy Commission Act, as ordered reported by the House Committee on the Judiciary on November 8, 1995. The two estimates are similar; we now estimate federal costs of $5 million over the 1997–1998 period, whereas our previous estimate for H.R. 497 was $4 million over the 1996–1998 period. The increase in estimated cost is attributable primarily to S. 704's provision authorizing reimbursement of expenses incurred by witnesses at commission hearings.

11. Impact: Estimate prepared by: Federal Cost Estimate: Susanne S. Mehlman. State and Local Government Impact: Theresa Gullo. Private Sector Impact: Matthew Eyles.

12. Estimate approved by: Robert R. Sunshine for Paul N. Van de Water, Assistant Director, for Budget Analysis

Mr. STEVENS. The Clinton administration states that it supports legislation creating a commission to study the effects of gambling, but has stopped short of endorsing any specific bill. The Department of Justice has stated that the substitute addresses many of the agency's concerns, and have asked that their views be included in the RECORD. Mr. President, at this point, I ask unanimous consent that the Justice Department letter outlining the administration views on the bill be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, May 21, 1996.

Hon. TED STEVENS,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in regard to S. 704, the National Gambling Impact and Policy Commission Act, which the Committee ordered reported last week. I especially want to express my appreciation to you for your staff's cooperation in resolving several concerns expressed by the Department.

As President Clinton recently stated in letters to Senators Simon and Lugar, the Administration supports the establishment of this Commission. One of the duties of this panel is to conduct a comprehensive study, which will include an assessment of the relationship between gambling and levels of crime.

The Committee-approved version of S. 704 addresses a number of issues of concern to the Department of Justice. For example, section 5(b)(1) gives the Commission the power to subpoena certain information, but also provides that the "Commission shall transmit to the Attorney General a confidential, written notice at least ten days in advance of the issuance of any such subpoena." This provision would allow the Department to learn in advance who is being subpoenaed and the subject matter of the subpoena. In addition to keeping us abreast of what the Commission is doing, this would permit the Department to object or make our views known regarding such subpoena.

However, we understand that this provision does not constitute any kind of approval process. No inference should be drawn if the Department is notified of the pending issuance of a subpoena and does or does not object or comment. For example, such silence should not be construed as approval or endorsement of the subpoena or its subject matter. Nor should the presence or absence of a comment be construed to indicate the presence or absence of a criminal investigation, on which the Department as a matter of policy does not comment.

We understand that Section 5(b) does not grant the Commission authority to subpoena federal agencies. However, section 5(c) of the bill gives the Commission the authority to obtain information directly from federal agencies. This provision says that "[u]pon request of the Commission, the head of such department or agency may furnish such information to the Commission." This language is intended to preserve the ability of a federal agency, including the Department of Justice, to use its discretion and judgment in withholding privileged and sensitive information.

We would appreciate it if you would include this letter in the record of consideration of this legislation. Again, we thank you and your staff for your cooperation in resolving these important issues.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Please do not hesitate to contact me if I may be of assistance on this or any other matter.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

Mr. GLENN. Mr. President, I rise in strong in support of the Stevens substitute to S. 704—legislation to set up a national commission to study the growth of legalized gambling in America and its relevant social, economic, and legal impacts.

Gambling is an industry that is growing rapidly. In 1976—the last time we studied this issue on a national basis—legalized wagering in the United States totaled $22 billion, while legalized gaming approached $3 billion. In 1994, legal wagering exceeded $482 billion, while legal gaming reached $40 billion. We now have riverboat and land-based casino gambling in a number of States, and most States operate their own lotteries. In addition, Indian tribes are increasingly turning to casino and other forms of gaming as a tool for economic development. Finally, the gambling industry is looking toward the Internet and other electronic media as the markets for the future.

This kind of explosive growth in an industry that brings with it both serious economic and social costs along with benefits is at least a cause for further study. So I support the establishment of a national commission. This issue has not been examined on a national or Federal level for nearly 20 years and I believe that it is time we looked at gambling in America in greater depth.

The 1976 commission concluded that the regulation of gambling should be a State responsibility. With the exception of gambling on Indian lands where there is a shared Federal-State role, that is currently the case. But given the rapid growth of the industry in America in recent years, the proper role of the States and the Federal Government on this issue needs study and examination. There are important federalism and sovereignty questions that need to be answered. I don't have the answers—I'm not sure any of my colleagues do either. That's why establishing a commission to study gambling and to advise Federal, State, local, and tribal policymakers is both necessary and worthwhile. Some might argue that this commission represents an intrusion on states rights. I don't agree. This commission does not have the power to regulate, only to make recommendations. It is a study commission, not a regulatory body.

This substitute represents a considerable improvement from the original S. 704. The commission's charter has been strengthened. It will assess: the impact of existing policies and practices concerning legalized gambling; the impact of pathological gambling on individuals and families; the relationship between gambling and levels of crime; the growth of electronic or Internet gambling; and the extent to which alternative sources of revenues could be developed for State, local, and tribal governments. Based on its examination of these issues, the commission will then make appropriate recommendations to policymakers at all levels of government.

The substitute includes my proposal that the commission contract with the National Academy of Sciences [NAS] to assist in producing the study, with a particular emphasis on employing the NAS to study the problem of pathological gambling. This may be the most pernicious aspect of the growth of legalized gambling and we don't have much knowledge about it. We read the occasional story in the newspaper about some of the elderly cashing their social security checks to play the slot machines; teenagers gambling on the internet; the poor getting hooked on the lottery or keno; or others committing suicide under the weight of crushing casino debts. But we don't have much national or aggregate information on problem gambling and how it is being affected by the rapid growth of the industry. With its scientific expertise, the NAS is the ideal organization to gather and analyze this information.

The commission is also directed to utilize the Advisory Commission on Intergovernmental Relations [ACIR] to review existing State and local laws and policies on gambling, including existing enforcement and regulatory practices that address crime and gambling. Earlier drafts of the substitute had ACIR carrying out all the responsibilities of the commission. I thought that was too much for ACIR to do, first, because some of the aspects of the study are outside the scope of ACIR's expertise and second, because some in Congress have unfortunately succeeded in nearly zeroing out ACIR's appropriation, thus making it difficult, if not impossible, for ACIR to carry out the commission's work. This version wisely focuses ACIR to look at the Federalism aspects of the gambling issue, where ACIR's expertise would be most helpful and where it will need less funding to do the work.

The Stevens substitute does grant the commission limited subpoena authority. Some have argued that subpoena power gives the commission an open license to conduct a witchhunt in a legitimate industry. These arguments have been raised in discussing the House version, which grants the commission unlimited subpoena authority and charges it with such missions as investigating organized crime and political corruption. The Senate bill is different. We don't have the commission looking into organized crime or political corruption. Its mission is to focus on the broader socioeconomic impact of gambling, with the only matter relating to crime that the commission is to look at is the correlation between gambling and crime rates. This would be valuable information for states or communities who are considering legalizing gambling in their jurisdictions.

The Stevens substitute does grant the commission power to subpoena documentary information. I think such subpoena authority is needed to ensure that the commission has access to all the documents it needs to carry out its work in a thorough and independent manner.

I would point out that the 1976 commission had subpoena authority. I would like to read an excerpt from a letter from Charles Morin, Chairman of the 1976 Commission, to Congressman FRANK WOLF, sponsor of the House bill.

> The 1972-76 commission had subpoena power and, because of that, we never had to use it—in other words, when you have the power you will get cooperation. Obviously, the power need not be unrestricted and Congress may see fit to provide safeguards and, if the power were to be abused and there were non-compliance, the commission would be forced into court to compel compliance—something it would be most reluctant to do. On the other hand, if it were used legitimately, it would mean that information had been withheld for a reason—which is why you must have the power! And in the normal instance, as we found out from our years of experience, the knowledge that we had the power and would not hesitate to use it provided all the persuasion we needed.

I think Mr. Morin sums up pretty well why subpoena power is needed. But he does note that Congress may wish to put some parameters and limits around the commission's subpoena power. We've done that. The commission may only subpoena documentary information, and that is only after those who possess the materials fail to supply them as requested by the commission. The commission cannot subpoena witnesses to compel public testimony. This should satisfy those who are concerned that the commission might misuse its subpoena authority to create some sort of public spectacle. The commission may also issue a subpoena in order to help it understand the materials already obtained pursuant to that authority, and the choice is given to the respondent to submit answers either through a sworn deposition or written interrogatories under oath. Finally, we require the commission to issue written notice to the Attorney General at least 10 days in advance of issuing any subpoena.

Still, some remained concerned that the commission would misuse its subpoena authority to publicly disclose confidential business information, or violate the privacy of certain individuals who gamble. So we added an additional safeguard. We placed the commission under the Trade Secrets Act, Federal law which carries with it both civil and criminal penalties for the unauthorized disclosure of confidential business information by any Federal employee. Serious violations of the act can lead to a jail sentence of up to one year. The Trade Secrets Act applies to all Federal employees and officers of the Federal Government and we would extend its application to the members and employees of the commission.

So we have put some limits on the commission and set up penalties if those limits are violated. Those who might argue that we have created some renegade commission are misguided. We have granted the commission the powers it needs to carry out its mission, but we've also ensured that penalties exist for those who abuse those powers.

There are a couple of points I would like to clarify in the legislation since we did not file a report on it. First of all, we are making one change to the bill since the markup. We are correcting language in Section 5 to ensure that the Trade Secrets Act covers not only subpoenaed information, but information voluntarily supplied to the commission. Without this change, people would be discouraged from voluntarily supplying confidential business information to the commission as it would otherwise not be protected. Our change also includes a provision that ensures that the Trade Secrets Act applies only to confidential business information. Business or other information that is currently available to the public or already in the public domain, such as information in trade publications, journals, magazines, 10(k) filings, etc., would not be covered by the act. The commission should be able to publicly discuss and release information that is already in the public domain without fear of facing some frivolous lawsuit.

The commission, under section 5(b)(2), is allowed to issue additional subpoenas to further its understanding about materials already produced by that means. The respondent, again, has the choice as to how to comply—either by a sworn deposition or through written interrogatories under oath. In my view, it is crucial to discuss what the verb "to understand" means in this regard. Indeed, it is a relatively new term of art in defining subpoena authority. A very narrow reading would limit such a subpoena to helping the commission understand only what is written on a page. I do not subscribe to this very restrictive interpretation and certainly do not think it is our intent to do so. Questions about the facts and circumstances beyond the four corners of a document—how it was developed, who was responsible for writing and/or approving it, and under what context—may be well necessary and crucial to augment the commission's understanding of the materials at hand and carry out its duties. I think the commission should have such authority and use it, if necessary, to clarify and supplement the information contained in the documents themselves. That's the only way the commission will be able to fully comprehend the meaning and context of any subpoenaed documents.

This commission will be closely watched by many, including those with the power and resources to tie the commission up in costly litigation. It is

subject to the Federal Advisory Committee Act [FACA], a statute which requires compliance with open meetings and public access, but also a statute that allows litigation, something we've seen a significant amount of in the last several years with various executive branch commissions and taskforces. So I would urge the commission at its first meeting to read FACA and to closely adhere to its requirements.

We've given the commission significant latitude in establishing its own rules and procedures of operation. I would urge that at its very first meeting that the commission establish those procedures, and not wait until later when some issue arises and the commission has not set appropriate rules to deal with it. In particular, the commission should establish its rules for the issuing of subpoenas in their first meeting, and not wait to establish those rules just before the commission is actually considering issuing a subpoena.

In closing, I want to thank Senators SIMON, LUGAR, and LIEBERMAN and their respective staffs for working with Senator STEVENS and I to develop this legislation. It is a well thought out proposal that will ensure a thorough, balanced, and fair examination of gambling in America. I urge my colleagues to support it.

Mr. BREAUX. Mr. President, I would like to engage Senator STEVENS in a colloquy regarding the enforcement of a subpoena issued by the Gambling Impact Study Commission. The vast majority of Federal commissions created by Congress in recent years have not possessed subpoena power. Of the few commissions in the past that have been granted subpoena power, and in this case I support it, the authority to enforce a subpoena was typically placed with the U.S. Attorney General. For example, legislation which established the National Indian Gaming Commission, the Commission on Civil Rights, the Commission on Government Procurement, and the President's Commission on Organized Crime expressly specified the Attorney General's involvement in any action to enforce a subpoena.

The language of S. 704, the Gambling Impact Study Commission Act, provides that "* * * the Commission may apply to a U.S. district court for an order requiring that person to comply with such subpoena." It is my understanding that the Attorney General, which has expertise in this type of matter, could be asked by the commission to seek enforcement of a commission subpoena, and it is often the case that the Attorney General is asked to do so.

Mr. STEVENS. The Senator is correct. We have been in contact with the Department of Justice [DOJ] and have been advised informally the DOJ would not object to enforcing a subpoena issued by the commission. In fact, they have been operating under the assumption that they would be called upon to enforce such a subpoena. There are many other Government bodies which use DOJ to enforce subpoenas and they are fully staffed to handle such requests.

Mr. BRYAN. Mr. President, a matter that I would like to clarify with the bill's lead sponsor, Senator SIMON, involves two interrelated issues regarding the Commission's study of the role of advertising in promoting gaming. First, unlike the Commission's other areas of study, advertising is a constitutionally protected right of communication between buyers and sellers of legal products. Second, the Federal Government, through the Federal Trade Commission, already exercises broad enforcement and regulatory authority over false and deceptive advertisements in general, including those for gaming.

My question to my colleague is whether the Commission will be mindful of the unique first amendment liberties for advertising, and of the FTC's already existing regulatory authority over false and deceptive advertising when the Commission assesses and evaluates the impact of gaming advertisements.

Mr. SIMON. My answer to my friend from Nevada, Senator BRYAN, is an unequivocal yes on both counts. As my colleague points out, the first amendment freedom of commercial speech provides important liberties for advertising. It is my hope and intention that the Commission will grant special attention to the first amendment implications of its recommendations and avoid trespassing upon any constitutionally protected freedoms of commercial speech when it formulates its policy recommendations.

Moreover, as my friend from Nevada points out, section 5 of the Federal Trade Commission Act empowers the FTC to prevent "unfair or deceptive acts or practices affecting commerce." It is my hope and intention that the Commission will take this fact into account and, to the extent practicable and appropriate, will incorporate the FTC's existing authority and expertise over false and deceptive advertising.

Mr. BREAUX. Mr. President, I would like to engage Senator STEVENS in a colloquy regarding the privacy rights of individual citizens who engage in legal gambling activities.

The Gambling Impact Study Commission Act (S. 704), which I cosponsored and support, is intended to conduct a thorough study of issues related to legalized gambling. Private citizens who engage in legal gambling activities, dine in a casino restaurant or stay in a casino hotel, should also have their right to privacy protected.

The sponsors of this bill and other Members of the Senate have been careful to state that the intent of this bill is to conduct a thorough study of the gaming industry while protecting the privacy rights of individual gamblers. I understand that this legislation addresses the privacy issue by prohibiting the release of individual information unless it is in aggregate or summary form and that there are sufficient criminal and civil penalties to prevent public release of such information. In addition, this legislation is intended to be consistent with any other law which offers privacy protection to American citizens, including the Privacy Act of 1974.

Would you agree that the intent of this legislation is to provide the Commission with the necessary tools to gather the information it needs while protecting the privacy rights of Americans? It is my understanding that it is estimated that between 4 and 6 percent of gamblers are compulsive gamblers. Is it correct to assume that, although the Commission can subpoena the information, it would not have a need for the personal records of private citizens, including the vast majority of individual gamblers who are not considered compulsive gamblers?

Mr. STEVENS. The Senator is correct on all counts. This legislation fully protects the privacy rights of American citizens.

Mr. REID. Mr. President, the record should reflect that had this matter been decided by a roll call vote, I would have voted in the negative.

I believe this legislation to be unwarranted, invasive, and potentially capable of doing more harm than good. It is indeed ironic that this Congress, which professes to be a States rights Congress has chosen to take action on a bill that affects an inherently State matter.

While this bill enjoys overwhelming support—even from some in the gaming industry—I believe it establishes a poor precedent. We should not be creating commissions to study lawful industries governed predominantly by State law. Nevada's regulation of gaming works well. As the former chairman of the Nevada Gaming Commission, I know first-hand the many benefits resulting from this successful relationship.

Notwithstanding over 200 studies of gaming, the proponents of this legislation argue that yet another study is warranted. I believe the most recent impetus for greater examination is but the camel's nose under the tent. Opponents of legalized gaming seek to use this commission as a means to increase both Federal regulation and taxation of gaming. Ultimately, in my opinion, they will not be satiated until this law abiding industry is either outlawed or regulated to death. I wish to disabuse them of any notion that they will succeed in their endeavors without a fight.

It is difficult to even grant this commission the benefit of the doubt. While I have some hope that the commission

will appreciate Nevada's model of modern gaming operations I am concerned that it will focus on those stories where gaming has failed. The well organized special interests lined up against lawful gaming operations have consistently demonstrated their willingness to find only one side of the debate. It is imperative that those who are appointed to this commission include people of good will and impartiality who are capable of examining this industry from an unbiased perspective. It does not need headline seekers intent on magnifying a few unique negative stories and painting a broad-brush gloom and doom picture that would unfairly taint Nevada's No. 1 employer.

Perhaps my greatest objection to this measure, however, is the unwarranted inclusion of subpoena power. In this Senator's view, we should not be empowering congressionally appointed commissions with such broad subpoena authority for a study of gaming. Permitting the exercise of such a coercive tool only invites mischief and abuse by those who are hostile to the gaming industry.

I realize it is the prerogative of the majority to set this Congress' agenda and prioritize those issues that should be addressed. I do not believe the formation of this unwarranted commission is, or should be, a priority. Again, this is a matter of States rights.

Today, by voting against this bill, I realize I represent but the smallest minority. However, I believe my concerns about the potential for abuse and officious intrusion are entirely warranted. There is not a doubt in my mind as to the ultimate agenda of the antigaming extremists. It is my sincere hope that my fears are proved wrong. I wish I could stand before this body and say I look forward to reading a responsible and insightful report on gaming. Unfortunately, while this commission may be created with the best of intentions, there is too much opportunity for it to do mischief and promote unwarranted proposals. That said, I will be steadfast in my own monitoring of its evolvement and agenda.

Mr. BRYAN. Mr. President, I would like to register my strong opposition to S. 704, the Gaming Impact Study Commission Act. While this bill is improved over the egregious version that passed the House, I still believe this is a waste of taxpayer's money and has the potential of becoming a witch-hunt instead of a legitimate study. If this turns into a witch-hunt, it could have a chilling effect on leglaized gaming nationwide and have a devasting effect on the economy of my State of Nevada.

Advocates of legislation to create a Federal Gambling Study Commission have stated the purpose of the commission is to study the socioeconomic effects of all forms of gambling and to make recommendations to Congress. They consistently emphasize that no one, least of all the legal gaming industry, should fear just a study.

While the gaming-entertainment industry has nothing to fear from a fair and unbiased study, anti-gaming groups have tried to skew this study into looking at only one side of the issue and to turn this into a crusade.

The argument has been advanced that a Federal commission is needed to look at the impacts of the spread of gaming because State and local governments lack the ability to acquire and act on objective information in the face of well-financed attempts to put casinos or other gaming-entertainment operations in their area.

The reason why this premise is false is that even without the assistance of a Federal commission, jurisdiction after jurisdiction has actually decided not to approve an expansion of gaming. No State has approved new casino gaming for several years. For example, 7 of 10 gaming initiatives were defeated in 1994 and no new casino gaming or video poker was approved by a new jurisdiction in 1995.

The proposed commission is a Federal solution in search of a nonexistent State problem: States are free to make their own decisions on whether to permit gaming, one way or another.

Still others attack legalized gaming as some insidious form of entertainment that must be banned. The fact is today the legalized gaming industry is as legitimate a business as any of the Fortune 500. More than 50 publicly-traded companies, all regulated by the Securities and Exchange Commission, own gaming interests. The stocks of these companies are owned by millions of Americans around the country.

The gaming-entertainment industry directly and indirectly employs over one million people throughout the United States, paying $6 billion in salaries in 1994 alone. The casino gaming-entertainment industry paid more than $1.4 billion in taxes to State and local governments in 1994 with an estimated $6 to $7 billion more paid by other forms of gaming-entertainment, such as State lotteries, horse and dog racing.

Nevada is proud to be the gaming-entertainment capital of the world. Nevada's gaming industry provides 43 percent of the $1.2 billion annually going into the State's general fund. About $215 million from gaming revenues is dedicated to the State's university system and another $400 million goes to kindergarten through grade 12 education programs.

None of this is to suggest that the gaming-entertainment industry, like any other major business, particularly one which hosts millions of visitors each year, does not have its share of public issues and challenges to address. The industry, to its credit, is making a serious effort to address concerns about problem gaming. For example, the industry recently made a multimillion dollar commitment to a new national center for responsible gaming which last week chose the Harvard Medical School's division of addiction for a $140,000 grant to study problem gaming.

This all leads me back to the question of why we need to spend taxpayers dollars to study gaming.

Again, this bill is better than the House version which contains an open-ended, unrestricted authority for the commission to issue subpoenas. In the House version, there are almost no protections on what could be subpoenaed and what they could do with this information.

I do not believe gaming is appropriate for all locations. Each community should weigh the merits and decide if they want gaming, and if they do, what types of gaming and under what conditions do they want it.

I am concerned that in certain jurisdictions gaming is not being adequately regulated. Nevada's gaming industry is closely monitored with the State regulatory body employing 375 individuals. Unless the regulation is improved in certain jurisdictions, including Indian casinos, we may see problems down the line. We should make it a priority to improve this regulation.

I regret some groups have seized this issue to make a full court press against all gaming. Gaming-entertainment is a legitimate, highly-regulated industry that is being unfairly maligned. It has made significant contributions to the Nation's economy and I am proud of the benefits it has brought Nevada.

Mr. LAUTENBERG. Mr. President, in recent months, the gaming industry has come under considerable attack here in Washington. And as a senator who represents thousands of ordinary people who are employed by the industry, I want to come to their defense.

Mr. President, if you believed some of the rhetoric around here, you would think that gaming is the root of all evil. Yet millions of Americans gamble, whether in the form of State lotteries, office pools, race track betting, church bingo, or casino gaming. For these citizens, gaming is fun, it is exciting, and, if pursued in moderation, it need not do any harm.

Gaming is also an important part of our economy, and provides jobs and opportunities for thousands of our citizens. Nationwide, casinos provide jobs for over 365,000 Americans. In Atlantic County, NJ, casinos directly supply one out of three jobs. Last year, 33 million people visited Atlantic City, more than any other city in America.

Mr. President, in 1976, the voters of New Jersey decided that they wanted Atlantic City to have casinos. That was a democratic decision that reflected the views of our electorate. Nobody forced New Jerseyans to vote that

way. They evaluated the benefits of gaming, and they made their choice.

As a result of that decision, revenues generated by the gaming industry in New Jersey have provided literally hundreds of millions of dollars for various projects throughout the State. They have financed the New Jersey Vietnam Veterans Memorial. They have built hundreds of homes. They have renovated day care centers, a bus terminal, and a trauma center.

They also have helped improve the lives of countless numbers of people living in the area. In Atlantic City, the number of families on Aid to Families with Dependent Children has dropped by about 30 percent since the first casino opened.

The more than $1 billion from casino property taxes paid since 1978 have lowered the burden on other property owners and supported schools in Atlantic County. Taxes on casino revenues have supported pharmaceutical assistance to the elderly, nursing and boarding home care and assistance with utility bills for senior citizens and the disabled.

Mr. President, in the past, some casinos have been tied to organized crime and other problems. But it is unfair to assume, as some do, that these problems are inevitable. Atlantic City's casinos are the most regulated in the country, perhaps the world. And the history of the last two decades is that, by and large, this regulation works.

Mr. President, I met recently with the heads of the New Jersey casinos. And I can tell you that the industry is not concerned about a study, if it is conducted in a fair and impartial manner.

But, Mr. President, I have real concerns about the likelihood that the commission to be established by this legislation will not be impartial. The whole impetus for this legislation seems to be coming from the Christian Coalition and others who are on a moral crusade against the industry. Maybe some of my colleagues believe that Ralph Reed and others only want an objective evaluation of this industry. But I doubt it. Instead, Mr. President, this study seems designed to lay the groundwork for a massive attack on the gaming industry. An attack that serves the political goals of a radical fringe.

I want to acknowledge that, as with many other products and services, some people who gamble do so to excess. And that can be a very serious problem. Compulsive gamblers can destroy themselves and their families with just a few rolls of the dice, and they need help. We should not ignore their plight. In the case of other addictions, we've encouraged public education efforts which have proven to be the most effective deterrent to excesses. I would encourage States and localities to consider such efforts, if appropriate. However, for the overwhelming majority of people, gaming is a complement to a vacation or the equivalent of going to a movie on Saturday night. It is recreation. And, in the case of Atlantic City, the tourism industry is making great efforts to diversify and provide attractive convention facilities and opportunities for family vacations. I would hate to see these efforts, and the contribution they make to our State's economy and communities, hurt by a political witch hunt.

So, Mr. President, I hope that the commission's study will prove to be objective, balanced, and fair. And I hope its conclusions are reasonable and rational. However, if this study simply leads to punitive legislation, which will hurt the hundreds of thousands of men and women who work in our casinos and related jobs, I will fight it every step of the way.

Mrs. KASSEBAUM. Mr. President, I rise today in support of S. 704, legislation to establish a national gambling impact study commission.

In the past few years, we have witnessed the rapid proliferation of the gaming industry across the Nation—initially under Indian tribal ownership and more recently by State governments. In my home State of Kansas, the casino and slot machine issue has been hotly debated. Race tracks and river boat gambling have been established in the Kansas City area, and both the Kickapoo and Potawatomie Nations have plans to expand certain gaming facilities on tribal lands.

I realize that gaming can provide tremendous revenues for State and local economies, particularly for Indian tribes wishing to improve reservation conditions and provide employment opportunities. In this regard, gaming has produced positive results. However, growing evidence indicates gambling has some harmful side effects. A particular concern focuses on reports that gaming causes the breakup of families, suicides, increased teenage gambling, corruption, and the closing of main street stores.

Mr. President, I think an impact study would help Americans better understand the unintended social and economic effects the gaming industry is having on our families and communities. I also believe we have a responsibility to bring together all the relevant data so that Governors, State legislators, and citizens can make more informed decisions about gambling in their home States.

Concerns have been raised in the Senate regarding the commission's original subpoena authority. As my colleagues have already stated, however, those concerns were addressed by the Senate Committee on Government Affairs when it adopted the Stevens substitute amendment on May 14. In my view, the final measure represents a balanced approach—one that addresses individual privacy rights and business trade concerns but also provides the commission the authority and resources necessary to thoroughly examine this issue.

This legislation has drawn broad, bipartisan support in Congress. I strongly urge my colleagues to vote in favor of S. 704.

Mr. COATS. Mr. President, there is a shadow creeping across the American landscape. It thrives in some of the poorest of our urban and rural communities. It threatens our towns and cities with economic cannibalism. It undermines our political process with a flood of cash into the campaign coffers of our politicians. It preys upon the weakness of the poor, the elderly, and the young with the promise of easy money. It undermines the family with pathological addition and spousal and child abuse, and neglect.

Mr. President, what is this menace? We know it all too well. It is gambling. An industry that, just a few years ago, was frequently pursued by law enforcement agencies from the Federal Bureau of Investigation down to rural county sheriffs is today touted as the economic savior of communities across America. And it is increasingly embraced and promoted by State and local government across the country as the answer to chronic government funding problems.

Mr. President, the gambling industry is booming. In 1988, only two States—Nevada and New Jersey—permitted casino gambling. By 1994, 23 States had legalized gambling. During this time, casino gambling revenue nearly doubled. In 1993, $400 billion was spent on all forms of legal gambling in American. Between 1992 and 1994, the gambling industry enjoyed an incredible 15 percent annual growth in revenues.

Many of my colleagues would look at this performance and say "good for them." Many would cite the gambling industry as an American success story. I am not so enthusiastic. There are many unanswered questions regarding the hidden costs of rolling out the welcome mat for the gambling industry. Many of the promises made by the gambling industry—of jobs, economic growth and increased tax revenues—are dubious at best. The statistics on the devastating impact on our families are beginning to roll in. Concern about teenage gambling addition is growing as more and more teens are lured by the promise of easy money. Crime and suicide numbers are sky-rocking in communities where gambling has taken root.

Mr. President, it is time to take a good, hard, objective look at the gambling industry and the gambling commission proposed in this bill is an important step toward getting the facts.

Critics of a gambling study commission claim that this is purely a State issue, that there is no Federal role.

This claim will not bear scrutiny. Article 1, Section 8 of the Constitution clearly provides Congress authority over issues of interstate commerce. Mr. President, surely a one half trillion dollar-a-year industry, in which parent corporations own and operate facilities in multiple States, can be considered interstate commerce. Further, gambling interests are involved in political campaigns in virtually every State, and crime associated with gambling does often cross State lines. Finally, given the potentially devastating impact of pathological gambling on the American family, it is critical that this Federal commission be established to gather the facts on the explosion of legalized gambling.

Opponents of this commission have raised many charges against it. They have claimed that the commission is a tool of the religious right. they have claimed that the commission will become a witch hunt against the gambling industry.

Mr. President, these claims are unfounded. The appointment of commissioners will be equally divided between the executive branch and the two Houses of Congress, ensuring that no faction may dominate the work of the commission. Further, Mr. President, the scope of the commission is clearly established within this legislation, which will prevent commission members from embarking on unrestricted investigations of the industry. Finally, this legislation enjoys broad bipartisan support, across both ideological and political lines, in both the House and Senate. President Clinton has indicated his support for this commission. The national media and newspapers across the country have been unanimous in advocating this gambling study commission.

Mr. President, in recent years the gambling industry has preyed increasingly on struggling rural communities. These communities have been targeted with millions of dollars in promotional money and lobbying. They are lured by the promise of booming economic development, new jobs and expanded tax revenues.

There can be little doubt that this promise has held true in the short-run for some communities. What many communities are beginning to discover, however, is that in the medium and long term, gambling takes a lot more from our communities than it gives. These costs are measured in broken families and broken lives.

Our communities are being sold on the vision of becoming another Las Vegas. They are being promised tourist dollars and booming economic growth. The reality is different. The preponderant majority of gamblers on riverboats and in this new breed of casino are from the local community. Essentially, the gambling industry is cannibalizing the local economy.

A 1994 study of riverboat gambling in Joliet, IL found that 74 percent of all players came from within 50 miles of Joliet. A similar study of gambling in Aurora found that 70 percent of all players came from the immediate Aurora area, with only 3 percent coming from outside the state of Illinois. Henry Gluck, the CEO of Caesar's World casino firm told a 1994 New York State Senate hearing on gambling that the potential for casinos to attract outside dollars, and I quote, "truly applies to a few major cities in the United States." I doubt that this is the message that the people of Harrison County, IN are getting from the gambling industry.

It is becoming increasingly clear that these casinos provide little additional value to local economies and tend to shift money out of local businesses. Casinos are one-stop entertainment. They provide meals, drinks and everything else. Players simply take entertainment dollars that would normally be spent at local restaurants, bowling alleys, baseball parks, and movie theaters and spend them at the casinos. This is not economic growth. It is economic churning.

Crime is another critical issue that this Commission will examine. Traditionally, organized crime has been synonymous with the gambling industry. There is every indication that its influence is still present. However, just as important are the more local concerns of dramatic increases in theft and violence that has followed the growth of gambling in America. A study conducted by "U.S. News and World Report" found that crime rates in communities with gambling are nearly double that of the national average. Examining assault, burglary, and larceny, the report found 1,092 incidents per 10,000 population in 1994 in communities where gambling is present. The national average for these crimes is of 593 per 10,000 people. U.S. News concluded that "* * * towns with casinos have experienced an upsurge of crime at the same time it was dropping for the Nation as a whole. They recorded a 5.8 percent jump in crime rates in 1994, while crime around the country fell 2 percent." This same study found that in 31 locations that got new casinos crime surged 7.7 percent in the first year following the introduction of the casino.

Deadwood, SD legalized casino gambling in 1989. Five years later serious crimes had increased by 93 percent, forcing the community to double the size of its police force. In Central City, CO assaults and thefts increased by 400 percent in the first 2 years after gambling's introduction.

Mr. President, our Nation is all too aware of the toll that crime takes on our cities and towns. It is critical that we come to understand how gambling acts as a catalyst for criminal activities and provide these facts to communities that face decisions about inviting this industry into their local economies.

Another area of concern is that of pathological gambling. For decades now our Nation has struggled with the demon of addiction. In the past, this problem has taken the form of drugs and alcohol. However, the rapid expansion of gambling injected a new narcotic into the Nation's bloodstream. Problem and pathological gambling is on the rise. The National Council on Problem Gambling places the number of Americans with serious gambling problems at around 5 percent. Most studies confirm this estimate. However, as gambling becomes more pervasive, this number is increasing. What does this mean?

As with other addictive behaviors, gambling impacts the individual, their families, their job, virtually every aspect of their lives. Marital problems—separation and divorce, spousal and child abuse and neglect, substance abuse, and suicide are all side-effects of problem gambling. Durand Jacobs, an individual who has done outstanding research on the impact of gambling, conducted a study of 850 Southern California high school students. He discovered that "children with gambler parents experienced almost twice the incidence of broken homes caused by separation, divorce, or death of a parent by the time they were 15 years old." Another study, published in the Journal of Community Psychology, found that about 10 percent of the children of compulsive gamblers had been the victim of physical abuse of the gambler parent. Fully one-quarter of the children in the study suffered "significant behavorial or adjustment problems."

Ronald Reno, in his study on the "Dangerous Repercussions of America's Gambling Addiction," cites a gamblers anonymous study that found that 78 percent of spouses of gamblers threatened separation or divorce with nearly half carrying through on their threat.

Harrison County, MS, an area of intense gambling activity, experienced a 149-percent increase in the divorce rate the year following the introduction of riverboat gambling. A study in Deadwood, SD, found that reports of domestic abuse have risen more than 50 percent since the advent of legalized gambling. Central City, CO, experienced a six-fold rise in child protection cases in the first year following casino gambling's introduction.

Mr. President, perhaps the most disturbing fact about the spread of gambling is the danger it poses to children. As with other addictive behaviors, our children are most vulnerable to gambling addiction.

The March 1996 edition of "Policy Review" tells the story of Joe Kosloski. Joe, then 16, won a little money at a

bowling tournament. Taking the money, he and some friends headed for the Atlantic City casinos. Despite being only 16 at the time, these kids got in. Joe got on a roll, and parlayed his winnings into a couple of thousand dollars. Like most gamblers though, Joe's luck did not last. His fever for gambling, unfortunately, did.

Once the cash ran out, Joe opened credit accounts in the names of family members and used cash advances and credit cards to gamble. When Joe's scam finally came crashing down on him, he had amassed a $20,000 debt. At 20 years of age, with no previous criminal record, he is in Pennsylvania Federal Prison for credit card fraud.

Mr. President, it had been my intention to offer an amendment to S. 704. As currently written, the bill would provide the Commission the power to subpoena documents only. In my view, this substantially limits the Commission's ability to do its work. The gambling industry is a one-half trillion dollar a-year cash business. Many of the insidious tactics used by the gambling industry to bilk people out of their money must be considered by the commission in order to understand fully the modern business of gambling. These techniques range from themeing—the development of themes within the casino to attract and hold people there for longer periods of time—to various techniques to entice people to place more frequent or higher wagers. Here I quote from a "U.S. News and World Report" article of March, 1994:

> A decade ago, most casinos bothered to gather data only on high rollers. Now they use slot-club cards to snare the meat-and potatoes guy, too. After filling out a survey and receiving an ATM-like card, slot junkies insert them into a "reader" built into almost all slot machines. In a distant computer room, casinos track the action 24 hours a day, down to the last quarter.
>
> Players who use the cards the longest get the most comps, somewhat like a frequent-flier giveback. At the Trump Castle in Atlantic City, an internal document shows that 64 percent of all slot players now use the Castle card. The cardholders lost $109 million to the slots last fiscal year, or about $101 per player per trip. Slot players who never bothered with the card, by contrast, lost $31 per trip on average.

Mr. President, it is my strong belief that this Commission should have full subpoena power to encourage the cooperation of gambling industry figures to appear before the Commission. In order to ensure that this bill was brought to the floor and passed, in order to ensure that there is no delay in getting to the facts, I agreed not to offer this amendment. However, I am here to serve notice that, at the first indication that the gambling industry is dodging the Commission, I will be back here to offer legislation to broaden the Commission subpoena power.

Finally, Mr. President, I would like to talk briefly about State sponsored gambling. In most States this takes the form of lotteries. However, in many States, including Indiana, the lottery has opened the door to scratch tickets, horse racing, casinos, the works. At last count, 48 States have become involved in some form of gambling. Mr. President, given the concerns I have laid out, there is something very disturbing about States promoting gambling as a solution to economic development and shrinking tax bases. To quote the late Dr. Richard C. Halverson, our former chaplain, this State sponsored gambling is nothing short of a tax on the character of our people. It is dereliction of our public duty to use gambling to solve Government revenue problems.

Annual lottery sales now approach $32 billion. Yet the virtue of gambling as a revenue source is dubious at best. Money Magazine estimates that States keep only about one-third of total revenues generated from lotteries. Further, many States rely on lottery revenue to fill revenue gaps rather than lower taxes. Many States claim to use the lottery to fund education. However, the proportion of State spending on education has remained relatively unchanged.

Perhaps most disturbing, Mr. President, is that as States are being flooded with gambling cash, the tide of political scandal is rising. Across the country, State legislators are grappling with how to stem the tide of gambling interest dollars and the corruption that follows it. And Congress is no exception. Gambling dollars are also finding their way into our campaigns. Mr. President, I feel strongly that the Commission should examine this problem in detail.

In closing, Mr. President, I congratulate Senators LUGAR and SIMON for getting this bill passed. It was no easy task. In addition, I reiterate my concern and my warning regarding the subpoena issue. If the gambling industry throws its lawyers at the Commission the way they have thrown their lobbyist at Congress, I have little doubt that we will revisit this issue.

Mr. LOTT. Mr. President, I ask unanimous consent that a managers' amendment at the desk be deemed considered and agreed to.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment (No. 4889) was deemed considered and agreed to; as follows:

Beginning on page 16, line 25, strike "as the" and all that follows through "(b)(2)" on page 17, line 2.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read the third time, the Senate proceed to the House companion measure, Calendar No. 344, H.R. 497, and all after the enacting clause be stricken and the text of S. 704 be inserted in lieu thereof, the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table, and any statements or colloquies relating to the measure appear at this point in the RECORD. Finally, I ask that S. 704 be returned to the calendar.

Mr. REID. Mr. President, reserving the right to object. I want the RECORD to reflect when the voice vote is done, or whatever the procedure is to get this matter passed, that I be recorded as voting "no" and that I be allowed to insert in the RECORD a statement regarding this legislation dealing with the unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I would like that to be a part of the request.

Mr. BRYAN. Mr. President, I make the same request.

Mr. LOTT. Mr. President, I add that to the unanimous-consent request. I ask to include the statement and position of both of the Senators from Nevada. Mr. President, without their cooperation, this would not be possible. Like them, I have some reservations, but they have helped work out the problems, and I think they should get the opportunity to be recorded against this Commission, even though they have agreed to let it go on a voice vote.

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

The bill (H.R. 497), as amended, was deemed read the third time, and passed.

Mr. LOTT. Mr. President, I want to recognize the diligent efforts of the Senators who have been working on this Commission. Senator LUGAR, from Indiana, has been very helpful. He is one of the two original sponsors. He has been ably assisted in our effort to clear out problems by Senator COATS from Indiana. Several Senators had some amendments they were interested in on both sides of the aisle, and they have agreed to withhold those. There was also, of course, the very fine work of Senator SIMON to help work through problems on the Democratic side of the aisle. Without their cooperation, efforts, and commitment to this, it would not have happened. In fact, I would not have been pushing for it personally.

So I commend them. I would be glad at this point to yield the floor so they can make statements.

One final person, if I might, Mr. President. I would like to also commend the chairman of the Governmental Affairs Committee who had this hot potato in his lap and managed to work it out in a way so that we can get it approved by unanimous consent. I thank him for that work.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from North Carolina has been

very patient with us this afternoon. He repeatedly sought the floor. We have urged him to delay. I now ask that, in morning business, he be recognized so that he may make his statement for 12 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Mr. President, reserving the right to object—I shall not—I would like to speak for 2 minutes on the bill.

Mr. STEVENS. Let me ask this. I ask unanimous consent that Senator FAIRCLOTH be recognized for 12 minutes, Senator SIMON for 2 minutes, and Senator KENNEDY for 3 minutes as though in morning business so that we can get that out of the way. Then we will go back to the bill.

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

The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to be recognized as if in morning business for 12 minutes.

Mr. SIMON. Parliamentary inquiry, Mr. President: I reserved the right to object subject to my being acknowledged for 2 minutes to speak on this bill. I do not think that the request was granted.

Mr. STEVENS. The request was granted, Mr. President. We had committed to Senator FAIRCLOTH first, if the Senator does not mind.

Mr. SIMON. I would like to speak for 2 minutes on the bill which was just passed, if I may. I think my colleague from North Carolina would yield to me.

Mr. FAIRCLOTH. I yield to the Senator from Illinois for the 2 minutes, if I may then go.

Mr. SIMON. I thank him.

Mr. WARNER. Mr. President, will the Senator kindly yield to me 1 minute following the Senator from Illinois? I am on the same bill.

Mr. FAIRCLOTH. I also yield to the Senator from Virginia.

Mr. STEVENS. Mr. President, respectively we have already yielded to the Senator from Massachusetts following the Senator from North Carolina. If our request is going to be honored, I hope we will adjust this accordingly.

Does the Senator from Virginia seek to speak on the same bill as the Senator from Illinois?

Mr. WARNER. Mr. President, that is correct; the same bill on which I am a cosponsor.

Mr. STEVENS. May I suggest that the Senator from Illinois be recognized for 2 minutes, the Senator from Virginia for 1 minute, the Senator from Massachusetts 3 minutes, and the Senator from North Carolina will have his 12 minutes.

I rephrase my unanimous-consent request.

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

The Senator from Illinois.

Mr. SIMON. Mr. President, I thank a number of my colleagues for their help on creating the commission that has just passed, assuming the House acts favorably.

Particularly, I would like to thank my colleague from Indiana, Senator LUGAR. Senator WARNER from Virginia has been very helpful. Senator John GLENN was helpful. Senator STEVENS was helpful. And a number of others that I should acknowledge, as well as Michael Stevenson of my staff. What we have just done is to say, let us look at this problem. I think we owe that to the Nation, and I appreciate our colleagues doing that.

The fastest growing industry in our Nation today is legalized gambling. Is this good for the Nation? Is it not? Should it be slowed somewhat? No one suggests that we are going to close down Las Vegas or Atlantic City. But I think we ought to look at this problem and see what the dimensions of that problem are and what we ought to do. That is what the commission bill does.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to join in thanking the principal sponsors of the bill—the Senator from Indiana, the Senator from Illinois and the Senator from Alaska and also my distinguished colleague in the House of Representatives, Representative FRANK WOLF. I have been working as a team with FRANK WOLF. It is essential for America simply to listen and learn about the growth of gambling. Then we can decide for ourselves. States and individuals can decide for themselves. But this bill will start a vital educational process.

I am privileged to have been a part of the effort which has succeeded today. We did not get everything we wanted. But we have certainly made a start, and, if necessary, there may be a sequel to this piece of legislation in the future.

Mr. WARNER. Mr. President, I applaud passage of the Gambling Impact Study Commission Act. It has been apparent for some time that a reasonable consensus had been reached on providing the Commission with reasonable powers and duties, and I congratulate the leadership for bringing this important bill to the floor.

I also congratulate Senator STEVENS for maneuvering this legislation through a tricky legislative process. Senators LUGAR and SIMON have done a remarkable job of keeping public attention on this issue. And Representative WOLF from my home State of Virginia has certainly been a leader in steering this legislation through the House of Representatives. I have enjoyed working with all of them to make sure that the facts about gambling are laid before the people so that they and their representatives can make fully-informed decisions about gambling in their States and communities.

Mr. President, we all know that the benefits of gambling are often easy to see—tax revenues for the States, jobs created in casinos, attention paid to cities or States with exciting games and lotteries. These benefits are very evident in a number of our communities around our country.

The problem is that the downsides of gambling are harder to see. If a teenager gets addicted to gambling, or a father loses his family savings, the effects on their families, their employers, and their friends, are difficult to quantify. And just as there is no doubt that the benefits of gambling are real, these hidden costs are very real indeed.

This Commission will be an unbiased factfinding body to analyze the effects of gambling. The Commission will have a number of important topics to consider, including: gambling addictions, reliance by States on gambling revenues, advertising, the effect of increased gambling operations on Native American communities and reservations, relationships between gambling and crime and alcoholism, and effects of gambling on other types of businesses and entertainment. The Commission will have a full plate of issues to consider and I am confident this bill will provide it the resources and time for thorough investigations and recommendations.

The gambling industry has spoken out against the investigatory tools this bill gives the Commission and I can understand their concern that the Commission be even-handed. I believe the compromise reached concerning the scope of the Commission's use of subpoenas and hearings responds to those concerns. For the Commission's conclusions to be reliable, it must have good information from the industry—without this cooperation, the Commission would be no more useful than the incomplete and biased studies States and localities have had to rely upon in the past.

The Commonwealth of Virginia has considered a number of types of gambling over the past several years. It has adopted some, such as a State lottery, while rejecting others like riverboat casinos. The new Commission will be able to provide the Virginia legislature, executive branch, and citizens with more accurate facts as they continue to debate the future of gambling in the Commonwealth.

I do not favor federalizing regulation of the gambling industry—this bill does not require or foresee any Federal response to the findings made by the Commission. It is a fact-finding act. Seeing the growing importance of gambling in our society, however, I have concluded that discovery of these facts for consideration by the States may be more important than any new Federal legislation.

Again, I congratulate the leadership and sponsors, and I hope that this legislation can be enacted in the very near future.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized according to the agreement.

Mr. KENNEDY. Mr. President, I thank the Chair. I thank Senator FAIRCLOTH.

Mr. President, speaking today at a private high school in Minneapolis, candidate Bob Dole—formerly Senator Bob Dole, who should know better—offered the American people what he called an "Education Consumer's Warranty." But candidate Dole was not being candid about the facts.

He did not hesitate to bash teachers and students. But many of his criticisms were based on blatant misinformation, and he offered no solutions to the problems he mis-identified.

Candidate Dole said that test scores and literacy are dropping. In reality, math and science scores on the National Assessment of Educational Progress are up since 1982—for 9- 13- and 17-year olds. In addition, American students finished second among 31 nations in a 1992 study of reading skills.

Candidate Dole said that students are taking fewer courses in basic subjects. The opposite is true. In the early 1980s, only 13 percent of high school graduates had 4 years of English and at least 3 years of math, science, and social studies. By 1990, according to the National Center for Education Statistics, 40 percent of high school graduates had taken at least those basic courses.

Candidate Dole said that SAT scores are dropping. He was right 10 years ago, but he is very wrong now. In 1983, SAT scores had been dropping for a decade. In the 1990s, they are rising. The national average score for the class of 1995 was 910, the highest since 1974.

Candidate Dole also said that dropout rates are rising. In fact, more students are finishing high school and going on to college than ever before. The high school dropout rate has been cut by a third—from 17 percent in 1967 to 11 percent in 1993. Almost 90 percent of students are graduating from high school. Between 1980 and 1993, the proportion of high school graduates going to college increased—from 49 percent to 62 percent.

Despite these improvements, much more needs to be done, and I commend candidate Dole's new-found support for education. As Senate majority leader, he helped lead the Republican attempt to slash funds for education. He even wanted to slash support for safe and drug free schools by more than half. But now he agrees that every student has the right to be safe in school.

Candidate Dole voted to cut support for reading and math by $1 billion last year. Now he rightly agrees that all students need a solid grounding in basic subjects.

Candidate Dole voted against the Improving America's Schools Act in 1994, which encourages greater parent involvement in the full range of educational decisions for their children. Now he rightly says parental participation is a key component of successful education.

Obviously, when it comes to education, candidate Dole has a difficult time escaping his anti-education record.

By contrast, President Clinton is the "Education President." He has worked tirelessly and effectively to improve education since he was elected in 1992. He led the opposition to the Republicans' attack on education last year, and he has proposed a budget that invests significantly more in education in the years ahead, and while still achieving a balanced budget in the year 2002.

If Americans want an Education President, they already have one. Any "Education Consumer" would be well-advised to go with the proven product, not a candidate who is suddenly discovering the error of his past ways.

Mr. President, I thank the Senator from North Carolina.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 1968 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Alaska.

AMENDMENT NO. 4575, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification of the amendment No. 4575, and ask it be considered immediately.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SPECTER, for himself, Mr. JOHNSTON, Mr. COCHRAN, and Mr. LOTT, proposes an amendment numbered 4575, as modified.

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

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

The amendment is as follows:

On page 19, line 7, before the period insert the following: ": *Provided*, That of the funds provided in this paragraph and not withstanding the provisions of title 31, United States Code, Section 1502(a), not to exceed $25,000,000 is available for the benefit of the Army National Guard to complete the remaining design and development of the upgrade and to increase gunner survivability, range, accuracy, and lethality for the fully modernized Super Dragon Missile System, including pre-production engineering and systems qualification".

Mr. STEVENS. Mr. President, I ask this amendment be agreed to because it will provide up to $25 million to upgrade the Dragon Missile System that is currently employed by the Army National Guard. It has been cleared on both sides, I believe.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. We have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4575), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4493, AS MODIFIED

(Purpose: To provide $1,000,000 to assist the education of certain dependents of Department of Defense personnel at Fort Bragg and Pope Air Force Base, North Carolina)

Mr. STEVENS. Mr. President, I ask the clerk lay before the Senate amendment No. 4493, as modified.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HELMS, proposes an amendment numbered 4493, as modified.

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

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

The amendment is as follows:

On page 9, line 22, before the period, insert: ": *Provided further*, That of the funds appropriated under this heading, $1,000,000 is available, by grant or other transfer, to the Harnett County School Board, Lillington, North Carolina, for use by the school board for the education of dependents of members of the Armed Forces and employees of the Department of defense located at Fort Bragg and Pope Air Force Base, North Carolina".

Mr. HELMS. Mr. President, this amendment will help restore equitable treatment for Fort Bragg-based military personnel and dependents who live in and attend school in nearby Harnett County, NC. To achieve this, my amendment authorizes $1,000,000 from fiscal year 1997 Army O&M funds to be applied to the costs of Harnett County schools' providing quality education to dependent children of Fort Bragg personnel.

This amendment will remedy the gross disparity that now exists in the distribution of impact aid dollars intended to help defray the costs of the schooling of military-connected dependents. Over the years, and despite a substantial increase in Fort Bragg-connected student populations, the Federal Government has provided a declining amount of impact aid dollars to

Harnett County. Under current law, Harnett County no longer qualifies for any impact aid funding.

Mr. President, much of the growth in Harnett County's public school system is directly attributable to the influx of military personnel. According to one housing developer in Harnett County, 98 percent of the families buying in one of his communities are military families.

During the past few years, thousands of students have been added to the rolls of Harnett County's school system. Many of them are children of Army personnel and DOD civilians employed at Fort Bragg. This growth has caused severe school overcrowding in Harnett County. Many children attend classes in temporary facilities, such as cafeterias, gymnasiums, auditorium stages, libraries and trailers. In some schools, students must wait in line up to an hour to use the bathroom.

Mr. President, projections indicate that Harnett taxpayers will have to spend $87,000,000 for new schools within the next decade merely to keep up with this growth. The county simply does not have the resources to build another school without substantial assistance.

The Federal Government has an obvious obligation to provide for the education of military dependents. Because of the nature of military service which requires frequent moves and reassignments, military families seldom have an opportunity to establish strong roots in a community and to become active in local schools. The Federal Government has a duty to ensure that these parents need not worry about the quality of education afforded their children.

To further exacerbate the education funding crisis, Fort Bragg is now seeking to purchase an 11,000-acre property—known as the "Overhills property"—which will nearly double the amount of land the Federal Government presently owns in Harnett County—7,000 acres of the Overhills property are in Harnett County. This purchase by Fort Bragg will cause Harnett County to permanently lose an additional $24,000 in annual tax revenues.

Some may ask why Harnett County should be singled out to benefit from this amendment. It is because it's the right thing to do. Harnett is the only county in the Fort Bragg Impact Area that suffers an economic loss due to its location near Fort Bragg. According to 1990 figures, Harnett County has been losing $122,000 per year because of Fort Bragg.

Since then, impact aid funding has been eliminated, the number of military dependents has soared, and the Army has proposed to erode further the tax base. Without help, the situation will worsen further.

Let there be no doubt, I fully support the acquisition of the Overhills property by the Army—provided that Harnett County's school system is given the assistance it needs and deserves.

Mr. President, North Carolinians are proud of the several great military installations within our borders. For more than 50 years, North Carolinians have been especially proud of Fort Bragg, home of the United States Army's XVIII Airborne Corps and the 82nd Airborne Division. These units and other units stationed at Fort Bragg are on the front line of our Nation's defense; standing ready to deploy anywhere, any time, to preserve freedom in the world.

Mr. President, I spent four non-heroic years in the Navy during World War II. I have great affection and respect for the soldiers and defense support personnel who are devoting their lives to the defense of our country. I will do anything in my power to ensure that they are provided everything they need to do their jobs.

This includes not merely providing an adequate training area, equipment and hardware; they also deserve the quality of life and peace of mind to enable each soldier to focus on his mission, accomplish it, and return home safely.

Unmistakably essential to that quality of life is the proper education of their children.

Mr. President, I urge Senators to support this amendment which takes a small step towards addressing the educational needs of the children of our Nation's finest soldiers.

I ask unanimous consent that "Education Equity Fact Sheet" be printed in the RECORD.

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

EDUCATION EQUITY FACT SHEET

The Helms amendment would authorize $1 million over two years to ensure that Fort Bragg-connected dependents who attend school in Harnett County, N.C. are treated the same as Fort Bragg-connected dependents who attend school in Cumberland County, N.C.

CRITICAL SITUATION

Currently, Harnett is the only county in the Fort Bragg Impact Area that suffers an economic loss due to its location near Fort Bragg. (Fort Bragg-Pope AFB Impact Assessment, Sept. 1990).

Military dependents are attending classes in makeshift classrooms including cafeterias, gymnasiums, auditorium stages, libraries, and trailers. It is projected that $87,000,000 is needed to provide for new school facilities over the next 10 years. (Harnett County News, Apr. 10, 1996).

According to 1990 figures, Harnett loses $122,000/year and that deficit has substantially worsened as the number of post-related personnel and dependents moving into the county has increased dramatically. (Id.)

It costs the same amount to educate a child in Harnett County as it does to educate a child in Cumberland County.

No child of a military service member should be treated as a second-class citizen.

The federal government's responsibility to provide for the education of military dependents should not depend upon where their parents live.

UNJUSTIFIABLE IMPACT AID DISPARITY

FY96 Cumberland—$2,586,932.00/14,143 Students=$183 per student.

FY96 Harnett—$47,176.00/1,025 Students=$46 per student.

However, under current law, Harnett County no longer qualifies for any impact aid funding, even though their base-connected student population is soaring.

Fort Bragg wants to buy a Rockefeller Estate known as the "Overhills Property", lying primarily in Harnett County—the purchase will almost double the amount of land the federal government owns in Harnett County, causing an additional annual tax loss of $24,000.

Each new resident pays an average of only $231 per person in taxes to Harnett County while it costs the county $500 to educate each child.

Military families flock to Harnett.—Fayetteville Observer-Times—Sun., Dec. 3, 1995.

"Ninety-eight percent of the families buying [in Heritage Village] are in the military."—Bill Arnold, Partner in the Kilnarnold Corp.

Out of room.—Harnett County News—Wed., April 10, 1996.

"We've reached the critical stage for Harnett County. No. 1 we're a low wealth county and No. 2, we're fast growing. We're picking up 600 extra students a year."—Hank Hurd, Assistant School Superintendent.

"Western Harnett Middle is now in an extremely overcrowded situation right now. . . . It's a crisis situation as far as the school facilities needs of our county are concerned."—Harnett's Assistant School Superintendent Hank Hurd.

"We're going to see more and more mobile classrooms. But, it's no long term solution. The more mobile classrooms you put in, the more bathrooms and cafeterias are overtaxed."—Hank Hurd.

"We need construction that is stable in our classrooms that will last for years to come instead of this patchwork. . . . Sometimes students don't understand why we don't have the same things that we need as other students in the main building have."—Special Education Teacher Angela Williams.

"Sometimes we have to wait at least one hour in line to use the bathroom. . . . The bathroom we have to use has only four stalls for 50 girls. . . . Then when we are late for class, we get written up by our teachers."—Student Sandra McNeill.

"All of these trailers were supposed to have handicapped ramps to follow federal guidelines. . . . We do have a special-ed child who walks on crutches. . . . We had a Physical Education class out here last year and they had to carry the child up the steps."—Angela Williams.

"They have educational TV's in the main classrooms and we can't even get a TV in our hut classrooms."—Angela Williams.

Growth squeeze in Harnett County Schools.—The News & Observer—Sat., Feb. 3, 1996.

"It will be years before the needs of our children are met." Comments on the schools condition without the prospect of outside help, county schools superintendent Bob Beasley.

"We spend a lot of our time just figuring out what we're going to do next" in an effort to make room for new students, Principle Ned White.

"To one new schoolhouse per year," that the county needs "but can't afford to be built." The space needed to accommodate

the estimated 500 new students per year, for the next three to five years, Chairman H.L. Sorrell Jr. of the county commissioners.

Mr. STEVENS. Mr. President, this amendment has been cleared on both sides. I ask for its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4493), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I yield to the Senator from Indiana for a request.

PRIVILEGE OF THE FLOOR

Mr. COATS. Mr. President, I ask unanimous consent a staffer of mine, Maj. Sharon Dunbar, be granted the privilege of the floor during debate on the defense appropriations bill.

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

Mr. COATS. Mr. President, I wonder if I can inquire of the Senator from Alaska whether he anticipates there will be any time for additional morning business, or does he have a full schedule on appropriations?

Mr. STEVENS. We would be happy to. How much time does the Senator wish?

Mr. COATS. Mr. President, 5 minutes at most.

Mr. STEVENS. We promised the Senator from Iowa he could proceed with his amendment. As soon as he is finished, we will be glad to consider that, if that is agreeable.

AMENDMENT NO. 4890

(Purpose: To permit up to $10 million of appropriated funds to be used to initiate engineering and manufacturing development of airborne mine countermeasure system)

Mr. INOUYE. Mr. President, I send to the desk an amendment proposed by Senators DODD and LIEBERMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DODD, for himself and Mr. LIEBERMAN, proposes an amendment numbered 4890.

Mr. INOUYE. 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 29, on line 20, strike the period and insert in lieu thereof: ": *Provided further*, That up to $10 million of funds appropriated in this paragraph may be used to initiate engineering and manufacturing development for the winning airborne mine countermeasure system."

Mr. DODD. Mr. President, I rise to offer an amendment on behalf of myself and Senator LIEBERMAN that will help to preserve strong technological innovation in the State of Connecticut, as well as contribute to the safety of U.S. troops.

The amendment will allow the Navy to spend up to $10 million to initiate engineering and manufacturing development of the Magic Lantern airborne mine countermeasure system, which was created by the Kaman Corp. of Connecticut.

This important measure maintains the ability of one of Connecticut's businesses to continue development of vital antimine technology. The Magic Lantern system was deployed in a prototype stage during Desert Storm, and in subsequent tests, the improved system has met and exceeded every Navy-established criteria, including probability of detection and classification, area coverage, and false alarm rate.

Mr. President, I understand this amendment will be agreed to, and I am pleased that the Magic Lantern program will be able to continue to contribute to both the economy of Connecticut and the safety of U.S. troops.

Mr. INOUYE. Mr. President, this amendment has been cleared by both managers.

Mr. STEVENS. This deals with using funds within appropriations to initiate engineering and manufacturing development of an airborne mine countermeasure system.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection the amendment is agreed to.

The amendment (No. 4890) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 4463

(Purpose: To prohibit the use of funds for support of more than 68 general officers of the Marine Corps on active duty)

Mr. GRASSLEY. Mr. President, I call up an amendment filed at the desk, No. 4463.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 4463.

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. Funds appropriated by this Act may not be used for supporting more than 68 general officers on active duty in the Marine Corps.

Mr. GRASSLEY. Just to bring my colleagues up to date as to where we are on this amendment, I have spoken a long time on it. I have one more point I want to make.

I have been told two individuals want to speak, one who wants to speak for my amendment and one against it. I do not think Senator STEVENS cares to prolong the vote on this amendment. When the time comes, I will be willing to do that. I am saying, a couple of others want to speak. I am not sure they will be able to speak. I notified their offices. If they do not come over, as far as I am concerned, we can go to the completion of the amendment. Is that all right with the Senator from Alaska?

Mr. STEVENS. I am pleased to agree with that procedure. We normally try to get a time agreement, if the Senator wishes a time agreement. We do not know how many other Members wish to speak on the Senator's amendment, so we will defer that. Has the Senator submitted his amendment?

Mr. GRASSLEY. It is called up.

If you will remember, my amendment, just read, would not fund the 12 additional Marine Corps generals that the Marine Corps wants, and the money is in this bill to do that. My argument, obviously, was as the number of marines has gone down from 199,000 to about 172,000 to 173,000, it seems to me that as we are downsizing, we should not be topsizing the administrative overhead from the standpoint of adding 12 more generals.

We have seen a reduction in the number of generals and admirals—maybe not enough—but we have seen a reduction in the other three forces. They still are not as efficient from the standpoint of the number of generals and admirals as the Marine Corps is.

Regardless of that, it seems to me inconsistent with balancing the budget, when the Secretary of Defense is pointing out to us the need for every dollar that we can get going into modernization, that we do not spend more money on administrative overhead. If 70 generals were in charge at the time there were 199,000, it seems to me we do not need 80 generals when we have 172,000 marines.

One argument that has been made by the Senate Armed Services Committee, the authorization committee, is that this issue should be decided in conference between the House and the Senate on the authorization bill and should not be a point to discuss when we have the Senate defense appropriations bill up.

I disagree with that, and I disagree with that because this is a legitimate appropriations matter. The Marine Corps requested 12 additional generals, and these generals do cost extra money. In fact, it involves a lot more money. That extra money is in the bill that is before the Senate right now. Regardless of what the Senate Armed Services Committee said, if the money is not in this bill, then the new generals do not get paid. Period. You cannot pay people if there is no money appropriated for it. You cannot pay these new generals based on the authorization bill. DOD cannot write one check based on an authorization.

The money is in the military personnel account. You can turn yourself, if you want to see it, to pages 6 and 7 of the committee report, and there you find a listing of the branches of the military, the number of people who are being funded by this legislation. You are not going to receive a paycheck if there is not money appropriated, because you cannot spend money in our Government without the consequence of an appropriations bill.

So these generals are expecting to be paid. They will only be paid if the money is in this bill, and my amendment would take that money out. It would leave the money to the Defense Department, hopefully to do what the Secretary of Defense said should be done, and that would be to modernize our military capability.

The last point—at least I think it will be the last point I will have to make because we have not had the debate on this amendment that I hoped we were going to have, particularly from people on the Senate Armed Services Committee. Most of their arguments have been procedure, that this is in their bailiwick, it should not be decided now. They have not been willing to state their case. Maybe somebody will come over here and do it, and I hope they will.

But the last point I want to make is that if there is a real need for additional personnel to be funded in the Marines, it is for more sergeants and more lieutenants, because those are the people who lead Marine platoons in battle. That is the place where there is a tremendous shortfall in the number of qualified people who are needed, and I will refer to a study in just a minute.

Earlier in this debate, I talked about the driving force behind the request for 12 more Marine Corps generals. I said even though the Marine Corps said that war fighting was the reason they needed more generals and even though the Senate Armed Services Committee said war fighting was not the reason for needing more generals, in either case, this cannot be justified because these positions are not going to war fighting, and it is not because of Goldwater-Nichols.

With all due respect, I think people who make these arguments are using smokescreens. If war fighting were the top priority, the Marine Corps would be adding more platoon sergeants, not more generals to fill the highest levels in headquarters positions. I said the Marine Corps has a critical shortage of sergeants and lieutenants. I said that in one of my earlier statements today. These are the people, lower in the ranks, who train the force and keep it ready to go. If war breaks out, they would lead our platoons into battle.

Everyone knows that the heart and soul of the Marine Corps fighting force is its 27 infantry battalions. That is what the Marine Corps is all about. Everything the Marine Corps does is focused on moving, protecting and supporting those units. If those 27 battalions are not healthy, then the Marine Corps is not strong.

Well, a doctor has been examining the battalion's vital signs, and they are not up to snuff. I repeat what I said a moment ago, there is a critical shortage of platoon sergeants. That statement is based on an important piece of information. It is based on the Marine Corps briefing paper that I have in my hand, "Making the Corps Fit to Fight." It is called a unit cohesion task force interim report.

This review was conducted by the unit cohesion task force in April of this year, just 3 months ago. It was under the leadership of Marine Col. G. S. Newbold.

I ask unanimous consent to print a portion of this briefings in the RECORD.

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

MAKING THE CORPS FIT TO FIGHT—UNIT COHESION TASK FORCE INTERIM REPORT

UNIT COHESION TASK FORCE—COL. G.S. NEWBOLD

MM

Sgt. Maj. J.H. Lewis III.

MMEA

Lt. Col. B. Judge.
Maj. J.P. Diffley.
Maj. D.J. Donovan.
Maj. S.J. Jozwiak.
Maj. R.J. Vandenberghe.
Mr. R.W. Spooner.

MMOA

Maj. J.M. Lynes.
Maj. R.A. Padilla.
Maj. M.J. Toal.

MMP

Lt. Col. G.R. Stewart.

MA

Lt. Col. R.L. Reece.

RAM

Maj. R.B. Harris.

THE LEGEND

First to Fight.
Most ready when the Nation is least ready.
The Nation's 9-1-1 Force.

THE REALITY

Infantry Battalions are staffed at 57% of ASR requirements for 0311 Sergeants.

The inventory of MPs/Corrections Marines exceeds that of Artillerymen.

We have more Utilities Specialists than Tankers and Amtrackers combined.

Less than 50% of Enlisted Marines remain with the same Infantry Battalion for two deployments.

OFFICER REALITY

88% of Majors are not in the FMF.

Nearly 15% in Northern Virginia.

Only 11% of 0302 Lieutenants & 29% of 0302 Captains make two deployments with the same Battalion.

Despite aviator shortage, nearly 52% of all aviators are not in the FMF.

REALITY FROM COMMANDERS

. . .We had to pull our boat platoon from the CAX before FINEX to get them to Little Creek to start the [MEU SOC] cycle.

Our training cycle is not in sync with the personnel cycle.

Without stabilizing our ranks, cohesion's benefits are lost and training is the equivalent of pouring water into a bottomless bucket. . .

If maneuver warfare seeks to shatter the enemy's cohesion, we must seek to strengthen our own as a matter of self-protection.

I have lance corporals as platoon sergeants and sergeants as platoon commanders.

Three weeks ago we went on a battalion run and fell out with 121.

The concept that numbers are more important than morale, cohesion etc., must be reconsidered.

We do have quality NCOs and SNCOs, but the best go off to other key billets (DI/Recruiting).

ENABLING PHILOSOPHY

In order to fulfill its role as the Nation's crisis response force, the Marine Corps will re-establish the primacy of the operating forces by creating manpower and training policies and programs that support cohesion and stability.

PRIORITIES (PILLAR 4)

The FMF will be manned at 90% of T/O—General C.E. Mundy, Jr., 1990.

Reality—enlisted 88%; officers 84%.

"Our system is geared to the success of individual careers vice the success of individual units"

PRINCIPLE

Since our heart and soul is our warfighting capability, service in the FMF must be our top priority.

Mr. GRASSLEY. I want to quote selectively from this paper.

The first slide has this title, "The Legend," with bullets, "First to Fight," "Most Ready When the Nation Is Least Ready," "The Nation's 9-1-1 Force."

Who is going to argue with that about the Marines? They have that reputation. They live up to that reputation, and we ought to support that reputation.

Colonel Newbold is talking about the Marine Corps' mission. Then, of course, he gets down to the guts of his briefing, what he calls "The Reality." Of course, this is what we ought to be concerned about. In fact, we ought to be disturbed about this.

The very first bullet is a blockbuster. I want to quote: "Infantry Battalions Are Staffed at 57 Percent of ASR for O311 Sergeants." Of course, a O311 sergeant is an infantry noncom. He is a platoon sergeant. Every platoon must have a sergeant, and a platoon is in deep trouble without a good one.

So what does the Marine Corps do with 43 percent of its platoon sergeants missing, at the very same time when the command of the Marine Corps is asking for 12 additional generals?

Another slide is entitled "Reality From Commanders." This provides an answer. The commander's answer:

I have lance corporals as platoon sergeants and [I have] sergeants as platoon commanders.

At a time when the Marines are asking for 12 additional generals, and they are using lance corporals as platoon sergeants and sergeants as platoon

commanders. The commander, of course, has to make good with what he has, but that is not good enough.

Corporals are normally squad leaders, and lieutenants are platoon commanders. If corporals have to do the job of a sergeant, and sergeants are called upon to do the lieutenant's job, then why cannot colonels do a general's job?

I referred to that in the sense that every one of these so-called vacancies that is called for, the need for these new generals, all but one is filled with colonels who are getting the job done. If the colonels would take up some of the slack—and it is being done already, and the job is being done well—what is the need for 12 additional generals, when we need sergeants and lieutenants, when we had 70 generals here when it was 199,000, and we are down to 172,000 now, and we have 68 generals? Why do we need 80?

The briefing paper does indicate that the quality of the noncoms and the sergeants on hand is excellent. Unfortunately, the good ones are being shipped off to nonoperational, noncombat assignments.

This is what the briefing paper says: "We do have quality NCO's and SNCO's, but the best go off to other key billets," like drill instructors and recruiting duty.

This is Colonel Newbold in his task force report,"Making the Corps Fit to Fight."

Mr. President, recruiting duty, that is where some of the new generals would go. We have been told that by this report. If recruiting duty is not a good place to send your best NCO's, then why is it a good place to put generals?

The briefing paper concludes with this piece of philosophy. I quote from the briefing paper.

> In order to fulfill its role as the Nation's crisis response force, the Marine Corps will re-establish the primacy of the operating forces by creating manpower and training policies and programs that support cohesion and stability.

Those are very profound words by people in charge who are going to get the job done even though they do not seem to get the support of people higher up. Because I do not think they are getting the support when they need sergeants and lieutenants and we are putting the money into generals.

We are downsizing the Marine Corps and topsizing the administrative part of it. If the operating forces are the top priority, why are only 25 percent of the Marine Corps general officers command combat officers? Well, the paper draws a conclusion to that.

I want to quote from the paper again.

> Our system is geared to the success of individual careers versus the success of individual units.

Mr. President, this is what my amendment is all about, promotions at the top versus the needs of the infantry battalions, sergeants versus generals. What does the Marine Corps need more, sergeants or generals? If we want the Marine Corps to be the 911 force, always ready to go, then we should make sure that the 27 infantry battalions are rock solid. We better make sure they have the essentials to be effective. We better make sure that they have a full complement of sergeants and lieutenants.

It would be irresponsible to give the Marine Corps more generals when its heart and soul is short of the stuff that it needs to do battle. The Marine Corps should not be topsizing while it downsizes. As the Marine Corps gets smaller, it seems to me it is legitimate to cut the brass at the top, as the other services have already done. I had a chart here to demonstrate that.

Of course, most importantly, the point was made by our Secretary of Defense of how important modernization is. Those at the top of the heap should have what they need to get the job done. By voting for my amendment, you will send the right message to the Marine Corps. I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent to yield, as in morning business, to the Senator from Indiana for such time—how much time would the Senator wish? Five minutes.

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

Mr. COATS. I want to thank the Senator from Alaska for yielding this time.

EDUCATION IN AMERICA

Mr. COATS. Mr. President, earlier this afternoon the Senator from Massachusetts, Senator KENNEDY, spoke on the floor indicating his concern and expressing his criticism of remarks that Senator Dole made today in Minneapolis. I want to take just a few moments to respond to those remarks. I thank the Senator for yielding the time for me to do that.

What Senator Dole said today in Minneapolis was that this country needs education reform, not education reform as defined by this administration and by some in this Congress, but real education reform. Education reform that ensures that parents have authority to be involved in their children's education, and in their curriculum, and in the formation of educational programs for their children. Education reform that would break up the monopoly that dominates public education. Education reform that gets money into the classroom instead of the bureaucracy. Education reform that rewards teachers, and rewards the Governors who run effective programs, and rewards mayors and school boards. Education reforms that try new approaches, and education reform that loosens Washington's grip on this country's schools.

For a decade or more now, the Congress and the public have been debating how we can improve our public education system, and a number of proposals have been made. But there is an entrenched bureaucracy that insists on making no real changes, on perpetuating the status quo. What Senator Dole was talking about was shaking up that status quo and bringing about reform that brings real results.

One of the issues that was discussed and was criticized earlier is the question of choice for low-income students. This is an issue that I have been involved with for some time. I have offered amendments, on a bipartisan basis with Senator LIEBERMAN, allow test programs, or pilot programs, for vouchers for low-income parents which would allow us to test the concept of school choice.

It seems hypocritical for those of us who have the means to afford school choice, whether by moving to another school district because we are unhappy with the public school where we currently are situated, or by enrolling our children in private schools or parochial schools, to deny that freedom of choice to those families who do not have the resources to send their children to a private school.

The voucher demonstration program is an attempt to understand the impact of enabling families choice over their children's educational opportunities. Many of these families have children who are consigned to some of the most violence-prone, educationally challenged schools in America. Mothers and fathers know that the only way to successfully give their children a chance to escape a lifetime of these difficult environments is to get a better education. Yet the Congress and this administration have repeatedly blocked attempts at even the most minor of reforms to allow low-income children to escape their poor-performing, violent schools.

The reform Senator LIEBERMAN and I proposed was a 3-year demonstration grant. We proposed trying it in 10–20 school districts around the country—costing a very modest amount of money—to see if it works. Even that small of a reform effort is rejected, time after time. My Project for American Renewal includes an expansion of that concept to provide experiments in up to 100 school districts. By trying a demonstration program, we'll be able to see if what the opponents of school choice say is right, but the only way to test their arguments is to get some objective evidence to evaluate school choice. I fear, Mr. President, that the opponents know that school choice would work: they know it would pose a challenge to the existing system.

I suggest that that is exactly what the existing system needs—a challenge, a challenge to improve its educational efforts. That challenge will come through competition. Public schools and private schools and parochial schools can exist side by side. The competition among the three of them provides better education for all students involved. This has been demonstrated in my hometown of Fort Wayne, IN, on a number of occasions. We ought to move in that direction.

To criticize Senator Dole for calling for education reform because he has failed to support the status quo initiatives provided by this administration that make no major change, efforts of the Clinton administration and the status quo that is perpetuated by Members of this body and call that educational reform—I think the American people know better. Call this what it is, and that is an attempt by a Presidential candidate to bring about some change in our educational system that will benefit the children—not the bureaucracy, not the unions, not the administration—the children that are actually receiving the education, or would like to receive the education. I commend Senator Dole for his remarks, for his initiative in this area. I hope he has the opportunity to carry it out.

I regret we cannot seem to get beyond the status quo of what in many cases is a failed education system, particularly in areas where children live in poverty, the District of Columbia being the prime example. We have struggled and struggled and struggled to try to give the young people opportunities that others of us have and they do not have. It is regrettable that we cannot discuss this on a rational basis and cannot support the efforts of someone trying to bring about this change.

I thank the Senator from Alaska for his patience and his time on this. I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 4443, AS MODIFIED

(Purpose: To strike $2,000,000 available for environmental activities with respect to the Joint Readiness Training Center at Fort Polk, Louisiana)

Mr. STEVENS. I send to the desk an amendment numbered 4443, as modified, pertaining to the Joint Readiness Training Center in Fort Polk, LA, and ask to set aside the pending amendment.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. MCCAIN, proposes an amendment numbered 4443, as modified.

The amendment (No. 4443), as modified, is as follows:

On page 8, line 3, before the period, add the following: "*Provided*, That the amount made available by this paragraph for Army operation and maintenance is reduced by $2,000,000."

Mr. MCCAIN. Mr. President, this amendment would reduce Army operation and maintenance funding by $2 million to eliminate an add-on for Readiness Training Center at Fort Polk, LA.

During Senate consideration of the fiscal year 1997 Defense authorization bill, an amendment was adopted which would authorize the transfer of additional acreage from the Forest Service to the Army at Fort Polk. This transfer would increase the training area at Fort Polk to ensure adequate acreage to conduct realistic land forces training. I had no objection to this amendment and believe it will serve the needs of the Army and the other Services.

However, at the same time, it is unclear that an additional $2 million will be required in fiscal year 1997 to adequately protect the land and facilities in this additional area.

The report accompanying this bill describes the purposes for which this funding would be used, including hiring more foresters, environmental engineers, and natural resources support personnel, as well as maintaining the forest, roads, and public recreational areas, and protecting the red-cockaded woodpecker, long leaf pine, pitcher plant bogs, and archaeological resources. These are activities which certainly should be undertaken for this new property, but they are also activities which are underway on the current property utilized by the JRTC.

Mr. President, therefore, I suggest that, instead of setting aside $2 million for these purposes now, we instead encourage the Army to conduct the necessary land management and environmental maintenance activities for these additional acres in the most cost-effective way possible. However, if the funds currently available to Fort Polk are insufficient to ensure that the high standards of land and environmental management are maintained at the newly expanded Fort Polk, I believe the Congress would look favorably on a reprogramming request from the Army to make funding available. In addition, I expect the Army to make funding available. In addition, I expect the Army to include in the fiscal year 1998 budget any additional costs associated with expanding Fort Polk's Joint Readiness Training Center.

Mr. President, I understand that my colleagues from Louisiana may offer an amendment to retain $500,000 of these earmarked funds. While I would prefer that the Army proceed with this effort and request reprogramming authority if additional funds are required, I would have no objection if the managers preferred to retain $500,000 of these funds.

AMENDMENT NO. 4448, AS MODIFIED, TO AMENDMENT NO. 4443

(Purpose: To restore $500,000 for environmental activities with respect to the Joint Readiness Training Center at Fort Polk, Louisiana)

Mr. STEVENS. Mr. President, we have two amendments. One is in the first degree and one is the second degree.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. JOHNSTON, for himself and Mr. BREAUX, proposes an amendment numbered 4448, as modified, to amendment No. 4443.

The amendment (No. 4448), as modified, is as follows:

On page 1, line 7 strike out "$2,000,000" and insert in lieu thereof "$1,500,000".

Mr. JOHNSTON. Mr. President, I have identified $500,000 in one-time costs that need to be funded immediately to ensure that the natural resources and archeological sites at Fort Polk are protected. The Army's environmental record has clearly demonstrated how seriously they take their stewardship of the land with which they are entrusted. I believe the money requested will be used in a cost effective manner and will ensure that the resources are protected to the same high standards currently maintained by Fort Polk.

The red-cockaded woodpecker is an endangered species and is protected by Federal law. Woodpecker nesting trees are marked with a 1-meter thick white band. The nesting trees are protected by a 62-meter buffer zone that are marked by orange bands. Military training is restricted within this the buffer zone. Funding will allow for the red-cockaded woodpecker sites to be identified, cleared, marked, and 62-meter buffer zone established.

There are Indian, archeological sites, cemeteries, and other historical sites located on this land and we must ensure that these sites are adequately protected. The balance of the funding will provide sufficient resources to survey the land, identify cultural and archeological sites, and mark them accordingly.

I also encourage the Department of the Army to identify any incremental costs associated with managing this land and I would support any reprogramming requests they find necessary to submit. I further expect that their fiscal year 1998 budget submission will include any of these recurring costs.

Mr. President, I believe the amendment is acceptable to Senator MCCAIN and the managers of this bill.

Mr. BREAUX. Mr. President, I rise today in support of the second degree amendment I am offering with Senator JOHNSTON that would give $500,000 to the Department of the Army for environmental protection activities at Fort Polk, LA. Earlier this month my distinguished colleague and I were able to include a provision in the Department of Defense authorization bill that would transfer acreage in the Kisatchie National Forest to the Army at Fort Polk. That amendment will allow Fort Polk to expand its training exercises while continuing its unique mission of providing our troops the best training possible at the Joint Readiness Training Center [JRTC]. I am pleased we were able to work with the managers of the authorization bill to have the transfer provision included in the bill.

On this pending amendment, I would like to thank Senators MCCAIN, STEVENS, and INOUYE who have been very cooperative in working with Senator JOHNSTON and me to appropriate $500,000 for environmental protection at Fort Polk. This funding will ensure that the high standards of land and environmental management are maintained at the newly expanded JRTC. The Army can use this funding to continue surveying and marking trees that are inhabited by the red-cockaded woodpecker. In its current operations, the Army establishes a 62-meter buffer zone around these trees to alert military personnel and the public to stay clear of the area. The Army also posts signs to clearly mark archeological sites, such as cemeteries and Indian burial grounds, and other sensitive areas. This $500,000 will enable the Army to continue providing this and other important environmental programs at the JRTC.

I appreciate the help Senator MCCAIN and the managers of this bill have given Senator JOHNSTON and me on this amendment and I urge its adoption.

Mr. STEVENS. These are two amendments worked out with the Senators from Louisiana. They have combined their amendments. This is an amendment that has been on the list all day. It has been modified.

I ask unanimous consent the Breaux amendment to the McCain amendment be adopted and the McCain amendment be adopted. I yield to my friend from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to agree.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The amendment (No. 4448), as modified, was agreed to.

The PRESIDING OFFICER. The question is now on the first-degree amendment, as modified, as amended.

The amendment (No. 4443), as modified, as amended, was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. STEVENS. I move to lay it on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the cloture vote scheduled to occur today with respect to the pending bill S. 1894 be vitiated and during the Senate's consideration of S. 1894, the following amendments be the only first-degree amendments in order, and limited to relevant second-degree amendments, and following the disposition of the amendments, S. 1894 be read for a third time, the Senate proceed immediately to House companion bill H.R. 3610, all after the enacting clause be stricken, the text of S. 1894 be inserted, H.R. 3610 be read for a third time, and the Senate proceed to vote on the passage of H.R. 3610, all without further action or debate.

The list is a Grassley amendment we are about to vote upon; a Bumpers F/A-18C/D amendment, on which there is a 30-minute time agreement; two relevant Daschle amendments; a Dorgan amendment pertaining to funding reduction, on which there is a time agreement of 30 minutes equally divided; Senator FORD's amendment on chemical demilitarization; Senator HARKIN's amendment on defense merger, on which there is a 45-minute agreement, 30 minutes for Senator HARKIN and 15 minutes to the managers of the bill; a Heflin amendment on pump turbines; a relevant amendment for Senator INOUYE; a Levin amendment on counterterrorism; a relevant amendment for Senator NUNN; Senator SIMON, a labor related amendment; and one relevant amendment for myself as Senator managing. I add Senator FEINGOLD's amendment, on which there is a time limit of 30 minutes, if we do not work it out. He has two amendments.

I further ask that following the passage of H.R. 3610, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, and S. 1894 be returned to the calendar.

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

AMENDMENT NO. 4463

Mr. STEVENS. Mr. President, I regretfully disagree with the Senator from Iowa and state again that our act does not allocate funds to the entities of the Department of Defense by the roster, or in any way related to the force structure. If the Senator wishes to limit the funds so it cannot be used to support more than 68 general officers, that is an issue for the authorization committee.

At the request of the chairman of the Armed Services Committee, I move to table the amendment of the Senator from Iowa, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—79

Abraham	Ford	Mack
Akaka	Frahm	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bond	Gramm	Murkowski
Bradley	Hatch	Murray
Breaux	Hatfield	Nickles
Bryan	Heflin	Nunn
Bumpers	Helms	Pell
Burns	Hollings	Reid
Byrd	Hutchison	Robb
Campbell	Inhofe	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Santorum
Cochran	Johnston	Sarbanes
Cohen	Kempthorne	Shelby
Coverdell	Kennedy	Simpson
Craig	Kerrey	Smith
D'Amato	Kerry	Snowe
Daschle	Kyl	Stevens
DeWine	Leahy	Thomas
Dodd	Levin	Thurmond
Domenici	Lieberman	Warner
Exon	Lott	
Feinstein	Lugar	

NAYS—21

Bingaman	Grams	Pressler
Boxer	Grassley	Pryor
Brown	Gregg	Simon
Conrad	Harkin	Specter
Dorgan	Kassebaum	Thompson
Faircloth	Kohl	Wellstone
Feingold	Lautenberg	Wyden

The motion to lay on the table the amendment (No. 4463) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, the Senator from Arkansas is seeking recognition.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Arkansas is recognized.

AMENDMENT NO. 4891

(Purpose: To reduce procurement of F/A-18C/D fighters to six aircraft)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. FEINGOLD, and Mr. KOHL, proposes an amendment numbered 4891.

The amendment is as follows:

On page 22, strike lines 3 through 4, and insert in lieu thereof the following: "$7,005,704,000, to remain available for obligation until September 30, 1999: Provided that of the funds made available under this heading, no more than $255,000,000 shall be expended or obligated for F/A-18C/D aircraft."

Mr. STEVENS. Mr. President will the Senator yield to me just a moment?

Mr. BUMPERS. I will be happy to yield.

Mr. STEVENS. Mr. President, it is the plan of the managers of the bill to have the debate on the Bumpers amendment. We feel that amendment will go to a vote sometime between 20 after and 25 after 6. After that, we will have the Harkin amendment, and it will be voted on sometime around 7 o'clock. After that time it will be my intent to ask that all further votes be stacked until tomorrow morning commencing at 9:30, and we will have final passage following that. There will be some few statements just before final passage. We do have a series of amendments to debate yet tonight, but we will have no more votes after the Harkin amendment.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I may yield to the Senator from Iowa for a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa is recognized.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Kevin Ayelsworth, a congressional fellow on my staff, be permitted floor privileges during debate on the DOD appropriations bill.

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

Mr. BUMPERS. Mr. President, I wonder if we could enter into a time agreement on this amendment.

Mr. STEVENS. Mr. President, we entered into a time agreement, if I may respond to the Senator from Arkansas, based upon our conversation. There is at this time I believe 30 minutes equally divided.

Mr. BUMPERS. Parliamentary inquiry. Is that correct, Mr. President?

The PRESIDING OFFICER. That is correct, 30 minutes equally divided.

Mr. BUMPERS. Mr. President, I ask further unanimous consent that no second-degree amendments——

Mr. STEVENS. Could we have order?

The PRESIDING OFFICER. The Senate will be in order.

There is a request from the Senator from Arkansas that no second-degree amendments be in order. Is there objection?

Mr. STEVENS. There is no objection.

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

Mr. BUMPERS. Mr. President, this amendment is very simple.

While we have 30 minutes to debate it, I hope that we can yield back some of the time.

Let me start by explaining that Senator FEINGOLD has an amendment that deals with the Navy's plans to purchase the E and F models of the Navy's F-18 fighter, which is called the Super Hornet. Now, the existing C and D models of the F-18 Hornet are the Navy's premier carrier fighter interceptors. The General Accounting Office has just issued a report on the Navy's plans to purchase 640 of the advanced models which are now in development, namely the F-18E and F-18F. That report, which is the most powerful GAO report I have ever read, says that it is the height of foolishness to go forward with the purchase of that many F-18E/Fs.

The Navy originally wanted to buy 1,000 of them, 360 of which would go to the Marine Corps. And do you know what the Marine Corps said? "We don't want them."

"We don't want them." So that means the Navy is going to buy 640 at a cost of roughly $53 million each. And the GAO says the present C/D models that we are using and could continue to use through the year 2015 will do virtually everything the E/F will do. By buying C/D models, at a cost of $28 million, almost 50 percent less, the Navy would save $17 billion.

Now, I tell you those were prefacing remarks because my amendment does not try to eliminate the E/F purchases of the Hornet. I am not trying to eliminate the E/F because Senator FEINGOLD has an amendment he is working on trying to get accepted that would give the Pentagon the opportunity to reconsider its plans to spend $60 billion on the E/F models. It would fence the funds for the E/F until the Pentagon provides Congress with a better justification for its decision. I am a strong proponent of the Feingold amendment; I am a cosponsor. I would have liked to do something stronger, but I know that would not have a chance of winning a vote.

The Pentagon took the GAO study, which says you can save $17 billion by buying F-18C/Ds instead of E/Fs, and they tried to refute every single point the GAO said, and the GAO came back and refuted conclusively—conclusively—Mr. President, every single point the Pentagon made in favor of squandering $17 billion on the F-18E/F.

Here is my amendment. It is very simple. It cuts $234 million for six F-18C/D aircraft that were not requested by the Pentagon and that were not included in the Defense Authorization Bill.

There is, in this bill, one of the strangest things I have ever seen. There is an appropriation for 12 of the C/D models, which the Pentagon says they want to get rid of. What is even stranger is, of the 12, only 6 are authorized; the other 6 are not authorized. The Navy says they want this new, premier, advanced E/F model, not the C/D. So, No. 1, the Pentagon did not ask for them. No. 2, the Senate authorizing committee, chaired by the distinguished Senator from South Carolina, with the ranking member from Georgia, Mr. NUNN, did not authorize them. We just passed the authorizing bill, and there is no authorization for these six airplanes.

With the utmost respect to the chairman and ranking member of the Appropriations Committee on Defense, my dear friends, they just put six more airplanes in the bill. They cost only $234 million. If you say it real fast, it is just nothing.

So I say, if we are going to buy the E/F, why in the world are we going to keep buying C/Ds? And I know that we are going to buy the E/F despite the fact that between now and 2025 we will spend at least $500 million for fighter aircraft. I have been around here 22 years, and I can promise you I can get up on this floor and squeal like a pig under a gate every day and it will not change two votes.

You think about it. By the year 2030 we are going to spend $500 billion for the advanced model Hornet and for the Joint Strike Fighter, and for the F-22.

So, I wish I could stop the E/F. But I am certain in the knowledge, the certain knowledge, that I would not prevail if I sought to stop the Pentagon from going forward with the E/F. You know, the Senate has only killed one weapon system that I can remember, and I cannot think what that was. We only killed one weapons system since I have been in the Senate. The Pentagon occasionally kills one, and they say, "We do not want it anymore." But a lot of times when they say "we do not want it," we impose it on them anyway.

And here is the GAO, which we give hundreds of millions of dollars a year to tell us things, saying you are about to squander $17 billion for nothing, and here I am on the floor of the Senate saying, I know the Senate is going to ignore the advice of the GAO. So I am saying, if we are going to go ahead and buy 640 of these high-priced, $53-million-a-copy fighter planes, for God sakes let us not buy 6 more of the C/D models which are neither requested by the Pentagon nor authorized by the authorizing committee.

Mr. President, I hope Senator NUNN would come to the floor and say that he is going to support this amendment because it was not authorized. I have heard him talk a thousand times about how sick he gets of the Senate appropriating money for things that are not authorized. So here is a chance for the Senate to save a paltry $234 million.

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

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS. Does Senator FEINGOLD seek time on this amendment?

Mr. FEINGOLD. I do, Mr. President.

Mr. STEVENS. How much time is the Senator seeking?

Mr. FEINGOLD. Mr. President, 5 minutes.

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 6 minutes remaining; the Senator from Alaska, 14 minutes and 50 seconds.

Mr. STEVENS. I will not seek the floor if the Senator wishes to speak now.

Mr. BUMPERS. Mr. President, I would like not to use up all of my time at this point. I would like for the opponents of my amendment to use some time.

Mr. STEVENS. I will be happy to do that, but the Senator was on his feet. I will be glad to let him speak now if he wishes to speak.

Mr. FEINGOLD. I will be happy to defer to the Senator from Alaska.

Mr. STEVENS. Mr. President, it is true that the budget did not request any funds to buy more F–18C's for the Navy. The Armed Services bill included six F–18C's for the Navy. This is authorized. The committee, our subcommittee, added and the Appropriations Committee approved $234 million to buy six single-seat F–18C's for the Navy.

Before his untimely death, we asked Admiral Boorda to list the 10 highest priorities for the Navy this year, and Admiral Boorda listed as the sixth priority, as the CNO, buying six more F–18C's. These replace the less capable F–18A's that are still in the active inventory. The C model has substantial upgrades over the A model. It has better radar and carries more sophisticated weapons. It can fly at night and in adverse weather.

The Navy really needs at least 30 more F–18C's to upgrade its force and accomplish its war-fighting mission. The F–18C procurement was ended because of financial considerations in the past. We still have financial considerations, but these F–18C's we buy now in fiscal year 1997 will be in the inventory of the Navy through at least the year 2018.

I say to my friend from Arkansas, as a pilot, these C models give Navy pilots the ability to fly at night, in adverse weather, with more sophisticated weapons and the best radar in the world. I think it is a needed addition to our Navy.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Alaska has 12 minutes and 31 seconds; the Senator from Arkansas, 6 minutes.

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

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I would like to speak briefly in support of the efforts of the distinguished Senator from Arkansas, who is trying to focus attention on the cost implications of decisions that are being made regarding the purchase of tactical aircraft for our various services. As we all know, there is no Member of the Senate who has been a more consistent leader in this area than Senator BUMPERS, constantly pressing for the Senate to subject our military procurement decisionmaking to greater scrutiny.

I appreciate his support for my amendment. A modified version of it appears to have been accepted. Of course, the motivation for that was the GAO report that Senator BUMPERS mentioned. It is entitled "F/A–18E/F Will Provide Marginal Operational Improvement at High Cost," and as the Senator indicated, that marginal improvement is a $17-billion difference, potentially.

We are pleased that process will go forward. The Department of Defense will respond to the GAO report, and then the GAO will respond to that. I am very pleased and appreciative to the Senator from Alaska for being cooperative on this.

But on the issue of the amendment of Senator BUMPERS, in these times of fiscal constraint, every item in the Federal budget has to be subjected to intense review. The Senator from Arkansas and I and many others are deeply concerned that the Department of Defense is embarking on a range of military aircraft purchases that cannot be sustained in the outyears. The downpayments on these aircraft in the short term really represent only the tip of the iceberg, from the point of view of the cost.

A GAO report in 1996 notes the military services plan to spend more than $200 billion on aircraft and other interdiction weapons over the next 15 to 20 years to add to already extensive capabilities. GAO noted that the various services have overlapping programs, with each service proposing upgrades or new weapons that may offer little additional capability.

So, Mr. President, what the BUMPERS amendment is all about and our effort here is all about is the fact somewhere, somehow, there needs to be some overview of the range of these programs. In fact, the House defense authorization bill contains a requirement for a force structure analysis by the Institutes of Defense Analysis which examines the affordability, effectiveness, commonality, roles and missions and alternatives related to the wide range of aircraft. There are good arguments to be made that we should defer decisions on all these procurement plans pending such a review.

In the short term, the issues relating to the F/A–18 clearly need to be examined. On the one hand, the Navy is seeking to remove the C/D with the E/F. Yet this bill adds funding for 12 C/D's, planes which the Department of Defense has not requested. In fact, the DOD authorization bill just passed by the Senate only authorized six additional C/D's, and now the Appropriations Committee doubles that number.

Before we start adding these additional purchases, I think we ought to know where we are going. Is the Navy going to move toward the more expensive E/F or retain the C/D? My view is that we should rely upon the less expensive, but highly capable, C/D. But, Mr. President, one thing is clear, when it comes to the C/D versus the E/F, it is an either/or choice. We either buy the C/D's or the E/F's, one or the other. It is like going to buy a new washing machine. You find two slightly different and you decide, what the heck, we will buy both of them. We cannot afford to do that. We cannot afford dual purchases.

I support the amendment offered by the Senator from Arkansas which strikes the funding for the six additional C/D's. Whatever the ultimate decision is with regard to the future of the F–18, there is no justification for this increase in the C/D purchases in this appropriations bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield to the Senator from Hawaii such time as he may use.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, it is always difficult to speak against the GAO. After all, that organization is a child of the Congress. But in this case, I give great weight to the concerns and the professionalism of the United States Navy. I also note that in recent years, the United States Navy has suffered major aviation setbacks in the acquisition programs. For example, the Congress canceled the A–6F program, the Department of Defense canceled the A–12 program, the Navy canceled the Navy ATF and F–14D program and, as a result, what we have available for us is the F/A–18E and at the present time the C's.

If we are to maintain a production line for the F/A–18E at a reasonable rate, then it would make sense to continue the production even of six models of the C. It will come down to cost. The production line will continue.

Second, there are many who will argue that the millennium has arrived and, therefore, there is really no need for these fancy weapons systems. But I believe that we are being constantly reminded that this world is still very unstable, that there is a need for aircraft carriers, and if we are to have aircraft carriers, obviously there is a need to have planes flying off these carriers. These are carrier planes.

So, Mr. President, on this issue, I prefer to set my vote of confidence with the Navy. I think the Navy is correct in suggesting to us that if they are to carry out their mission, they need this aircraft.

Mr. BOND. Mr. President, the requirement for the additional procurement of F/A–18C/D aircraft does not

come from the industrial community and is not a result of trying to string out a program which has come to the end of its viable life.

The requirement comes from the Department of the Navy and its own inventory requirements. According to the Director of Air Warfare for the Navy, a minimum of 436 F/A-18C/D aircraft are required to fill the 10 active carrier airwings. The Navy expects that without continued procurement, it will be 30 aircraft short of the CNO mandated and congressionally approved requirements. If we include the normal attrition factor into the equation, the gap grows even wider for even though the F/A-18 is the safest aircraft in tactical Naval aviation history, approximately eight aircraft per year are lost.

The night-strike capabilities of the C/D are critical to the fighting effectiveness of our carriers and allow for the use of the full range of the Navy's current weapons inventory. These aircraft improve pilot situational awareness and survivability over their A/B model counterparts. They are also fully compatible with shipboard maintenance and diagnostic equipment.

The F/A-18E/F aircraft is on schedule and cost and its performance exceeds expectations so far. So why do we need more C/D's? Because the procurement schedule of the E/F will not produce significant numbers of aircraft until 2009. As my colleagues know, I am a staunch supporter of the F/A-18 E/F, for it does bring so much more warfighting capabilities to the men and women defending us, but that does not relieve us of the responsibility to provide our fliers with these additional C/D's which will bridge the technological void until the E/F's hit the fleet.

Let me put it to my colleagues this way. Advances in aviation, military aviation in particular, are a little like those experienced in the computer world. The strategic mix of aircraft currently in our inventory and those projected to be in our inventory are representative steps in technological advances which will face threats from weapon systems that are advancing as well. Much like computer systems, we can project capabilities beyond our production abilities.

The F-18C/D represents the current cutting edge in tactical Naval aviation, the E/F the next, JAST hopefully the next. But, we cannot in good conscience ask our young men and women to put their lives on the line for us and not give them the best we know we have to offer in the hope of dramatic future improvements which are not yet developed. I urge my colleagues to support, and support fully, the strategic growth of Naval aviation, starting with the continued buy of the C/D's appropriated for in this bill.

Mr. BIDEN. Mr. President, I rise in support of the Bumpers amendment to the Defense appropriations bill. This amendment would save American taxpayers 234 million dollars by eliminating funding for six F/A-18C that the Pentagon has not requested.

Mr. President, the Defense appropriations bill allocates money for 12 more F-18's than the President requested. It appropriates funds for six more F-18C's than the Senate authorized. It commits us to spend 234 million dollars on six aircraft that the Navy does not want.

Mr. President, at a time when we need to cut Government spending, how can we justify throwing away 234 million dollars of the taxpayers' money on these soon-to-be outdated aircraft?

Within this bill is 1.8 billion dollars to purchase the first 12 new F-18E/F fighters for the Navy. The Navy has said that the F-18E/F will be the backbone of its carrier-based forces in the future. This aircraft is to replace the F-14 and older F-18's, so that by 2009, the F-18E/F will comprise a majority of the F-18's in the Navy's inventory. If we are worried about a future military threat, we should direct our procurement to systems of the future, not to aircraft like the F-18C/D that will be obsolete soon after they are manufactured.

Mr. President, we cannot continue to squander our Nation's resources on aircraft that are not needed to defend this country. We must look for areas where we can cut spending while not jeopardizing our national security. The Bumpers amendment represents such an opportunity. I urge my colleagues to support it.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alaska has 9 minutes 53 seconds remaining. The Senator from Arkansas has 2 minutes 2 seconds.

Mr. BUMPERS. Mr. President, I wonder if the Senator will object to adding 3 minutes to my time.

Mr. STEVENS. I add 3 minutes to the time of the Senator from Arkansas and yield back the remainder of our time.

Mr. BUMPERS. Mr. President, I thank the Senator very much.

I made this point a while ago, but charts are always much more graphic. Here is where we are headed. For the people around here who are fiscally responsible and really care about the deficit, this is what is going to happen between now and about the year 2025 or 2030. We are going to spend $70 billion on the F-22 fighter for the Air Force; $66.9 billion for the fighter plane that we have been talking about here, the model E/F of the F-18 Hornet, a very, very fine airplane, indeed. But so are the C/D models that we now use. The Joint Strike Fighter will cost about $219 billion. And then sometime around the year 2010 we are going to start buying the replacement interdiction aircraft whose cost we do not know. The cost in today's 1996 dollars for those three fighter planes is $355.7 billion, according to the Congressional Budget Office. With inflation at 2.2 percent, that will come to about $500 billion between now and the year 2030, $500 billion.

Look at this chart. Here are the military budgets of the United States and our potential enemies. The United States, $269 billion; add NATO to it, $510 billion; Russia, $98 billion; China, $29 billion; and the rogue nations, such as Libya, North Korea, a total of $17 billion. We spend twice as much as all of the rogue nations, Russia and China combined. When you add NATO to it, almost four times as much.

This chart shows that today, we have 3,800 fighter aircraft, and they are all so-called fourth generation, the best there is. Look at poor Russia, China, North Korea—not even in the game. Not even in the game. The rogues have only 104 modern fighters divided among them. And we are getting ready to spend $17 billion we should not spend, so says GAO.

Here is another chart. In the year 2005, we will have 3,200 fighter planes. Look, 3,200 fighter planes that all of them will either be fourth or fifth generation aircraft. And the rogues will be no better off than they are today.

I agree with the Senator from Alaska on this point. He says the C/D fighter plane, the Hornet C/D models are very fine night fighters, they are excellent aircraft. I could not agree with him more. If it were left up to me, that is what we would be buying. But, no, we are going to go spend twice as much, $53 million a copy, on the E/F models which the GAO says is an outrageous waste of the taxpayers' money.

Back to my amendment. I am saying you cannot have it both ways. You cannot buy the E/F because it is going to be the hottest thing going and spend $67 billion on it but say we want a few more C/D's at the same time. As a matter of fact, the committee wants 12.

Mr. President, the Pentagon did not ask for 12, even the Navy did not ask for 12, and the committee, chaired by the Senator from South Carolina who is sitting on the floor, the Armed Services Committee of the Senate chaired by Senator THURMOND, authorized six, not 12. And the Subcommittee on Defense appropriations, on which I sit, said, "No, we'll put another six in," even though they were not requested nor authorized. It is a paltry $234 million. It will be the only chance you will have of this entire bill to save one single dollar and do it sensibly.

Mr. President, I yield back the remainder of my time and ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, before the vote starts, I ask unanimous consent that the time on the Ford amendment be limited to 30 minutes equally

divided. I have this agreement with the Senator from Kentucky.

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

The question is on agreeing to the Bumpers amendment No. 4891. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—44

Akaka	Glenn	Lieberman
Baucus	Graham	Moseley-Braun
Biden	Grassley	Moynihan
Bingaman	Harkin	Murray
Bradley	Hatfield	Nunn
Brown	Hollings	Pell
Bryan	Jeffords	Pryor
Bumpers	Johnston	Reid
Byrd	Kassebaum	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Wellstone
Exon	Leahy	Wyden
Feingold	Levin	

NAYS—56

Abraham	Ford	McCain
Ashcroft	Frahm	McConnell
Bennett	Frist	Mikulski
Bond	Gorton	Murkowski
Boxer	Gramm	Nickles
Breaux	Grams	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Heflin	Sarbanes
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Inouye	Specter
Craig	Kempthorne	Stevens
D'Amato	Kerry	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Feinstein	Mack	

The amendment (No. 4891) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we are awaiting an agreement on the disposition of the final amendments of the bill.

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

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

Mr. STEVENS. While we are waiting for the final agreement on the amendments, I will offer an amendment on behalf of Senators FEINGOLD, KOHL, BUMPERS, and myself.

AMENDMENT NO. 4892

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. FEINGOLD, Mr. KOHL, Mr. BUMPERS, and Mr. INOUYE, proposes an amendment numbered 4892.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. 8099. (a) Not more than 90 percent of the funds appropriated or otherwise made available by this Act for the procurement of F/A-18E/F aircraft may be obligated or expended for the procurement of such aircraft until 30 days after the Secretary of Defense has submitted to the Congressional defense committees a report on the F/A-18E/F aircraft program which contains the following:

(1) A review of the F/A-18E/F aircraft program.

(2) An analysis and estimate of the production costs of the program for the total number of aircraft realistically expected to be procured at each of four annual production rates as follows:

(a) 18 aircraft.

(b) 24 aircraft

(c) 36 aircraft.

(d) 48 aircraft.

(3) A comparison of the costs and benefits of the F/A-18E/F program with the costs and benefits of the F/A-18C/D aircraft program taking into account the operational combat effectiveness of the aircraft.

(b) Not later than 30 days after the Secretary of Defense has submitted the report required by subsection (a), the Comptroller General of the United States shall submit to the Congressional defense committees an analysis of the report submitted by the Secretary.

Mr. STEVENS. Mr. President, this amendment restricts the obligation of 10 percent of the funds appropriated for the procurement of the Navy F/A-18E/F fighters until the Secretary of Defense submits a report on the F/A-18E/F program.

The amendment is similar to an amendment adopted in the defense authorization bill, and I believe that this is acting in concert with our colleagues on that Armed Services Committee.

This amendment is now acceptable to us. I believe I speak for my friend from Hawaii, also. Does the Senator want to be listed as a cosponsor?

Mr. INOUYE. Yes.

Mr. STEVENS. Mr. President, I ask the Senator from Wisconsin if he has any comment to make.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, my amendment relates to funds appropriated under this bill for production of the F/A-18 E/F, or the Super Hornet as it is commonly called, which I understand will be accepted by the managers. I appreciate their willingness to work with us on this matter.

Mr. President, this amendment is very similar to an amendment that I offered which was adopted on the Defense authorization bill, S. 1745, when it was considered by the Senate on June 28.

Basically, this amendment seeks to limit obligation of funds for the production of this new aircraft until Congress has an opportunity to review carefully the recommendations made by the General Accounting Office in a report issued last month. The GAO report, entitled "Navy Aviation: F/A-18E/F will Provide Marginal Operational Improvement at High Cost," outlines some very important questions that should be considered before we proceed further with procurement of this aircraft. The amendment directs the Department of Defense to submit a report responding to the GAO concerns, and provides an opportunity for GAO to comment on the DOD response. It fences 10 percent of the funds appropriated for procurement of the new aircraft until 30 days after this report is submitted.

At the time I offered a similar amendment to the DOD authorization bill, I discussed extensively the issues raised by GAO. Although I do not want to take the Senate's time today to repeat each of these arguments, I want to highlight some of GAO's concerns.

First, GAO noted that a projected total program cost of more than $89 billion, the Super Hornet Program is one of the most costly aviation programs in the Department of Defense.

Second, the Navy based the need for the development and procurement of the Super Hornet on the basis of existing or projected operational deficiencies of the current model of the F/A-18 in the following key areas: strike range, carrier recovery payload and survivability. In addition, the Navy noted limitations of the current C/D model of the F/A-18 with respect to avionics growth space and payload capacity.

In its report, however, GAO concluded that the operational deficiencies in the C/D that the Navy had cited in justifying the E/F either have not materialized as projected or such deficiencies can be corrected with nonstructural changes to the current C/D and additional upgrades which would further improve its capabilities.

Mr. President, let me stress here that the GAO did not conclude that the F/A-18 E/F is a bad plane. During the debate on this issue on the DOD authorization, several of the proponents of this aircraft spoke about this plane being a highly capable carrier-based tactical aircraft, as it was intended to be. I want to stress, again, that the issue here is whether the additional capabilities of this aircraft justify its additional cost, or whether the current C/D version of the F/A-18 can perform the mission at substantial cost-savings to the Federal taxpayer.

GAO found that the C/D's are performing at higher levels than originally contemplated. For example, the F/A-18C's operating in support of the current Bosnia operations are now routinely returning to carriers with operational loads of 7,166 pounds, which is substantially greater than the Navy projected for this aircraft. In fact, when initially procured in 1988, this aircraft had a total carrier recovery payload of 6,300 pounds. Today, it is significantly higher. In addition, GAO noted that while it is not necessary, upgrading F/A-18Cs with stronger landing gear could allow them to recover carrier payloads of more than 10,000 pounds—greater than that sought for the F/A-18E/F which would be 9,000 pounds.

GAO made similar findings with respect to the C/D's long-range mission capacity. GAO concluded that the Navy's F/A-18 strike range requirements can be met by either the Super Hornet or the C/D, using the 480-gallon external fuel tanks that are planned to be used on the E/F.

Mr. President, I will not detail any further today the areas where GAO noted that the differences in the capabilities of the two aircraft were either not as significant as anticipated or could be minimized by modifications of the C/Ds.

I do, however, want to stress the difference in the cost of these two planes. As I mentioned at the outset, the total program cost of the Super Hornet is projected to be over $89 billion assuming a procurement of 1,000 aircraft—660 by the Navy and 340 by the Marine Corps—at an annual production rate of 72 aircraft per year. However, as GAO noted, these figures are not accurate. The Marine Corps has made it clear that they do not intend to purchase any Super Hornets. Furthermore, an annual production rate of 72 aircraft is not feasible. The Navy has already been directed to calculate costs based upon a more realistic production rate, at 18, 36 and 54 aircraft per year.

Using the overstated assumptions, the Navy calculated the unit recurring flyaway cost of the Super Hornet at $44 million. However, using GAO's more realistic assumptions of the procurement of 660 aircraft, at a production rate of 36 aircraft per year, the cost of the E/F balloons to $53 million.

In comparison, the C/D's cost $28 million each at a production rate of 36 planes per year.

GAO concluded that the cost difference in unit recurring flyaway would result in a savings of almost $17 billion if the Navy were to procure 660 F/A-18 C/Ds rather than 660 F/A-18 E/Fs.

At a time of fiscal constraints on all aspects of the Federal budget, we need to look carefully at whether it is necessary to spend this additional $17 billion on an aircraft that may produce only marginal improvements over the current model.

Mr. President, this question is also important because there is also a far less costly program already being developed which may yield more significant returns in operational capability. This program is the joint advanced strike technology or JAST program which is currently developing technology for a family of affordable next generation joint strike fighter [JSF] aircraft for the Air Force, Marine Corps and the Navy.

The JSF is expected to be a stealthy strike aircraft built on a single production line with a high degree of parts and cost commonality. The Navy plans to procure 300 JSF's with a projected initial operational capability around 2007. The JSF will be designed to have superior or comparable capabilities in all Navy tactical aircraft mission areas, especially range and survivability, at far less cost than the Super Hornet.

The estimated unit recurring flyaway cost of the Navy's JSF is estimated in the range from $32 to 40 million, as compared to GAO's $53 million estimate for the Super Hornet.

Mr. President, given the high cost and marginal improvement in operational capabilities the Super Hornet would provide, it seems that its justification is no longer clear. Operational deficiencies in the C/D aircraft either have not materialized or can be corrected with nonstructural changes to the plane. As a result, proceeding with the E/F program may not be the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. A strong argument can be made that the Navy can continue to procure the C/D aircraft while upgrading it to improve further its operational capabilities. For the long term, the Navy can look toward the next generation strike fighter, the JSF, which will provide more operational capability at far less cost than the E/F.

As I have indicated previously, the Navy does need to procure aircraft that will bridge between the current force and the JSF which will be operational around 2007. The question is whether the F/A-18C/D can serve that function, or whether we should proceed with an expensive new plane for what appears to be a marginal level of improvement. The $17 billion difference in projected costs does not appear to provide a significant return on our investment.

For these reasons, I think it would be prudent to adopt a go-slow approach to the F/A-18 E/F program and allow Congress sufficient time to review GAO's findings, the Defense Department's response, and GAO's evaluation of that response.

Mr. President, there is one issue I want to specifically address regarding the obligation of funds under this appropriations bill for the F/A-18 E/F program. At the time the GAO report was submitted to Congress, the Navy responded that the GAO concerns were premature because the final procurement decision had not been made by DOD. DOD indicated that the final decision could not be made until the Defense Acquisition Board had made its low rate initial production [LRIP] milestone decision in the first quarter of calendar year 1997. At that time, DOD contended the Board would convene for a thorough program review. It is my understanding that although there may be some procurement funds obligated prior to the DAB decision, the bulk of the funds would not be committed until this milestone decision is made next year. DOD would, under this amendment, also be preparing its report in response to this amendment during the same period of time, and hopefully, answers to some of the questions raised by GAO would be thoroughly examined during this process prior to the final decisions for fiscal year 1997 funding. Congress will also have an opportunity to review this information and halt or slow down procurement if deemed appropriate.

Over the long term, it is important that we carefully consider all of the issues surrounding the planned procurement of some 1000 F/A-18 E/F's. I believe that this amendment will assist in getting the relevant information, and I appreciate the cooperation of the managers in moving us in that direction.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4892) was agreed to.

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

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

The motion to lay on the table was agreed to.

ALUMINUM METAL MATRIX COMPOSITES

Mr. D'AMATO. Mr. President, I am concerned with a project under the Defense Production Act which is currently caught up in the Department of Defense. On October 5, 1995, the President notified Congress that DOD intended to utilize title III of the Defense Production Act (DPA) to address industrial resource shortfalls for the production of Aluminum Metal Matrix Composites (AL MMC). Funding in the amount of $15,000,000 was to be made available for this effort. It is my understanding that staff in the Under Secretary of Defense (Acquisition & Technology) office are attempting to divert these funds to other title III programs.

According to Assistant Secretary of the Army (Research, Development and Acquisition) Gilbert F. Decker, "the Army has valid requirements for components manufactured with Al MMC to support its armored combat vehicle fleet." In fact, Mr. Decker wrote to

Under Secretary Kaminski asking that he continue to reserve the funding for its original purpose, adding that "use of Al MMC material will result in both a significant weight reduction and increase in the durability of manufactured parts. It also promises a significant weight reduction and increase in the durability of manufactured parts. It also promises a significant cost savings over current materials."

Under Secretary of Defense Kaminski approved the project as well stating that "Aluminum Metal Matrix Composites (Al MMC) is an enabling technology that will increase combat performance and reduce life cycle costs for a variety of defense systems, e.g., missiles, where reduced weight will reduce time to kill and/or increase range."

The funds necessary for this project are already appropriated monies and need no further authorization or appropriation to be spent. Based upon my understanding, it is the desire of the Army to proceed expeditiously on the procurement of Aluminum Metal Matrix Composites with title III funds. Unfortunately, DOD personnel on the staff level have decided to step in the way of this project, Mr. Chairman, that is unacceptable.

Mr. STEVENS. I thank the distinguished Senator from New York for bringing this problem to the attention of the Committee. I can assure the Senator that we will look into this matter and further discuss it with our colleagues in the House when we go to Conference.

DOD NATURAL RESOURCES ASSESSMENT

Mr. WARNER. Mr. President, as you and Senator STEVENS know, the Defense authorization bill is currently in conference and I am a conferee on that legislation. Section 248 of that bill as passed by the House contains a provision which authorizes a natural resources assessment and training delivery system improvement program to enhance the Department of Defense's capabilities for complying with its own requirements to protect and conserve the natural ecosystems on military installations. This provision was sponsored by Representative HANSEN of Utah. I am hopeful that the Senate conferees will accept the Hansen amendment in conference.

The purpose of this colloquy is to urge the prospective Senate conferees on the Defense Appropriations bill to give consideration to providing a means of funding the Hansen amendment. Specifically, it is my understanding that $3,400,000 would be required to allow a consortium of environmental experts, including institutions of higher education in my State of Virginia and others, to assist the Department of Defense to monitor natural resources in training and weapons testing areas, to address the highest priority DOD environmental conservation requirements as identified by the Pentagon last year. It is my understanding that this program will help save funds in carrying out these important military requirements.

I ask that Senator STEVENS and the Senate conferees on the Defense appropriations bill do whatever is possible to identify funding to carry out this important military environmental initiative in fiscal year 1997. Can the distinguished Chairman address this matter?

Mr. STEVENS. I want to thank the distinguished Senator from Virginia for bringing this important matter to my personal attention. I am somewhat familiar with the proposal contained in the House-passed Defense authorization bill and it sounds reasonable. I will assure the Senator from Virginia that I will work between now and the conclusion of conference on this appropriations bill to find a way to provide funding for the natural resources assessment and training delivery system improvement program that has been identified by my colleague. One possible avenue that will be explored is the Defense Legacy Program.

Mr. WARNER. I thank my friend and colleague for his consideration of this project.

DOD TRANSIT PROGRAM

Mr. WARNER. Mr. President, I would like to bring to your attention the fact that none of the Department of Defense organizations currently participates in a transit benefit program available to all Federal civilian and military personnel. This is particularly significant given the Metro facilities at the Pentagon. The program, offered by the Washington Metropolitan Area Transit Authority (WMATA), and authorized under the Federal Employees Clean Air Incentives Act, Public Law 103–172, enacted in 1993, allows Federal agencies to provide a tax free benefit of up to $65 per month in employer-provided transit passes to help defray the costs of daily commutes by public transportation. The Federal Government is also permitted to provide up to $165 per month for parking costs, similarly excluded from an employee's taxable income. These benefits are identical to those enjoyed by private sector employees under the Energy Policy Act of 1992.

This incentive program for Federal employees has been an unqualified success. The 100 Federal agencies in this area, including the United States Senate, that participate in the WMATA Program, called Metrochek, have reduced parking costs, decreased employee absenteeism rates and improved employee morale and productivity. The program also results in significant energy conservation and environmental benefits and serves to reduce traffic congestion, by encouraging Federal employees to take public transit, rather than driving alone in their automobiles.

Mr. STEVENS. This certainly appears to be a worthwhile program. I would like to join the distinguished gentleman in encouraging Department of Defense organizations to participate. In your opinion, what would be the most efficient method for gaining their participation?

Mr. WARNER. First, Mr. President, the Department of Defense should instruct its organizations to survey the area's Department of Defense employees to accurately estimate how many employees might benefit from this program. Additionally, I request the Chairman's support in directing some of DOD's largest organizations to conduct a demonstration program to test the effectiveness of this program. For example, there are over 40,000 civilian and military Army employees in the Washington area. WMATA estimates that approximately 6,400 employees could utilize the Metrochek Program. Similarly, the Navy and Marines have 58,000 employees in this area, of which 8,700 may be able to utilize the program; and the Air Force has over 21,000 employees, of which 3,300 could benefit.

Mr. STEVENS. I would be pleased to join the distinguished Senator in strongly encouraging these DOD organizations to establish demonstration programs in order to more closely examine the potential of this program.

Mr. WARNER. I want to thank the Chairman. It seems to me that given the substantial Federal investment made in Metrorail, we have an obligation to utilize this extraordinary asset. More than half of the Metro stations serve Federal installations. The Metrorail System was built with the full partnership of the Federal Government, dating back to the Eisenhower Administration. I appreciate the Chairman's willingness to promote this important program which benefits Federal employees, while reducing congestion and improving air quality in this region.

ADVANCED MATERIALS INTELLIGENT PROCESSING CENTER

Ms. MOSELEY-BRAUN. Mr. President, I would like to express my appreciation to my colleagues, the senior Senator from Alaska, TED STEVENS, and the Senior Senator from Hawaii, DAN INOUYE, for the funding provided for the Advanced Materials Intelligent Processing Center in the fiscal year 1997 Defense Appropriations legislation. I believe the Center will provide returns to the American taxpayers by enhancing the affordability of military hardware and defense readiness.

At present, the affordability of military hardware is determined in part by the cost of fabricating components and the stockpiling of weapons for future use. Advanced materials, which are increasingly used in military hardware because they provide important performance benefits, can be difficult and expensive to process. Weapons are presently manufactured and stockpiled at great cost in part because technologies

are not yet in place that would allow a mothballed plant to be reactivated quickly, or a commercial manufacturing plant to be converted rapidly to military production.

The Advanced Materials Intelligent Processing Center can address both of these cost factors by providing an integrated approach for the fabrication of military hardware containing advanced materials. The Center will develop processing techniques that can help to lower the cost of fabricating military components from advanced materials, and help to lower the cost and the need for stockpiling.

Numerous studies have shown that inadequate processing technology can contribute to the high cost of advanced materials. In addition, the Federal Government spends far more on product development—95 percent of Federal research and development—than on process development, in contrast to Japan where the breakdown of research and development funding is exactly opposite, and where affordable advanced materials are being developed far more rapidly than in the United States.

The Center is the culmination of more than two years of discussion and planning with organizations such as the Army Materials Laboratory polymer composites group, the Air Force Material Laboratory controls group and ceramic-matrix composites group, Argonne National Laboratory, the NIST polymer composites group and the Office of Intelligent Processing of Materials, the IHPTET Fiber Development Consortium, and the Navy's Center of Excellence in Composites Manufacturing Technology.

Northwestern University is uniquely qualified to establish and operate the Center because of its international reputation in materials science, its nationally recognized effectiveness in interdisciplinary R&D, industrial collaboration, technology transfer, and its experience in operating R&D consortia related to the production of advanced military hardware. Northwestern's Department of Materials Science and Engineering is consistently ranked among the top five such departments in the Nation, and Northwestern's Material Science Center was among the first of such laboratories funded by the Federal Government.

In addition, Northwestern's Institute of Learning Sciences is nationally recognized in using artificial intelligence for adaptive learning systems. Finally, Northwestern's industrial research laboratory, BIRL, has successfully worked with many commercial and military suppliers to develop and transfer new advanced materials and processing technologies.

With the end of the cold war, the Nation's industrial capacity to provide defense hardware has declined dramatically through the closure or conversion to commercial use of defense manufacturing facilities. Many U.S. defense firms may be unable to convert their operations rapidly to large-scale military production. The funding recommended in this year's legislation would allow for development of a center that can help address the defense readiness of our industrial base.

In closing, Mr. President, I would like to again commend my colleagues on the subcommittee for their efforts on behalf of this center.

Mr. STEVENS. I appreciate the kind words of the distinguished Senator From Illinois. I am aware that Northwestern University in Evanston, IL would be well qualified to operate the Advanced Materials Intelligent Processing Center and will give this program every consideration for funding during conference of this bill.

COMPUTER EMERGENCY RESPONSE SYSTEM

Mr. SPECTER. Mr. President, I have sought recognition for the purpose of engaging my good friend, the distinguished chairman of the Defense Appropriations Subcommittee, in a colloquy regarding support for the Computer Emergency Response Team Coordination Center [CERT/CC], located at Carnegie Mellon University's Software Engineering Institute in Pittsburgh, PA. CERT/CC has operated since 1988 under the sponsorship of the Defense Advanced Research Projects Agency [DARPA]. Its mission is to respond to computer security emergencies and intrusions on the Internet, to serve as a central point for identifying vulnerabilities, and to conduct research to improve the security of existing systems.

The number of computer emergencies handled by CERT/CC has grown from 132 in 1989 to nearly 2,500 in 1995. The severity of these incidents has also increased dramatically. Finance and banking, medicine and transportation rely heavily on computer networks. But as terrorists, ordinary criminals, and rogue states grow more technologically sophisticated, our vulnerability to attacks on our computer networks has grown. In light of these vulnerabilities, it is critical for the United States to develop networks capable of surviving attacks while protecting sensitive data. In my view, CERT/CC can play a critical role in ensuring the security of our computer systems.

The Defense Department had planned to reduce funding for this critically important activity. However, an amendment offered by Senators NUNN, SANTORUM and KYL, and included in the fiscal year 1997 Defense Authorization bill, authorizes $2 million to the Software Engineering Institute to continue this effort. This important provision will enable CERT's incident-handling activity to continue through fiscal year 1997. It is my hope that an appropriate long-term source of funding for CERT will be identified during the coming fiscal year.

Mr. STEVENS. Mr. President, I thank my colleague from Pennsylvania for his comments. I agree that the CERT provides a critical function for the Defense Department at a time when our computer systems and networks are being attacked by computer hackers. I will work to provide an appropriate level of funding for CERT activities.

Mr. GRAMM. Mr. President. I would like to discuss with the distinguished Chairman and ranking member of the Defense Subcommittee an important matter that I and a number of our colleagues have been working on. As I am sure they are aware, the Senate adopted an amendment I offered to the fiscal year 1997 Senate Defense Authorization bill that would require the Defense Department and the Department of Health and Human Services to jointly submit to the Congress no later than September 6, 1996 a detailed military retiree Medicare subvention demonstration program implementation plan. That amendment also authorized funds to pay for the demonstration program. Currently, however, the fiscal year 1997 Defense Appropriations bill does not include funding for this important effort. I would like to bring this matter to the attention of my colleagues, and to propose expediting a reprogramming request in fiscal year 1997 to fund the demonstration program should the Congress authorize it for fiscal year 1997.

Mr. STEVENS. Mr. President, I am aware of the efforts of my colleague, and understand that if the Congress authorizes the demonstration program in fiscal year 1997 some funds may need to be appropriated. Since we do not yet know how much funding could be required, it is impossible for the subcommittee to act at this time. I assure my colleague that the subcommittee supports Medicare subvention and we would be willing to work with my colleague from Texas and the administration to expedite the reprogramming of 1997 funds if the Congress authorizes a Medicare subvention demonstration program in fiscal year 1997.

Mr. INOUYE. Mr. President, I too am well aware of this issue. I am pleased to have been a cosponsor of the amendment to the fiscal year 1997 Defense authorization bill to which my colleague from Texas referred, as well as being an original cosponsor of his demonstration legislation, S. 1487. I strongly support the Senate's efforts to attempt to authorize a Medicare subvention demonstration program in fiscal year 1997 and look forward to reviewing the joint report when it is submitted on September 6. I assure my colleague from Texas that I will be pleased to work with him and the administration to try to expedite the reprogramming of fiscal year 1997 funds if the Congress is able to authorize the demonstration in fiscal year 1997.

Mr. GRASSLEY. Mr. President, I would like to thank the chairman of the committee, my friend from Alaska, Senator STEVENS, and my friend the ranking minority member, Senator INOUYE, for doing the good work again this year on the Defense Department's problem disbursements.

The bill includes a provision—section 8089—that makes the Department match disbursements with obligations before payments are made.

This measure helps to sustain the momentum we started back in 1994, continued in 1995, and re-energized this year.

Section 8089 ratchets down payment thresholds even more as recommended in audit reports just issued by the inspector general and General Accounting Office.

This piece of legislation and the accompanying report language send the right message to the Department.

We intend to keep the pressure on until this problem is fixed.

That's the message the bill sends.

I thank Senator STEVENS and Senator INOUYE for their willingness to follow through on this important issue.

Mr. DOMENICI. Mr. President, this Defense Appropriations bill, S. 1894, provides $244.8 billion in new discretionary budget authority and $243.2 in total discretionary outlays for the Department of Defense. There are some major elements to this bill that are important for Senators to know.

The bill, as reported, is within the Defense Subcommittee's Section 602(b) allocation and, thus, complies with the requirements of the Budget Act.

The bill fully funds certain important initiatives that were requested by the President, including a three percent pay raise for all military personnel and the end strengths for all of the active and reserve military services.

More importantly, the bill also funds needed increases in each of the major accounts of the defense budget. Each of these accounts was left with major underfunding problems by the administration's budget request. The administration would have us believe that these increases are uncalled for an excessive; following that advice would have the following consequences:

Programmed medical care for military beneficiaries would be underfunded by $475 million, and that care would be reduced.

The average age of military barracks that is now over 30 years would increase.

The average age of tactical aircraft would increase to over 20 years, and some Air Force fighters would be as old as 40 years.

Flight training for Air Force fighter pilots would decrease from 20 hours per month to an unacceptable 16 hours.

The size of Air National Guard squadrons would shrink to 12 aircraft each from a level that was 18 to 24 just a few years ago.

In short, while the administration would have people believe that the increases we are funding in this bill are excessive and unnecessary, the facts are that these increases will only help to slow—not prevent, let alone reverse—some serious deterioration in our Armed Forces.

In fact, in terms of constant—inflation adjusted—dollars, this bill is a real-dollar decrease from last year's appropriations, and, despite its apparent increases, it constitutes the twelfth straight year of decline in real-dollar defense spending.

The chairman of the Defense Subcommittee, Senator STEVENS, and the Subcommittee staff deserve the thanks of the Senate for their extremely skillful crafting of this bill. It makes the best possible use of the limited funds available; in many respects, it does more—with less—than other defense bills before Congress, and, most importantly, it helps to stem the aging and shrinking in our weapons inventory and the reduced training and readiness that the administration's anemic defense budget would impose on our Armed Forces.

Finally, Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill to the Defense Subcommittee's 602(b) allocation be printed in the RECORD.

I urge the adoption of this bill.

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

DEFENSE SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense Discretionary:		
Outlays from prior-year BA and other actions completed		80,733
S. 1894, as reported to the Senate	244,561	162,247
Scorekeeping adjustment		
Subtotal defense discretionary	244,561	242,980
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed		12
S. 1894, as reported to the Senate		
Scorekeeping adjustment		
Subtotal nondefense discretionary		
Mandatory:		
Outlays from prior-year BA and other actions completed		
S. 1894, as reported to the Senate	184	184
Adjustment to conform mandatory programs with budget resolution assumptions	12	12
Subtotal mandatory	196	196
Adjusted bill total	244,757	243,188
Senate subcommittee 602(b) allocation:		
Defense discretionary	244,565	242,985
Nondefense discretionary		12
Violent crime reduction trust fund		
Mandatory	196	196
Total allocation	244,761	243,193
Adjusted bill total compared to Senate subcommittee 602(b) allocation:		
Defense discretionary	−4	−5
Nondefense discretionary		
Violent crime reduction trust fund	NA	NA
Mandatory		

DEFENSE SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL—Continued

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Total allocation	−4	−5

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. STEVENS. Mr. President, I yield to the majority leader.

Mr. LOTT. Mr. President, again, I want to thank the managers of the bill for the good work they have done. They have done an incredible job in working through a long list of amendments and making sure that all the Senators' interests are protected.

It looks to me like they have reached a point here where we can bring the DOD appropriations bill to a conclusion, with votes in the morning. We are waiting for one final clearance. We hope to get that, and there are calls being made now.

I thank the Democratic leader publicly for his help in working through these amendments and on a number of other issues we are working on.

I will not ask unanimous consent right now, but I thought I might outline what the two managers have come up with, and that would be this: All remaining amendments to the Department of Defense bill be offered and all debate occur tonight, and that any rollcall votes ordered with respect to these amendments begin at 9:30 in the morning, with the first vote limited to the standard time, and all remaining stacked votes be reduced to 10 minutes in length, with 2 minutes equally divided on each before the votes so that there will be an explanation; following the disposition of all of those amendments and all other provisions of the bill, we would go to third reading, and Senator DORGAN would be recognized for 5 minutes for closing debate, and there would be 5 minutes equally divided between the two managers, and following that, final passage.

If sounds to me like all of this could probably be done within an hour or so, and then we would go right after that into the consideration of S. 1956, which is the reconciliation bill. If we can get a final clearance on that, then we would be able to officially announce that there would be no further votes tonight. We have not gotten that finally agreed to at this point. But I think it would be very good if we could get that completed and go to reconciliation. Of course, we would have to have it. The bill would have to be available, and we believe it will be available by 10:30 in the morning.

Let me do this while we are waiting. I thought maybe we could go the agreement at any moment now. Would the Senator from Iowa like to go ahead and proceed? Then would he be willing to yield to me to put this unanimous consent as soon as we get final clearance?

Mr. HARKIN. Any time.

Will the majority leader yield on the unanimous-consent request?

Mr. LOTT. Certainly.

Mr. HARKIN. Again, maybe my ears did not pick it up. Any time we have debate in the evening and we stack votes in the morning, this Senator feels that it is appropriate to give at least a couple of minutes in the morning before the votes.

Mr. LOTT. That would be included in the unanimous-consent request.

Mr. STEVENS. A minute on each side.

Mr. LOTT. I yield the floor, and hopefully we can get the final word momentarily.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 4492

(Purpose: Relating to payments by the Department of Defense of restructuring costs associated with business combinations)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, and Mr. SIMON, proposes an amendment numbered 4492.

Mr. HARKIN. 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 88, between lines 7 and 8, insert the following:

SEC. 8099. (a)(1) Not later than February 1, 1997, the Comptroller General shall, in consultation with the Inspector General of the Department of Defense and the Director of the Office of Management and Budget, submit to Congress a report which shall set forth recommendations regarding the revisions of statute or regulation necessary—

(A) to assure that the amount paid by the Department of Defense for restructuring costs associated with a business combination does not exceed the expected net financial benefit to the Federal Government of the business combination;

(B) to assure that such expected net financial benefit accrues to the Federal Government; and

(C) in the event that the amount paid exceeds the actual net financial benefit, to permit the Federal Government to recoup the difference between the amount paid and the actual net financial benefit.

(2) For purposes of determining the net financial benefit to the Federal Government of a business combination under this subsection, the Comptroller General shall utilize a 5-year time period and take into account all costs anticipated to be incurred by the Federal Government as a result of the business combination, including costs associated with the payment of unemployment compensation and costs associated with the retraining of workers.

(b) No funds appropriated or otherwise made available for the Department of Defense by this Act may be obligated or expended to process or pay any claim for restructuring costs associated with a business combination under the following:

(1) Any contract, advance agreement, or novation agreement entered into on or after July 12, 1996.

(2) Any contract, advance agreement, or novation agreement entered into before that date unless the contract or agreement specifies that payment for costs associated with a business combination shall be made under the contract using funds appropriated or otherwise made available for the Department by this Act.

Mr. HARKIN. Mr. President, I ask unanimous consent that Senator SIMON's name be added as a cosponsor of the amendment.

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

Mr. LOTT. Mr. President, if the Senator will yield, I believe we have this agreement.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that all remaining amendments to the Department of Defense appropriations bill be offered, that all debate occur today, and that the rollcall votes ordered with respect to these amendments begin at 9:30 a.m., on Thursday, July 18, with the first vote limited to the standard time, and all remaining stacked votes reduced to 10 minutes in length with 2 minutes equally divided prior to each vote for explanation.

I further ask unanimous consent that, following disposition of the amendments, all other provisions of this consent agreement apply; and, following third reading of H.R. 3610, that Senator DORGAN be recognized to be followed by 5 minutes equally divided between the two managers; and, following the conclusion or yielding back of time, the Senate proceed to vote on final passage of H.R. 3610, as amended, without further action or debate; and following disposition and passage of H.R. 3610, the Senate turn to consideration of S. 1956, the reconciliation bill.

Mr. DASCHLE. Reserving the right to object, 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. DASCHLE. 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. DASCHLE. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further votes this evening. However, Members who have amendments will have to remain to offer and debate their amendments. Those votes, including passage, will occur beginning at 9:30 a.m. Also, following passage of the DOD appropriations bill, the Senate will begin reconciliation.

Therefore, a number of votes will occur during Thursday's session of the Senate.

Again, I thank Senator DASCHLE, Senator STEVENS, and Senator INOUYE for the great work they have done here, and all Senators because it takes a lot of cooperation to get a unanimous-consent agreement.

We will continue to try to move bills that we get agreement on, and judges that we have agreement on, so that we can continue to work together and do the business of the Senate.

I thank Senator HARKIN for yielding this time.

AMENDMENT NO. 4492

The PRESIDING OFFICER. By previous agreement, the proponents of the Harkin amendment have 30 minutes under the control of the Senator from Iowa, and the opponents have 15 minutes.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, this is a very simple amendment. Let me try to explain it by beginning this way. If you remember the $600 toilet seats, and the $500 hammers in the Department of Defense, well, what is going on right now is going to make those look like a real bargain. What has happened since 1993, due to a policy change that was never debated on the Senate floor, never published in the Federal Register, is that taxpayers are now paying for mergers and acquisition costs of defense contractors.

Yes. You heard me right. Any defense contractor that merges—acquires other companies—the taxpayers get to pick up the bill. I know it is hard to believe. But it is actually happening.

The cost estimated so far of doing this just since 1993 is over $300 million. There is somewhere in the neighborhood of about $2 billion in costs pending that the taxpayers will have to pick up unless we do something about it and stop this nonsense—this egregious attack on the taxpayer dollars.

In 1993 the DOD, at the request of defense contractors, changed its policy on reimbursing companies for corporate mergers without adequately notifying Congress. This change in the interpretation of the Federal acquisition rules is far reaching. Every department and agency of the Government is affected. Yet, the Senate has not had one hearing nor significant floor debate on this issue.

Mr. President, this amendment simply seeks to assure that what proponents of this form of corporate welfare claim—that it will lead to rational downsizing of the defense industry and result in net savings to the taxpayer—is actually realized. As of now both of those claims do not seem to be supported by the facts.

Let me read a couple of passages from a recent DOD inspector general report dated June 28, 1996, on page 9. "Contractors"—meaning defense contractors—"are submitting cost proposals for activities called concentration, transition, economic planning, and

other terms that do not immediately suggest restructuring and make the cost issues difficult for the Government to review, administer, and resolve."

On page 10 of the same IG report,

One contractor's restructuring proposal projected savings over 10 years. The contractor's projections are highly speculative since the volume of Government business is not guaranteed. The same contractor also proposed savings based on "synergies in the work force" [how about that one?] a term that is not defined in the existing procurement regulations, and is difficult at best to monetize and evaluate."

Another contractor proposed keeping subcontract profits [listen to this one] in its prime contract price, although it now owned the subcontractor and would be receiving a profit on top of a profit.

Another example:

A contractor voluntarily deleted costs to win a competitive program and subsequently identified those costs as restructuring.

And billed the taxpayers for it.

On page 16, the same IG report, which just came out about 3 weeks ago:

Amortization based on the projection of extended savings can almost make a marginal acquisition appear attractive by spreading costs over a long period, and comparing them to the projected savings to determine savings. In all cases, amortization periods were selected for arbitrary reasons, such as the length of time needed to achieve restructuring savings, or to meet available funding otherwise not supported by generally accepted accounting principles.

There is more, but I will leave that for right now.

As I said earlier, Mr. President, proponents also say the policy is going to save taxpayers' money. How many times have we heard that old song? The record is spotty at best.

According to a GAO study of one business combination, "The net cost reduction certified by DOD represents less than 15 percent of the savings projected to the DOD 2 years earlier when they sought support for the proposed partnership."

Less than 15 percent of the projected savings were actually being achieved. That alone proves the need for my amendment.

Clearly, projected savings are not being realized. Yet, there is absolutely no mechanism for DOD to recoup actual losses to the Government. As a result, the American taxpayer is being asked to pick up the tab.

In addition, the current practice is to measure only cost to the Department of Defense when contractors merge and lay off thousands of hard-working Americans. The costs associated with Government-subsidized social services like worker retraining are not tallied. Neither are the costs associated with lost payroll tax revenue. My amendment would fix that by requiring the Comptroller to include all costs to the Government in his recommendations.

Although I believe this practice must stop, maybe this is too much to do right now, but that is why I am offering this very modest amendment. What this amendment does is it merely puts a 1-year moratorium on these payments so the Comptroller General can give us the tools we need to take a close look at the policy and to ensure that taxpayers recoup any payments in excess of realized benefits. It will also allow us to have hearings on this far-reaching policy change.

Mr. President, this amendment is very similar to one adopted in the House on June 13. On June 13—get this—the House of Representatives, by voice vote, adopted an amendment even more stringent than mine. It would be retroactive. It would go back even on the contracts that are held right now.

When I first proposed my amendment on the defense authorization bill, some of the Members came to me and said, "Oh, my gosh. This is going to open up the Government to all kind of lawsuits—breach of contract." Well, all right, I took that into account. This amendment that I offer is not like that amendment. This amendment is only prospective. It allows the Government to pay the costs for which it is currently obligated, but it prevents any further obligation.

Let me be very clear about this, especially to the managers of the bill. This amendment allows the Government to pay costs for which it is currently obligated but prevents any further obligation.

Let me just discuss this policy in more detail. Lawrence Korb, the Under Secretary of Defense under President Reagan, supports this amendment. According to an article by him in the summer 1996 issue of the Brookings Review, this wasteful practice was initiated by the Pentagon in July 1993. The Pentagon claims that this was not a change of policy but merely a clarification of existing policy. However, no one can come up with examples of such corporate welfare before the 1993 decision. And there are several examples of such requests being denied. So it was a policy change, a serious and costly one.

If this was not a policy change and merely a clarification of existing policy, then you better look out, because we have got mergers and acquisitions going back to the late 1970's, and they are all going to be marching up here and saying, well, it was existing policy.

I hope the managers of the bill and their staffs will think about this and respond to this. You cannot have it both ways. If this is a change in policy, then it was not published in the Federal Register. It did not follow the rules, Federal rules. There were no hearings held in the Senate. We never debated it. If, however, as the Pentagon claims, this was not a change in policy but only a clarification of existing policy, then the taxpayers of this country ought to have to pay for every merger and acquisition going all the way back, and so the ones that were denied in the past will now come back to haunt us because they will come back and say, by your own words, this was existing policy.

That is why even the $2 billion we are looking at that is pending now is going to mushroom to $3 billion, $4 billion, $5 billion. Who knows when it will all end?

Let me read a little bit from Mr. Korb's article. First of all, from his letter to me dated July 11.

As I testified in July 1994 before the House Armed Services Committee, and as I have written in Foreign Affairs, the Brookings Review and the Baltimore Sun, I do not believe that such payments are necessary to promote the rational downsizing of defense industry. Moreover, by its policy of subsidizing defense mergers and acquisitions, the Clinton administration has already created mega-companies that will stifle competition and wield tremendous political power.

The conditions that the amendment places on paying the subsidy will ensure that Federal money will not go towards mergers that would have occurred without the subsidy or before the policy change. In addition, your amendment—

Talking about my amendment—

Will guarantee that there will be real savings to the taxpayer and that these savings are documented.

In the article that he had in the Brookings Review in the summer issue, Mr. Korb pointed out how this happened. He said:

To date, the Pentagon has received 30 requests for reimbursement for restructuring. Lockheed Martin alone expects to receive at least $1 billion to complete its merger.

How did it happen? In July 1993, John Deutch, then the undersecretary of defense for acquisition, responded to pressure on his boss, William Perry, from the chief executive officers of Martin Marietta, Lockheed, Loral and Hughes by deciding to allow defense companies to bill the Pentagon for the costs of mergers and acquisitions.

According to Deutch . . . the move was not a policy change but a clarification of existing policy.

Deutch is wrong . . . This is a major policy change. It is not necessary. And it will not save money.

Mr. Korb goes on in his article. He says:

Indeed, during the Bush administration, the Defense Contract Management Agency rejected a request by the Hughes Aircraft Corporation to be reimbursed for $112 million in costs resulting from its acquisition of General Dynamics' missile division.

But on July 21, 1993, Deutch wrote a memorandum stating that restructuring costs are indeed allowable and thus reimbursable under Federal procurement law.

Deutch's position that he was merely clarifying rather than making policy is not supported by anyone, even those who favor the change. The procurement experts in his own department disagreed vehemently. On June 17, 1993, the career professionals at DCMA told him that the history of the FAR argues against making the nonrecurring organization costs associated with restructuring costs allowable and noted that they had disallowed these costs in the past.

The DCMA position was also supported by Don Yockey, the undersecretary of defense for acquisition in the Bush administration, the Aerospace Industries Association, the American Bar Association's Section on Public Contract Law, and the American Law Division of the Congressional Research Service. * * *

In Luckey's opinion, Deutch's position is based on semantics, not legality.

Mr. President, I ask unanimous consent the cover letter to this Senator and the article that appeared in the Brookings Review, summer 1996, be printed in the RECORD.

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

THE BROOKINGS INSTITUTION,
CENTER FOR PUBLIC POLICY EDUCATION,
Washington, DC, July 11, 1996.

Hon. TOM HARKIN,
U.S. Senator,
Washington, DC.

DEAR SENATOR HARKIN: As you requested, I am writing to give you my opinion on your amendment to S. 1894, that would prohibit the secretary of defense from paying the restructuring costs resulting from a merger or acquisition in the defense industry after July 11, 1996, and permits the Federal government to recoup funds from those companies that merged prior to this date if the net federal benefit does not exceed the amount paid to the companies.

As I testified in July 1994 before the House Armed Services Committee, and as I have written in Foreign Affairs, the Brookings Review, and the Baltimore Sun, I do not believe that such payments are necessary to promote the rational downsizing of defense industry. Moreover, by its policy of subsidizing defense mergers and acquisitions, the Clinton administration has already created mega-companies that will stifle competition and wield tremendous political power.

The conditions that the amendment places on paying the subsidy will ensure that federal money will not go toward mergers that would have occurred without the subsidy or before the policy change. In addition, your amendment will guarantee that there will be real savings to the taxpayer and that these savings are documented.

I appreciate your asking for my opinion on this matter and would be happy to answer any questions you might have.

Sincerely,

LAWRENCE J. KORB,
Director.

[From the Brookings Review, Summer 1996]

MERGER MANIA

(By Lawrence J. Korb)

McDonnell Douglas, Martin Marietta, Ling-Temco-Vaught (LTV). As the telltale compound names signal, mergers and acquisitions have long been a staple of the U.S. defense industry. But since the Clinton administration took office in 1992, the number of mergers has increased dramatically.

In 1991, military mergers were valued at some $300 million. by 1993, the value had climbed to $14.2 billion. It will top $20 billion in 1996. In 1993 Martin Marietta purchased General Electric's defense division and General Dynamics' space division. At about the same time Lockheed purchased General Dynamics' aircraft division, while Loral purchased LTV, Ford Aerospace, and Unisys. Then in 1994 Lockheed merged with Martin to become Lockheed Martin, and a year later Lockheed Martin purchased Loral to produce a $30 billion giant known as Lockheed Martin Loral, which now controls 40 percent of the Pentagon's procurement budget.

During this same period. Northrop outbid Martin for the Grumman aircraft company, and the new company in turn bought the defense division of Westinghouse. On a somewhat smaller scale, Hughes bought General Dynamics' missile division and Raytheon purchased E-Systems. Among the true defense giants, only McDonnel Douglas has not yet made a major purchase.

Spokesmen for the defense industry cite two reasons for this sudden rush of mergers. First, merger mania is sweeping U.S. industry generally. Second, with the end of the Cold War, defense spending has fallen so dramatically that excess capacity in the defense industry can be eliminated only through consolidation. As Norman Augustine of Lockheed Martin has observed, for the defense industry this is 1929.

Superficially these reasons seem quite plausible. Merger mania has certainly hit many areas of American industry, such as banking and communications. In 1992 Chemical Bank merged with Manufacturers Hanover, and in 1995 they combined with Chase Manhattan to form a single company. In the past year, Time, which had merged with Warner Communications in 1990, purchased Turner Broadcasting; Capital Cities/ABC merged with Pacific Telesis; and Bell Atlantic merged with NYNEX.

And defense spending has indeed fallen since the end of the Cold War. In current dollars, projected defense spending for fiscal year 1997 is about 40 percent below that of a decade ago, and procurement spending is about one-third what it was at its peak in the 1980s.

But what industry spokesmen fail to note is that the decline in defense expenditures has been greatly exaggerated and that, unlike the private-sector restructuring, the government is subsidizing defense mergers.

Remember the $600 toilet seats and the $500 hammers that had taxpayers up in arms during the mid-1980s? Today's subsidized mergers are going to make them look like bargains. The outrageously priced toilet seats and hammers were the result of defense companies taking advantage of a loophole in acquisition regulations. This time, the taxpayers are being fleeced at the hands of the Pentagon's civilian leadership, whose secret reinterpretation of the regulations has rained hundreds of millions of dollars upon the defense industry. To date the Pentagon has received 30 requests for reimbursements for restructuring. Lockheed Martin along expects to receive at least $1 billion to complete its merger.

HOW DID IT HAPPEN?

In July 1993, John M. Deutch, then the undersecretary of defense for acquisition, responded to pressure on his boss, William Perry, from the chief executive officers of Martin Marietta, Lockheed, Loral, and Hughes by deciding to allow defense companies to bill the Pentagon for the costs of mergers and acquisitions. According to Deutch, who has since been promoted to deputy secretary of defense and then to director of Central Intelligence, the move was not a policy change but a clarification of existing policy. In Deutch's view, not only was the clarification necessary to promote the rational downsizing of the defense industry, it would also save taxpayers billions in the long run.

Deutch is wrong on all three counts. This is a major policy change. It is not necessary. And it will not save money.

A commonsense reading of the Federal Acquisition Regulations (FAR) would lead a reasonable person to conclude that organization costs are not allowable. The regulations state that since the government is not concerned with the form of the contractor's organization, such expenditures are not necessary for or allowable to government contracts. Indeed, during the Bush administration, the Defense Contract Management Agency (DCMA) rejected a request by the Hughes Aircraft Corporation to be reimbursed for $112 million in costs resulting from its acquisition of General Dynamics' missile division. As far back as the Nixon administration, during the post-Vietnam drawdown of defense spending, which was as severe as the current drawdown, the Defense Department rejected a similar request from General Dynamics.

But on July 21, 1993, Deutch wrote a memorandum stating that restructuring costs are indeed allowable and thus reimbursable under federal procurement law. Because Deutch regarded the memo as merely a clarification of existing policy, he saw no need for a public announcement. Indeed, he did not discuss his "clarification" with the military services or Congress or even inform them of it. Congress found out about it accidentally nine months after the memo was written when Martin Marietta tried to recoup from the Pentagon about $60 million of the $208 million it paid for General Dynamics' space division. A somewhat astonished Senator Sam Nunn (D-GA), then chairman of the Senate Armed Services Committee, remarked, "Why pay Martin Marietta [60] million?"

Deutch's position that he was merely clarifying rather than making policy is not supported by anyone, even those who favor the change. The procurement experts in his own department disagreed vehemently. On June 17, 1993, the career professionals at DCMA told him that the history of the FAR argues against making the nonrecurring organization costs associated with restructuring costs allowable and noted that they had disallowed these costs in the past.

The DCMA position was also supported by Don Yockey, the undersecretary of defense for acquisition in the Bush administration; the Aerospace Industries Association (AIA), the trade association for aerospace companies; the American Bar Association's Section on Public Contract Law; and the American Law Division of the Congressional Research Service.

Yockey, who was Deutch's immediate predecessor as procurement czar and who is both a retired military officer and former defense industry executive, argued in a July 13, 1994, letter to the professional staff of the House Armed Services Committee that by definition, structure means organization, and that the FAR does not allow the reimbursement of organization costs. Indeed, it was Yockey himself who told DCMA to reject Hughes' request for reimbursement for its purchase of General Dynamics' missile division.

In a September 28, 1993, letter to Eleanor Spector, the director of defense procurement, Leroy Haugh, vice president of procurement and finance of AIA, stated that the Deutch memo constituted a significant policy decision and an important policy change. Therefore, Haugh asked Spector to promptly publish notice of this policy change in the Federal Register and to consider amending the regulations. In a May 3, 1994, letter to Deutch, Donald J. Kinlin, the chair of the ABA Section on Public Contract Law, urged Deutch to modify the FAR since at that time

it did not reflect the changes made in Deutch's July 1993 memorandum. What is significant about the AIA and ABA positions is that both groups support Deutch's change.

Finally in a June 8, 1994, memorandum John R. Luckey, legislative attorney for the Congressional Research Service, stated that while formal amendment of the FAR could make restructuring costs allowable, the argument that they are allowable under the current regulations appears to contradict their plain meaning. In Luckey's opinion, Deutch's position is based on semantics, not legality.

In short, the political leadership of the Clinton defense department made a significant policy change that as a minimum should have been published in the Federal Register and, as Secretary Perry later admitted, cleared in advance with Congress.

THE SUBSTANCE OF THE ISSUE

This end run around the administrative and legislative processes by the Pentagon is unprecedented, but even more important is whether the Defense Department and the Taxpayers should be giving the defense industry a windfall by allowing a write-off of substantial parts of restructuring costs. For four reasons, the answer to that question should be an emphatic "No."

First, like Mark Twain's death, the decline of the defense industry in this country has been greatly exaggerated. As Pentagon and industry officials endlessly point out, defense spending in general, and procurement spending in particular, have declined over the past decade. They note that between fiscal year 1985 and fiscal year 1995, the defense budget declined 30 percent in real terms and procurement spending fell 60 percent. But that comparison ignores the fact that between fiscal year 1980 and fiscal year 1985, the defense budget grew 55 percent and the procurement budget grew a whopping 116 percent. Defense spending in real terms is still at about its Cold War average, and the defense budget for fiscal year 1996 was higher than it was for fiscal year 1980. In inflation-adjusted dollars, Bill Clinton spent about $30 billion more on defense in 1995 than Richard Nixon did in 1975 to confront Soviet Communist expansionism. Using fiscal year 1985, the height of the Reagan buildup, as a base year distorts the picture. It would be like comparing spending in the Korean and Vietnam wars to the level of World War II and concluding we did not spend enough in Korea and Vietnam. Moreover, procurement spending will rise 40 percent over the next five years, and the pentagon is now soliciting bids for the $750 billion joint strike fighter program.

Similarly, while defense employment has fallen 25 percent over the past eight years, it grew 30 percent in the five years before that. More people work in the defense sector now than at any time in the decade of the 1970s. Moreover, much of the decline in the defense industry is attributable to the reengineering or slimming down that is sweeping all American industries, even those with an increasing customer base.

Finally, if one adds the $266 billion worth of U.S. arms sold around the world since 1990 (a scandal in itself) to the $300 billion in purchases by the Defense Department, American defense industry sales are still at historic highs. Defense is still a profitable business—which explains why defense stocks are still quite high despite the jeremiads of industry spokesmen. Over the past year Lockheed Martin stock has increased 48 percent in value. Northrop Grumman is up 50 percent and McDonnell Douglas a whopping 80 percent.

Second, taxpayer subsidization is no more necessary today to promote acquisitions and mergers than it has ever been. Just about every major defense company today is the product of a merger, some of them decades old. For example, General Dynamics acquired Chrysler's tank division in the early 1980s, and McDonnell acquired the Douglas Aircraft Company in the late 1960s. Even today in the supposed "bull market," plenty of bidders vie for the available companies. Three years ago, several companies engaged in a fierce bidding war for LTV. And Northrop outbid Martin Marietta for Grumman. It is hard to believe that if taxpayer subsidies were not available, companies would not buy available assets if it made good business sense. If they paid a little less for their acquisitions, the taxpayers rather than the stockholders would benefit. In the bidding war for Grumman, both Martin and Northrop offered significantly more than market value, thus giving Grumman's shareholders a financial bonanza of $22 a share (a bonus of nearly 40 percent). Raytheon paid a similar premium to acquire E-Systems in April 1995. Should the government allow Northrop's and Raytheon's stockholders to reap a similar bonanza by subsidizing those sales?

Over the past five years, William Anders, the former CEO of General Dynamics, made himself and his stockholders a fortune by selling parts of his company to Hughes, Martin, and Lockheed. Since 1991 General Dynamics' stock increased 550 percent and the company has stashed away $1 billion. Should we also help the stockholders and executives of the buying companies? Did defense companies offer the taxpayers a rebate during the boom years of the 1980s when their profits reached unprecedented levels?

Third, the Defense Department has no business encouraging or shaping the restructuring of defense industry, or as Deutch puts it, "promoting the rational downsizing of the defense industry." Who is to determine what is rational? A government bureaucrat or the market? While government shouldn't discourage restructuring, it should stay at arm's length. If the deal does not make good business sense, the company will not proceed, As Martin did not when the price for Grumman became too high. Moreover, might not these mergers create megacompanies that will reduce competition and may be very difficult for the political system to control? The Lockheed Martin Loral giants, for example, is larger than the Marine Corps. With facilities in nearly every state and 200,000 people on its payroll, its political clout is enormous. And it presents problems over and above its sheer size. For example, Loral sells high-tech components to McDonnell Douglas for its plane, which is competing with Lockheed Martin for the $750 billion joint strike fighter program. How can Loral be a partner in promoting the McDonnel Douglas plane against the Lockheed Martin entry?

Fourth, past history indicates that these mergers end up costing rather than saving the government money. Both the General Accounting Office and the Department of Defense Inspector General have found no evidence to support contentions by Deutch and defense industry officials that previous mergers had saved the government money. Indeed, on May 24, 1994, the Inspector General found that the claim of Hughes Aircraft that its 1992 purchase of General Dynamics' missile division saved the Pentagon $600 million was unverifiable. Moreover, under the Deutch clarification, contractors can be reimbursed now for savings that are only projected to occur in the distant future. And if these savings do not occur as projected, how will the Pentagon get its (our) money back?

BRING BACK THE MERGER WATCHDOGS

Mergers always have been and always will be a feature of the U.S. defense industry. And the government has a role in those mergers. But that role—as exemplified by the successful 1992 Bush administration challenge of Alliant Techsystem's proposed acquisition of Olin Corporation's ammunition division—is to ensure that they preserve sufficient competition to enable the Pentagon to get the best price for the taxpayer. It is definitely not to increase company profits and limit competition by subsidizing the merger. Not only should the Defense Department abolish the new merger subsidy, it should follow the lead of its predecessors and scrutinize the anticompetitive aspects of all future mergers.

Mr. HARKIN. So this practice is clearly an abuse of taxpayers' money. If these companies are compelled to merge for business reasons, why do they need a handout from the taxpayer? If the business deals are good, the mergers will happen anyway and the taxpayers will receive any savings without paying anything out. If the deals are bad, then we should not gamble taxpayer funds on them.

You would think we would have learned from the savings and loan debacle. You would think we would have learned from the $600 toilet seats and $500 hammers, too. I just do not think it is right to make taxpayers absorb the business costs of an industry capable of paying its own merger expenses.

Mr. Korb points out defense is still a profitable business. Over the past year, Lockheed Martin stock increased 48 percent in value, Northrop Grumman is up 50 percent, McDonnell Douglas, a whopping 80 percent.

Anyway, right now we have a situation where we give an up-front payment, hopefully for some savings that come down the line. But we do not know whether those savings are going to accrue. One analysis we have shows that only about 15 percent of the savings actually accrued. Here is what other groups have to say on the subject.

The Cato Institute: "The costs associated with mergers should not be absorbed by federal taxpayers. This is an egregious example of unwarranted corporate welfare in our budget."

Taxpayers for Common Sense: "It is time for the Pentagon to drop this ridiculous 'Money for nothing' policy."

The Project on Government Oversight: "The new policy is unneeded, establishes inappropriate government intervention in the economy, promotes layoffs of high-wage jobs, pays for excessive CEO salaries, and is likely to cost the government billions of dollars."

Mr. President, I ask unanimous consent these letters from Taxpayers for Common Sense and the Project on Government Oversight be printed in the RECORD.

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

TAXPAYERS FOR COMMON $ENSE,
July 15, 1996.

Senator TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: Taxpayers for Common $ense supports your amendments to the Defense Appropriations Bill that would place a moratorium on payments by the Department of Defense to defense contractors for restructuring costs associated with corporate mergers. Your amendment would also require proof for the taxpayers, in the form of a report to Congress, that there is a net savings when defense contractors merge. As you know, a similar amendment recently passed the House during consideration of the Defense Appropriations.

Under existing policy, the Pentagon can spend appropriated funds to reimburse defense contractors for expenses related to corporate mergers. Proponents will argue that in the end these mergers could save U.S. taxpayers money. However, the recent merger of the Lockheed company and Martin Marietta for form Lockheed-Martin provides disturbing evidence of the cost to the taxpayer. Lockheed-Martin may be eligible for up to $1.6 billion in reimbursements. Until there is proof that mergers by defense contractors save taxpayer money, we should no longer be blindly handing out "several billions of dollars" as estimated by GAO (GAO/T-NSIAD-94-247).

Taxpayers for Common $ense believes no tax dollars should be spent subsidizing a business cost of a mature industry. We support your amendment as a step in the right direction toward common sense spending by the Pentagon and urge all members of the Senate to support your amendment.

Sincerely,

JILL LANCELOT,
Legislative Director.

PROJECT ON GOVERNMENT OVERSIGHT,
Washington, DC, July 11, 1996.

Attn: Kevin Aylesworth.
Senator TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: The Project on Government Oversight strongly endorses the Harkin Amendment to the Fiscal Year 1997 Defense Appropriations bill, S. 1894, to ban payments to defense corporations for post-merger "restructuring" costs, and to improve assurances that past agreements on mergers do in fact lead to actual savings for the public treasury.

The government should not be in the business of promoting and subsidizing defense mergers, which are already happening at a record pace. The defense industry is already dangerously concentrated—the newly-formed Lockheed Martin Loral accounts for an astounding 40% of the defense procurement budget. The subsidy payments thrust the government inappropriately into free market decision making, and will serve to further reduce the economic competition that is the ultimate basis for low-cost production.

The payments are also exacerbating two highly disturbing trends in U.S. industry—widespread layoffs in high-wage jobs, and the parallel explosion of outrageously high CEO salaries. By subsidizing the costs of restructuring, which usually means laying off tens of thousands of workers, and reimbursing corporations for lavish executive salaries, this unfortunate policy accelerates rather than restrains these trends.

The defense industry continues to be awash in profits, "pork" contracts, and federal subsidies. At a time when government resources are severely constrained, this wasteful corporate welfare program subsidizing mergers should be halted immediately.

We applaud your efforts to reverse the damage caused by the Defense Department's misguided policy on merger payments, and appreciate the leadership you have shown in exposing and correcting this waste, which will otherwise end up costing the government billions of dollars.

Sincerely,

DANIELLE BRIAN,
Director.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 12 minutes 15 seconds.

Mr. HARKIN. I would like to address some issues that may be bothering some of my colleagues. I know some representatives of defense contractors have visited with my colleagues. They have told them my amendment will hurt workers because the companies are relying on the taxpayer money to help them. This is completely and totally untrue.

According to the rules of this subsidy, DOD cannot reimburse companies for helping fired workers unless the companies were already obligated to do that. Understand, under the subsidy rules, Government money cannot go to a company to help fired workers unless the companies were already obligated to do that under existing contracts with the workers. In other words, the taxpayers' subsidies will never reach the laid-off workers.

Mr. President, if you do not believe me, let me read a letter from James Carroll, directing business representative of the International Association of Machinists, Lodge 709, Marietta, GA. He says:

I am the Directing Business Representative and President of . . . Local Lodge 709, based in Marietta, Georgia. Our Local represents workers at Lockheed Martin's assembly plant. Over the past five years, many thousands of our members have been laid off because of these cutbacks in defense and cost cutting measures by Lockheed Martin. Contrary to the facts of an increasing stock value and skyrocketing executive compensation, our members did not receive any compensation or retraining assistance from the Lockheed Martin Corporation.

Mr. President, I want to make it very clear that, under the present subsidy arrangement, these workers will not get any Government money regardless of what representatives of the defense industry may have told my colleagues. "Our Members did not receive any compensation from Lockheed Martin Corporation."

If they did not under the company's agreement, they will not get any from the Government. They will only get the money from the Government if the company already helped them.

Mr. President, I ask unanimous consent the letter from James Carroll of the International Association of Machinists be printed in the RECORD.

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

AERONAUTICAL MACHINISTS
LODGE NO. 709, IAMAW—AFL-CIO,
Marietta, GA, June 13, 1996.

Hon. BERNIE SANDERS,
House of Representatives,
Washington, DC.

DEAR MR. SANDERS: Following up on the letter sent by our International President George Kourpias on May 15, I would like to bring to your attention the urgent need of defense industry workers who have been and continue to be displaced during this time of reduced defense spending and cost cutting by America's private defense companies.

I am the Directing Business Representative and President of the International Association of Machinists and Aerospace Workers Local Lodge 709 based in Marietta, Georgia. Our Local represents workers at Lockheed Martin's assembly plant. Over the past five years, many thousands of our members have been laid off because of these cutbacks in defense and cost cutting measures by Lockheed Martin. Contrary to the facts of an increasing stock value and skyrocketing executive compensation, our members did not receive any compensation or retraining assistance from the Lockheed Martin Corporation. In fact, during this last round of negotiations which concluded only two months ago, we proposed several innovative ideas to Lockheed Martin which would provide for retraining assistance to displaced aerospace workers. However, we were unable to reach agreement on any of these innovative ideas.

We certainly hope that you are successful in your attempts to bring some fairness and equity to these workers and workers in the future who have dedicated years of service to building America's defense products.

With best regards,

JAMES M. CARROLL,
Directing Business Representative,
IAM Local Lodge 709.

Mr. HARKIN. Some colleagues have said the contractors are going to sue the Government for breach of contract. I do not know what they are talking about. If a company has a contract with the DOD that specifies that payment must be made from fiscal year 1997 funds, it will be paid under my amendment. If there is no such clause in the contracts, then they will not be paid from 1997 funds. There is no breach of contract here. What my amendment is, is simply a 1-year moratorium on payments we are not obligated to pay in 1997.

I know there was an amendment adopted earlier today of Mr. BRADLEY. It called for a study. That amendment makes the best case for my amendment. It is a clear recognition we do not know how to assure that any payments for merger claims are purely waste. What my amendment does is it says we are going to have a moratorium for 1 year. If you had in your contract you would be paid out of fiscal year 1997 funds, you will be paid. If there is no such existing agreement, then there is a 1-year moratorium until we can get the study done that I call for.

I might add, that is a study done by GAO in concert with OMB and the inspector general, not some internal study done by the Department of Defense. So we can get the study back early next year, we can take a look at it and we can address this a year from now.

But mind you, if we do not put in a 1-year moratorium, you mark my words, they are going to rush in and they are going to sign these things in the next few months and they are going to lock it in. Then the arguments will be true that if we attempt to stop it, they will sue for breach of contract. Now is the time to put the 1-year moratorium on. Now is the time to stop this nonsense.

I know, I remember when the $600 toilet seats and $500 hammers came up, people scoffed. The people of this country understood it. The taxpayers of this country understand this, too. They understand it is not right for them to pay compensation for executives, board members getting $200,000-and-some a year bonuses when they merge, and the workers being fired and not getting any retraining or compensation whatsoever. This money will not help the workers one bit.

It is egregious. I cannot think of anything in my 22 years here in the Congress that I have seen to be this egregious. All I can say is those in the defense industry—and not all of them—but those who have propounded this, those who came to Secretary Perry and Under Secretary Deutch and got this changed, all I can say is: Don't you have any shame at all? None whatsoever? It is time to end this practice.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Alaska is recognized. The Senator has 15 minutes. The Senator from Iowa has 6 minutes 45 seconds.

Mr. STEVENS. Mr. President, we have faced a dilemma. As we have reduced defense procurement by more than 60 percent in the last 10 years, that has led to significant overcapacity in the defense industry. But at the same time, we have had the difficulty of trying to ensure the preservation of an industrial base capable of maintaining the strongest military power in the world. Now, without restructuring this industry, that overcapacity would have led to higher overhead costs that would have increased the price of defense goods and services and continued the downward spiral, really, of the amount actually available for acquisition of systems that we need to assure our men and women of the armed services that they have the best in the world to be prepared to defend us with.

Restructuring of this defense industry, in my judgment, has reduced the unit prices. We have lower unit prices, and we now have long-term savings for the Department of Defense and the taxpayers as a result of the restructuring. Our committee has urged and fostered that restructuring.

A contractor must negotiate restructuring costs with the Department. Not all costs of restructuring are paid by the Department. The Department of Defense policy that has been laid down by the Congress and the Department is such that if the restructuring plan, and its allowable costs, do not save the taxpayers money, the Department of Defense will not agree to pay any of the restructuring costs.

In the past 3 years, the Department of Defense has reimbursed contractors $300 million in these restructuring costs, and we estimate that will save $1.4 billion in defense costs. That is a 450 percent return on the contribution of the Department of Defense to the restructuring plans.

I might add that if there are plans that are approved, restructuring costs that benefit employees would not be allowed if the amendment of the Senator from Iowa is adopted. It would not allow severance pay for employees. It would not allow early retirement incentive payments for employees. It would not allow employee retraining costs. It would not allow relocation expenses for retained employees, and many times they are moved to different locations. I know several significant examples of very long movements for those who have retained. Those clearly ought to be a cost to be repaid by the Department when it results in a lower cost to the Government.

The amendment of the Senator from Iowa would not allow the repayment of outplacement services for employees helping them find new jobs. Above all, it would not allow continued medical, dental, life insurance coverage for terminated employees for the period of time involved.

We believe the amendment of the Senator from Iowa goes in the wrong direction. We have adopted now by consent the Bradley amendment, which the Senator from Iowa mentioned. It does require the comptroller general to give us a study by early next year—I believe it is by April 1—on the analysis of these restructuring costs.

Under current procedure, the costs that are not allowed are incorporation fees of the new entity, the merged entity; attorney, accountant, broker, promoter, organizer, management consultant, investment banker, or investment counselor fees cannot be paid, and those are the substantial costs of restructuring; interests or other costs of borrowing to finance an acquisition or merger are not recoverable from the Department of Defense; any payment to employees of special compensation in excess of the contractor's normal severance pay practice are not recoverable; any payment to employees of special compensation which is contingent upon the employee remaining with the contractor for a specified period of time following a change in management control are not payable by the Department of Defense; and any cost deemed unreasonable or excessive by the Department are not repayable.

Mr. President, as I said, in my judgment, we face a very difficult task. We look forward to the report that we will get from the Bradley amendment. But in other areas, we are actually paying money to maintain industrial base. We had the President, contrary to my judgment, decided to buy the *Seawolf*. Why? Because we had to maintain the industrial base to build submarines. We have had other instances where we actually paid industries to keep going in order to maintain the industrial base for the future.

The restructuring process brings together and merges industrial parts so that the successor entity is capable of producing for the Government at a lower cost under the circumstances that we are buying smaller amounts and we are buying different types of equipment.

I really do believe restructuring is in the best interest of the taxpayers of this country. I look forward to the study, but I oppose the Senator's amendment. This is not a question of a hammer or toilet seat or coffee pot. This is a question of maintaining the industrial base of the United States so that we can continue to be the leader of the world.

We are exporting, as we said this morning, some 14 billion dollars' worth of industrial products that are made by these industries. They are sold overseas. The fact that they are constructed by these industries and produced by these industries and sold overseas yields us a lower unit price for the taxpayers of this country to allow us to continue to replace, I do not care what it is, tanks or ships or aircraft. We need to maintain those to maintain the defense of this island Nation.

I say to the Senator from Iowa, with all good will to him and what he is trying to do, it is wrong to put this concept of restructuring costs in the same category as those fees which we all condemned which were wasteful. These are not wasteful costs, Mr. President. They are the costs of downsizing the production units that we built up during the cold war in order to maintain our freedom. Now we are downsizing those units so that we can continue to be able to defend our freedom in the future.

I spent a lot of my personal time going over some of these plans to try to assure that they are, in fact, in the public interest. We have had conversations with the Department of Justice on them and with other entities, industry and Government, to make sure it is on the right course, because of the fact that we know there are going to be increased costs down the line in the future because we are, in fact, going to

acquire fewer units for our own use. Our policy should be to assure the survival of an industrial base that is capable of meeting demands throughout the world in order that we, too, may continue to have the advantage of prices based upon substantial production and not the limited production to meet our own needs.

Does the Senator from Hawaii have any comments? I yield the remainder of my time to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, it is always very difficult to speak in opposition to my friend, Senator HARKIN, but I am certain all of us will agree that corporate restructuring and corporate mergers are part of the daily business world. It is not the exception, it is the rule.

These mergers are carried out for a very simple reason, and that is to reduce the cost of operations. In recognition of this, the Department of Defense has adopted a policy that not only allows but encourages defense contractors to enter into restructuring or corporate mergers in order to save money for our Department and, in turn, save money for our taxpayers.

These costs, Mr. President, have to be certified by auditors of the Department of Defense.

And these auditors will have to determine that the cost to be offset must be lower than the savings accrued to the Government through efficiencies.

As a result, having encouraged industry to consolidate and to have lower costs, obviously industry responded. Based upon that anticipation, many companies have entered into restructuring. This amendment, though it may appear to be meritorious, would not allow defense contractors to charge the restructuring costs as legitimate overhead costs on DOD contracts.

I believe logic will lead us to conclude that if industry cannot consolidate, if industry cannot merge, if it cannot restructure, it will not become more efficient and thereby lower overall costs. This will simply mean that the taxpayers of the United States will have to pay additional sums to support an inefficient industrial base.

So, Mr. President, I concur with the current policy of the Department of Defense that encourages contractors to restructure and merge, and that this amendment would be contrary to that policy. So I join my chairman in opposing the Harkin amendment. I yield back the balance of my time.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized. The Senator has 6 minutes, 43 seconds. The Senator from Alaska has 2 minutes, 22 seconds.

Mr. HARKIN. Mr. President, I listened to my two good friends—and they are just that—responding to my remarks. I am wondering if they are talking about my amendment. My friend from Hawaii says that this amendment would not allow them to restructure and reorganize. There is nothing in my amendment that says that, not one thing in my amendment, I say to my friend from Hawaii.

My amendment simply says, No. 1, we get a report by next spring, the inspector general and OMB and GAO to submit a report to set out just what is happening here and what kind of savings.

It says then that no funds appropriated in this bill can be used this year. This is this year's bill, fiscal year 1997. No funds in this bill can be used to pay for a merger acquisition unless it has already been contracted to do so. So if there is an existing contract right now, that specifies that we are to pay merger and acquisition costs out of this bill. That is OK.

What we say in this amendment is that we are going to put a 1-year moratorium on signing any new ones, just signing any new ones. As I said, Mr. President, mark my word, if we do not adopt this amendment, in the next few months you will have a rush by these companies to sign them, lock themselves in, and then they will raise the specter of, uh-oh, it is a breach of a Government contract if you do not ante up and pay it. That is why we need the 1-year moratorium. That is all it is.

I say to my friend from Alaska, my amendment does not say that we cannot pay all of these attendant costs that he mentioned. He mentioned housing costs. He mentioned all these kinds of things, severance pay, retraining, relocation.

He said my amendment would not allow for that. My amendment does not mention that. My amendment says a 1-year moratorium. That is all, a 1-year moratorium. But if they have gotten contracts that say they should be paid this year, they will be paid.

Further, I again reply to my friend from Alaska with the letter from the head of the Machinists Union at Martin Marietta, who said that over the last 5 years members have been laid off because of cutbacks. "* * * our members did not receive any compensation or retraining assistance from the Lockheed Martin Corporation."

The way the subsidy is now structured, I say to my friends, under the Department of Defense, they still will not get anything. They will only get it if, in fact, there was an agreement by those companies to provide it in the first place. So, again, I hope that they would look at my amendment and read it for what it is.

Let me just say one other thing. We talked about two other things. The industrial base—we have heard about, well, we are going to erode the industrial base. I say to my friend from Alaska, profits are at an all-time high in the defense industry. I do not think we have to worry about eroding the industrial base of this country.

Again, I refer to the article by Lawrence Korb that appeared in the Brookings review where he pointed out that they are making record profits, that Grumman shareholders got a bonanza of $22 a share, a bonus of 40 percent when they merged. Since 1991, General Dynamics' stock increased 550 percent, and the company has stashed away $1 billion. We are not eroding the industrial base of this country. If it is good business practice, they are going to merge.

That brings me to my final point, I say to my two good friends. We asked representatives of the defense industry, I say to my friend from Hawaii, we asked them—you know, these industries do not just deal with the Government. They have private industries that they deal with and that they contract with. We asked them, in any of your contracts with the private sector, do you have a clause like this in your contract that they will help pay? Not a one. Not a one. Just for the Government. So I say to my friends, this is not an overburdensome amendment.

I know the first amendment I offered—maybe the managers of the bill think this is the first amendment I offered back under the authorization bill. It is not. I recognized that there might be a problem with breach of contract. That is why we put a clause in there that said if they have an existing contract, that they are to be paid those out of this bill—we are only talking about fiscal year 1997—they must be paid. I am only talking about those who did not have that kind of an agreement. Then there is a 1-year moratorium. We get the report back. We find out what we are talking about. That gives us some time.

I say to my friends from Alaska and Hawaii, please do not put us in a position where, over the next several months, companies will come in, lock in their contracts, and there is not a darn thing we will be able to do about it because then it will be a breach of a Government contract. Let us stop it right now, put a moratorium for 1 year, get the report, and then figure out what we want to do. Let us figure out—maybe the defense authorizing committee or the Appropriations Committee might want to spell out in more detail what it is that will be reimbursable, what is the period of time that we will take into account, and should we have a recoupment clause.

Mr. President, what if they project all these savings, the taxpayers rush in, give them hundreds of millions of dollars for mergers and acquisitions, and then the savings are not realized? What do we do? Nothing. Perhaps we need a policy of recoupment that if, in

fact, those savings are not realized over, say, 5 years, that we should have a policy of recoupment so that we can recoup back to the taxpayers the money that was spent out if, indeed, the savings do not accrue.

So I think it is a logical and a reasonable amendment with just a 1-year moratorium. I think the facts are on our side. I think the people are on our side on this issue, too. This does not go as far as the House bill. The House bill was retroactive, and there may be some—

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

Mr. HARKIN. Mr. President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Is there objection for an additional 2 minutes? Without objection, it is so ordered.

Mr. HARKIN. I think there may be some problems with that House bill in terms of breach of contract, so that is why we took it out of here.

I hope the managers will take another look at this amendment and how it is written and hopefully be able to support and include it in this bill, because I think it will go a long way towards, again, letting companies restructure, if in the marketplace—if in the marketplace—that is the best thing for them to do. Let it happen. But the Government should not be an active player in it one way or the other. That is all this amendment seeks to do.

Mr. President, I ask unanimous consent that a document by the Congressional Research Service, the Library of Congress, be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 8, 1994.

From: American Law Division.

Subject: The allowability of restructuring costs in Federal procurement.

This memorandum is furnished in response to your request of June 2, 1994, for a legal analysis of the position of the Department of Defense (DOD) stated in the memorandum of July 21, 1993[1]* and supported in subsequent DOD documents that restructuring costs are allowable costs and thus reimbursable under Federal procurement law. Specifically you have requested an opinion as to whether this represents a change in policy from that set out in the Federal Acquisition Regulations (FAR) so as to call for amendment of the FAR and the accompanying administrative procedures or is merely a clarification of existing practice.

The FAR does not use the term restructuring costs. Therefore, while it is quite correct to say, as DOD does, that there are no cases or regulations which make restructuring costs unallowable,[2] it is equally true that there are no cases or regulations which do allow their reimbursement. "Restructuring cost" is not a term which has been used in this area, and therefore, it is misleading to draw a conclusion from this lack of mention.

DOD would define restructuring costs as: "Restructuring costs result from changes to a contractor's organization in an effort to address a declining base or to enhance business efficiencies. Restructuring represents events driven by internal change such as downsizing or external changes such as acquisitions, mergers divestitures, etc. This implementing guidance addresses restructuring costs which result from nonroutine nonrecurring, or extraordinary events. Restructuring efforts are expected to result in a current or future economic benefit for the Government."[3] These costs would include such costs as "facilities consolidation, facilities shut down, severance pay, relocation, equipment write-off, and information system conversion."[4]

To find restructuring cost to be allowable, DOD has attempted to distinguish or exempt these costs from two types of costs which the FAR states are unallowable. First, the FAR does not allow reimbursement of organization costs. Part 31 of the FAR states:

"(a) Except as provided in paragraph (b) of this section,[5] expenditures in connection with (1) planning or executing the organization or reorganization of the corporate structure of a business, including mergers and acquisitions, (2) resisting or planning to resist the reorganization of the corporate structure of a business or a change in controlling interest in the ownership of a business, and (3) raising capital (net worth plus long-term liabilities), are unallowable. Such expenditures include but are not limited to incorporation fees and costs of attorneys, accountants, brokers, promoters and organizers, management consultants and investment counselors, whether or not employees of the contractor. Unallowable reorganization costs include the cost of any change in the contractor's financial structure, excluding administrative costs of short term borrowings for working capital, resulting in alterations in the rights and interests of security holders, whether or not additional capital is raised."[6]

The guiding principle behind this regulation appears to be that the Government is not concerned with the form of the contractor's organization and so therefore such expenditures are not necessary for (or allocable to) Government contracts.[7]

The history of this regulation as set out in the DCAA memo of June 17, 1993 seems to argue against, not for, the use of the non-recurring nature of these costs or the potential savings to the Government as reasons for allowing reimbursement. The memo states that "the intent of the subject cost principle was to make non-recurring organization costs unallowable" and quotes the subcommittee responsible for the section as stating: "The subcommittee does not believe that the allowability of organization and reorganization costs, including merger and acquisition costs, should depend on benefits. . . . the benefits to the government are normally too remote to form a valid basis for the allowability of costs."[8]

DOD has attempted to avoid the unallowability described in §31.205-27 in two ways. First, it has stated that restructuring costs are not organization costs even though by their own definition restructuring costs are costs resulting from changes in the contractor's organization such as acquisitions mergers and divestitures.[9] This appears to be less a legal argument than a semantic one, i.e. an unallowable cost is allowable because it is given a new name.

Second, DOD argues that these costs are not costs of the organization or reorganization event, but rather costs which arise subsequent to the organization or reorganization event, and while they would not have arisen "but for" the event, the costs, are not part of that event.[10] This argument might be persuasive especially for some of the restructuring costs more removed from the actual reorganization, merger, or acquisition, but it does appear to severely limit any purpose for the words "in connection with" or "executing the organization or reorganization" of §31.205-27.[11]

The second type of unallowable cost which DOD has tried to distinguish in order to find restructuring costs allowable are those which are unallowable under a novation agreement. A novation agreement is often required in the situation which would give rise to what DOD calls restructuring costs. The Government may, when it is in the best interests of the Government, agree to recognize a successor in interest to a contract (a novation agreement) but the agreement must include the following clause:

"The Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer of this agreement, other than those that the Government in absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.[12]"

DOD appears to have accepted that reimbursement of restructuring costs would be prohibited by this provision of the novation agreement. The solution is provided by the memorandum in the form of an exception to the provision which states:

"The Government recognizes that restructuring by the Transferee incidental to the acquisition/merger may be in the best interests of the Government. Restructuring costs that are allowable under part 31 of the Federal Acquisition Regulation[13] may be reimbursed under flexibly-priced novated contracts, provided that the Transferee demonstrates that the restructuring will (1) reduce overall costs to DOD and/or NASA, or (2) preserve a critical capability that might otherwise be lost to DOD.[14]"

It can be argued that DOD has attempted to alter the policy embodied in these two FAR provisions without going through the administrative formalities and requirements, such as notice and comment periods and notification of Congress, necessary to amend these regulations. While formal amendment of the FAR could make these restructuring costs allowable, the argument that they are allowable under the current regulations appears to contradict their plain meaning.

JOHN R. LUCKEY,
Legislative Attorney.

FOOTNOTES

[1] This memorandum was issued by John M. Deutch, Under Secretary of Defense Acquisition.

[2] See, Defense Contract Audit Agency (DCAA), Memorandum for Director, Defense Procurement, Analysis Paper on the Allowability of Restructuring Costs Under FAR 31.205-27, Organization Costs, dated June 17, 1993.

[3] DCAA, Memorandum for District Commanders, Guidance Paper on Restructuring Costs, dated January 14, 1994.

[4] DCAA Memorandum of June 17, 1993.

[5] Paragraph (b) exempts the cost of certain activities primarily intended to provide compensation such as employee stack option plans. FAR §31.205-27(b).

[6] FAR §31-205-27(a).

[7] L.K. Anderson, Accounting for Government Contracts, §5.06[10] (1989).

[8] DCAA Memorandum of June 17, 1993, See, discussion of DAR Case 68-153. See also, Dyanalectron Corp., 77-2 B.C.A. ¶ 12,835 (Oct. 26, 1977).

* Footnotes are at the end of the letter.

[9] DCAA Memorandum of January 14, 1994. See, sections entitled Definition of Restructuring Costs and Allowability of Restructuring Costs.

[10] Id. at 4.

[11] See, Dyanalectron Corp., 77-2 B.C.A. ¶ 12,835 (Oct. 26, 1977).

[12] FAR §42.1204(e), novation agreement paragraph (b)(7).

[13] Therefore, the cost may not be an organizational cost under FAR §31.205-27 for this new provision to be effective.

[14] DCAA Memorandum of Jan. 14, 1994, Novation Agreement Language.

Mr. HARKIN. Mr. President, I yield my time, and I thank the managers.

The PRESIDING OFFICER. The Senator yields back his time. The Senator from Alaska has 2 minutes, 22 seconds.

Mr. STEVENS. Mr. President, I regret the disagreement with the Senator from Iowa. It appears to me the process we are following is one that has been worked out by the authorization committees, by the Appropriations Committees, and by the administration. It is really a nonpartisan area we are dealing with of trying to assure the survival of the defense industrial base and maintain that at the lowest possible cost to the taxpayers.

I do believe they have had some profits and there are profits that are coming back, primarily because they are writing off a lot of losses. They are abandoning a lot of buildings, selling buildings at a lot less than they paid for them. I expect we will see a period of time where there is some recouping of losses through tax advantages. That is another subject. I do think that is one of the incentives toward the restructuring, to try and take the losses and take advantage of them while there is still income from existing contracts.

I can reassure the Senate when we are paying 60 percent less than we were 10 years ago for procurement, we are not expanding the industrial base. This restructuring is reducing it. It is downsizing it. I hope we will end up by maintaining what we need.

I move to table the amendment of the Senator from Iowa, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. A vote will take place at 9:30 tomorrow morning.

Under the previous agreement, further amendments to the bill were to be offered this evening. Are there additional amendments?

Mr. STEVENS. Mr. President, I believe there are still some amendments.

The PRESIDING OFFICER. The Chair will mention under the previous agreement, if Members do not appear to offer their amendments their right to offer additional amendments will be extinguished.

Mr. LEVIN. Mr. President, I will offer an amendment which is a fairly straightforward amendment to transfer funds for two F-16's which the Air Force did not request either in its original budget request or in the so-called wish list, and to transfer that to antiterrorism initiatives of the Defense Department and specifically to a fund which was added this morning by an amendment authored by Senator McCAIN and myself.

We have a pressing need in the antiterrorism area. The number of F-16's which were funded by the appropriations bill exceeds the request of the Air Force, again, both in its original budget request and in its supplemental request, the so-called wish list.

Here is the way this is actually working, Mr. President. The appropriations bill would add four F-16's to the Air Force's budget request of four. That is a total, then, of eight aircraft. Now, what happened during the Armed Services Committee consideration of the defense authorization bill was that each of the armed services was asked to provide a list of items that they would like to have funded by Congress if more money became available. These have been described in many ways and titled in many ways, but the service wish list is one of the ways they have been entitled it, and perhaps they are known best by that.

The Air Force, in its wish list, the list of items that it would like to have if it was given more money than was in the original budget request, asked for two extra F-16's. That is in the wish list above the budget request, but the bill before us provided four extra F-16's. So there is no urgent requirement for these two extra F-16's. The Air Force fighter force structure is fully protected. Even if we do not add any of the four extra F-16's, the Air Force needs roughly 1,250 F-16's to protect its fighter force structure.

We currently own more than 1,800 F-16 aircraft, including over 260 F-16's that are parked in long-term storage in the desert. Now, while these stored aircraft are not as modern as the brand new aircraft that we would buy in this year's budget, they would prevent the Air Force from needing to retire any squadrons in the near term because not enough aircraft would be available.

AMENDMENT NO. 4893

(Purpose: To strike out funding for new production of F-16 aircraft in excess of six aircraft, and to transfer the funding to increase funding for antiterrorism support)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4893.

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

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

The amendment is as follows:

On page 26, line 10, strike out "$6,630,370,000" and insert in lieu thereof "$6,582,370,000".

SEC. 8100. None of the funds appropriated under title III of this Act may be obligated or expended for more than six new production F-16 aircraft.

SEC. . The $48,000,000 reduction of funds for F-16 aircraft in excess of six new production aircraft shall be made available for funding for the emergency anti-terrorism program element established in Sec. 8099 of this Act.

Mr. LEVIN. Mr. President, the Air Force budget continues to buy F-16's because the service feels that they need to buy more F-16's to prevent a force structure reduction sometime around the turn of the century. But I do not see that anyone could really argue that having a couple more modern F-16's in a force structure of more than 1,200 aircraft is nearly as important as taking an immediate step to reduce our vulnerability to terrorist activities.

What this amendment would do would be to shift $48 million from aircraft that we do not need now, that was in neither the Air Force budget request nor in its wish list, and instead of spending that $48 million on the additional two F-16's not requested, would fund higher priority antiterrorist activities. We are familiar with a recent report of the Joint Chiefs that show that antiterrorism funding in this budget reflects a reduction over the past several fiscal years. We have heard that referred to today in an amendment that was offered by Senator McCAIN and myself.

These antiterrorist efforts have fallen short by some $56 million over this period. There were mitigating circumstances that may have led the Defense Department to make these reductions, such as changes in the number of bases, completion of construction projects, or other changes. But, surely, this recent attack in Saudi Arabia makes it abundantly clear that there is much more that we should be doing in our effort to address the terrorism problem. And those of us that were able to be at breakfast with Secretary Perry and General Shalikashvili this morning, I think, were given a very detailed list of the kind of efforts that we have to make if we are going to truly carry the war against terrorism to the terrorists. Spending $48 million more for antiterrorism instead of spending it on aircraft that we do not need right now surely makes good sense to me, and I hope it does to my colleagues, as well.

The amendment that I am offering tonight is an amendment that I said I would be offering during the authorization bill debate. At that time, I indicated an interest in trying to remove from the authorization bill these additional two F-16's above the original budget request in the supplemental wish list of the Air Force. I did not do

it at that time. We were in a great hurry to address the issues in that bill at that time, and I did not do it.

But given the fact that this is now really the last chance that we will have to address this issue, and given the current need to put some resources into our antiterrorist activity, I thought that this would be an opportune moment to offer an amendment to transfer the money from the two F-16's not requested by the Air Force into the antiterrorism efforts that the Defense Department must engage in.

So I offer this amendment in that spirit and hope that it commands broad support in the Senate.

Mr. STEVENS. Mr. President, I must express some surprise at the Senator, in view of his position on the Armed Services Committee, and in view of the fact that today we have already, at the request of Senator MCCAIN and Senator LEVIN, transferred, subject to authorization, $14 million to the Department of Defense for the purpose of antiterrorism activities. Now, that is subject to authorization.

The effect of Senator LEVIN's amendment now would be to transfer money that is authorized for F-16's to more money for the antiterrorism activities, and it is not authorized either. They have not received authorization for the first $14 million we put up for this antiterrorism program. That is not even defined yet. It is not defined by the authorization committee or by the Department.

Now, we did that in the spirit of bipartisanship and cooperation with the Armed Services Committee members. I find it very difficult to understand this amendment now, when the Chief of Staff of the Air Force came to see me, General Fogleman. He listed to me personally, as one of his highest priorities, getting these F-16's. The F-16's—all four of them, not just two—really are our weapons system for cooperation between the Air Force and the Army now, which is the close air support fighter that works in conjunction with ground troops in combat.

I say to my friend from Michigan that nowhere in the world can you see that so vividly as in the joint training exercises in my State of Alaska. We use the F-16's along with our Army forces there, and army forces from throughout the world come to participate in the training in my State in order to develop the ability to really use these new close air support fighter and ground troop accommodations. This is really one of the great things about our Defense Department now. This is a team. The Air Force and Army are now a team because of the F-16. I think this is the message General Fogleman brought to us.

These F-16's are needed. As a matter of fact, we have gone from the concept of trying to meet the Soviets anywhere in the world—a worldwide concept of defense to a concept of two major regional contingencies being what we will plan for. We plan for our ability to meet two major regional contingencies. If we carried out the plans that were previously approved by the authorization committee to do so, to meet two major regional contingencies, the Air Force would need 114 more F-16's. The Air Force is not fully supplied with aircraft to meet the plans to carry out their missions in the event of two major regional contingencies. Now, we are trying to move along in this way as best we can.

The Senate passed an authorization bill that included eight F-16's. Our committee has funded that request from the Armed Services Committee. We have not added funds for unauthorized F-16's. As a matter of fact, if you want to talk to the budget, we have $10 billion more money in this bill than was requested in the budget, and that is a battle we are going to have to face later with the administration to see whether they really want to maintain that figure.

Our bill, I point out once again, is $1.2 billion over last year's bill, but in terms of actual items covered, last year we did not fund the contingencies. This year we did fund the contingencies.

So, if you look at our bill fairly, we are below the level of 1996. This bill, despite the fact we have increased more than $10 billion over the budget, is less than we are spending now for defense. I think the recent events in Saudi Arabia, the fact that we have troops in Bosnia, and we have the crises that we are facing in the Pacific, God knows. I hope we are right. We believe we can get by with what we have in this bill. But I fear for the future of this country if we are wrong.

The Department budgets approximately $1 billion for military security forces. Antiterrorism is their primary mission. We have added $14 million to the $1 billion already budgeted, and the Senator wants to add more before there is even a plan to spend what we have budgeted now.

I say, with all good grace, to my friend that I am just surprised at this, after we have already agreed to the amendment that he and Senator MCCAIN already delivered to us on the subject of antiterrorism. I can just state categorically that I oppose the amendment of the Senator from Michigan.

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

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, Chairman STEVENS has most adequately articulated the position of the subcommittee, and I join my chairman in opposing the Levin amendment.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will make two brief points.

First, to buy more F-16's now, we are going to be parking F-16's in desert storage. We already have more F-16's than the force structure needs. They need 1,250 F-16's to support the current fighter force structure. There are 1,370 currently available.

But the main point that I want to make here this evening is that the Air Force in its budget request asks for four more—for four F-16's this year.

Then the Armed Services Committee submitted to the Air Force, as well as to the other services, a request. "If you had more money, how would you spend it?" The Air Force came up with almost a $3 billion wish list. How many F-16's are on that wish list? Two. How many are on the appropriations bill extra? Four. At the same time that there has been criticism of a shortage of antiterrorism funds, and at the same time that we know we are going to have to invest more in antiterrorism, we are providing the Air Force in this appropriations bill with eight F-16's when the budget request of the Air Force is for four and the wish list would add two to that.

I think we have a greater priority than to be doing that. I hope that the Senate will support the transfer of this money from F-16's that have not been requested in either request of the Air Force, and to put it into an area where we know there is going to be a growing and critical need.

I, at this point, ask unanimous consent that a letter from Secretary Perry to Senator DASCHLE describing the money which is going into the antiterrorist effort be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, DC, July 17, 1996.

Hon. TOM DASCHLE,
Minority Leader,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: As you know, last week the Department was sharply criticized for cutting its budget for anti-terrorism. Citing a report by the Joint Staff, critics claimed that we cut anti-terrorism funding by as much as 82% and implied that this contributed to the tragic bombing in Saudi Arabia. I think it is critical to correct this misperception, put this study in context, and explain the Department's funding for anti-terrorism.

The JCS report was commissioned by myself and CJCS Shalikashvili following the Riyadh bombing. Its purpose was to identify and assess all of the anti-terrorism programs, actions and preparedness of the DoD and possible areas for additional action. A portion of the report did describe some program funding reductions, specifically the cut in an Air Force program from $10.6 million in FY 1994 down to $1.9 million in FY 1996—the 82% cut seized upon by some as evidence on lack of attention to anti-terrorism. The report notes, however, that these cuts resulted

from personnel reductions, domestic base closings, completed construction projects or program completions, and the programs themselves were just a minor portion of the overall DoD expenditures on anti-terrorism.

The reality is that the Department of Defense spends billions annually on anti-terrorism efforts. There are two categories normally associated with Defense activities to combat terrorism: anti-terrorism and counter-terrorism.

Anti-terrorism activities deal with traditional defensive measures such as barriers, fences, detection devices and Defense personnel who have as part of their mission protecting DoD personnel and facilities against the threat of terrorism. The Defense Department spends nearly $2 billion annually on such anti-terrorism activity overall. Traditionally we have not budgeted anti-terrorism activities in a single program because force protection is part of each individual commander's responsibility and is therefore budgeted by every installation in, for example, their operation and maintenance accounts.

In the area of counter-terrorism, DoD has many programs and activities which are more often associated with proactive activities undertaken to neutralize the terrorist threat or respond to terrorist acts. All combatant forces in Defense potentially have as part of their mission a counter-terrorism function; however, these activities are more commonly associated with special operations forces, which have annual budgets in excess of $3 billion. Further, that amount is in addition to the considerable sums spent from our intelligence portion of the budget to counter terrorism.

The JCS report did fault DoD procedures for funding unanticipated contingencies, and urged the establishment of a special annual contingency fund for anti-terrorism emergencies. Currently, when a crisis emerges, we have to put together a special team and borrow funds from other accounts. The JCS report argued that we needed a separate contingency account, controlled centrally by OSD. I accepted that recommendation and directed the Comptroller to proceed accordingly.

It is unfortunate that a minuscule portion of the JCS review is now being used to draw wider, and inappropriate, conclusions in light of the Dhahran bombing. I have concluded, however, that the Department does need more systematic insight and control over its widely-dispersed anti-terrorism and counter-terrorism efforts. That could very well mean a reassignment of priorities and additional funding to reflect that reassignment. To this end, the Defense appropriations floor amendment proposed by Senators McCain and Levin providing targeted anti-terrorism spending can help facilitate this effort. Further, I have specifically directed that Deputy Secretary John White head up a comprehensive effort for systematic programming and budgeting in this area. I will keep you and all members of Congress informed of our plans as they unfold.

Sincerely,

WILLIAM J. PERRY.

Mr. STEVENS. Mr. President, is there a time limit?

The PRESIDING OFFICER. There is a time limit on this amendment.

Mr. STEVENS. Mr. President, I am constrained to say that if the Senator's amendment were to be adopted, our bill would be subject to a point of order. I hope that will not happen. So I move to table the Senator's amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will follow the Harkin amendment.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

COL. ROBERT L. SMOLEN, U.S. AIR FORCE

Mr. DASCHLE. Mr. President, as we debate the fiscal year 1997 Department of Defense Appropriations bill, I hope my colleagues will take a moment to reflect on the enormous assistance we receive from the legislative liaison offices for the various branches of the Armed Forces.

The men and women who serve in the Air Force, Army, Navy and Marine Corps legislative liaison offices are a valuable link between Members of Congress and the Pentagon. These offices give us with the Pentagon's views on defense bills and specific amendments being considered on the Senate and House floors. They also provide timely answers to our questions and help educate us on a variety of defense issues. Moreover, they are instrumental in notifying us about actions affecting military installations or activities in our States or districts.

South Dakota is the proud home to Ellsworth Air Force Base and the B–1B bomber. As I have worked to promote Ellsworth and the B–1 over the years, I have had the opportunity to get to know many of the fine men and women who serve in the Air Force's Legislative Liaison offices. I must say that Maj. Gen. Normand E. Lezy, the Director of the Air Force's Legislative Liaison Office and Brig. Gen. Lansford E. Trapp, Jr., the Deputy Director, and their staff at the Pentagon, have been understanding, responsive and fair.

The Air Force Legislative Liaison staff located in the Russell Building has also been very helpful to me on a number of matters that my staff and I have brought to their attention. They, too, perform a tremendous service for the Air Force and the U.S. Senate. Although we may at times take their assistance for granted, I know all my colleagues truly appreciate their hard work and dedication.

I have been particularly impressed by Col. Robert L. Smolen, the Chief of the Air Force's Senate Liaison Office. Colonel Smolen is an extraordinarily gifted and dedicated officer whose military experiences in the United States and the Republic of Korea have made him an enormous asset to the Air Force's Legislative Liaison Office. During the past year, I have had the opportunity to work with and get to know Colonel Smolen. He has been very helpful to me and to many of my colleagues in the Senate.

Earlier this year, for instance, he devoted a great deal of time to arranging a congressional delegation trip for me, Senator HATCH and Senator REID. General Trapp and Colonel Smolen graciously accompanied us on our trip to the former Yugoslavia. Despite difficult circumstances, it was a very successful and informative trip due in large part to their excellent preparation and assistance.

Unfortunately for all of us in the Senate, Colonel Smolen is departing Washington for Oklahoma where he will be the new Air Base Wing Commander at Tinker Air Force Base. I have a great deal of respect and admiration for Colonel Smolen. I know he is scheduled to leave this week, and before he does, I would like to review some of the highlights of his distinguished career in the U.S. Air Force.

Bob Smolen began his career in the Air Force in 1974 as a graduate of the Air Force Reserve Officers' Training Program at Allegheny College in Meadville, PA. In what I would argue may have been his best assignment, he served at Ellsworth Air Force Base as an Airborne Missile Operations Officer in the 4th Airborne Command Control Squadron's 28th Bomber Wing from January 1977 to March 1979.

Since then, Bob Smolen has served in a number of capacities for the Air Force in the United States and around the world. He served as an aide to the Commander in Chief of the North American Aerospace Defense Command in Colorado Springs, CO. He also served in Washington before as a Congressional Liaison Officer and Special Assistant to the Director of the Legislative Liaison Division in the Office of the Secretary in the early 1980's.

Bob Smolen has also been a squadron and deputy air base commander. He served as the Deputy Commander for the 12th Air Base Group in Randolph Air Force Base in Texas from October 1989 to August 1991. He also served as the Commander of the 750th Support Squadron at Onizuka Air Force Base in California. In addition, he was the commander of the 51st Support Group at Osan Air Base in the Republic of Korea from May 1993 to June 1995.

After returning to the United States, Colonel Smolen served as the Chief of the Inquiry Division of the Air Force Office of Legislative Liaison from July 1995 to September 1995. Since then, he has been the Chief of the Air Force's Senate Liaison Office.

Knowing of Colonel Smolen's previous assignments here and abroad, I am confident the Air Force made the right decision in selecting him to be the new 72nd Air Base Wing Commander at Tinker Air Force Base. I

congratulate him on his new assignment and wish him, his wife Adriane, and their three children the very best.

S. 1936—THE NUCLEAR WASTE POLICY ACT

Mr. KYL. Mr. President, I appreciate the opportunity to discuss an issue of great importance to the State of Arizona and the Nation. As you may know, Arizona is home to the Palo Verde Nuclear Generating Station, the Nation's largest nuclear power plant. Palo Verde's three 1,270 megawatt pressurized water reactors serve more than 4 million customers in Arizona, California, New Mexico, and Texas. This facility is not only effective and efficient for customers in those States; it serves as an example for other plants across the country. In 1987, Palo Verde was selected to receive the Outstanding Engineering Achievement Award, the Nation's highest engineering honor from the National Society of Professional Engineers and in 1995, received an INPO 1 rating—the highest rating for excellence by the Institute of Nuclear Power Operations. I am also pleased to announce that just last week, the Nuclear Regulatory Commission issued its "Systematic Assessment of Licensee Performance," or SALP report, for Palo Verde. In three categories—operations, maintenance and engineering—Palo Verde received a Category 1 rating, reflecting superior safety performance. Let me quote the NRC in a July 5 letter to Arizona Public Service, Palo Verde's operator: "It is clear that Arizona Public Service has established the programs and processes necessary to achieve and sustain superior performance. Management attention is evident at all levels." I commend Palo Verde for its outstanding performance. These are achievements to be proud of.

Palo Verde also deserves awards for its low impact on the environment. Because it uses uranium as fuel, Palo Verde has saved the earth 51 million tons of coal; 12 million barrels of oil; and 272 billion cubic feet of natural gas. By avoiding fossil fuels, Palo Verde avoided disseminating 2 million tons of sulfur oxide, also known as acid rain, 40 million tons of carbon dioxide, and 700 thousand tons of nitrogen oxides. In addition, Palo Verde contributes to the local environment in Phoenix by recycling 40,000 gallons of municipal effluent per minute.

All of these benefits do not come without some cost, of course. Palo Verde, like nuclear plants all over the world, produces high-level radioactive waste, in the form of spent fuel rods, that must be disposed of in an environmentally sound manner. Currently, these rods are stored on-site, in cooling ponds. This storage, as is the case at so many other plants, was designed to be temporary. Palo Verde cannot accommodate all the spent fuel that it will produce in its lifetime. Palo Verde, and other nuclear plants across the country, relied on the commitment by the United States Government to begin taking spent fuel by 1998. By that year, 26 U.S. reactors will exhaust existing spent fuel storage capacity. Fuel managers at Palo Verde estimate that the three reactors will lose the ability to discharge the entirety of their cores in 2004.

For years, we have debated what to do with the spent fuel rods from commercial reactors as well as high-level defense waste. In 1982, Congress made a commitment to the American people to take the waste. The Nuclear Waste Policy Act laid the groundwork to develop storage and disposal facilities for commercial and defense waste. Under this legislation, the Department of Energy has an obligation to provide safe, centralized storage for the Nation's spent fuel. In return, electricity consumers would finance this program by paying a few additional cents on their monthly electric bills, the so-called 1 mill per kilowatt charge. Since 1982, electricity consumers have paid billions of dollars into the nuclear waste fund. Including interest, their contributions come to over $11 billion. Consumers in the southwestern states served by Palo Verde have paid in over $175 million.

Unfortunately, significant progress toward long-term storage has not been made. Although characterization and viability assessments are underway at Yucca Mountain, NV, the proposed site of the permanent repository, the Federal Government is not now ready to accept high level waste. And absent extraordinary actions by DOE, it will not be ready any time soon—certainly not by the 1998 deadline. DOE has already conceded that the permanent repository could not possibly be ready before 2010. Compounding the problem, DOE has not even begun the basic planning required for an interim facility.

Failing to meet the deadline in 1998 is deplorable but it seems it is unavoidable. The consequences for some utilities could be devastating. Some could be forced to shut down. If those 23 plants that run out of storage space in 3 years were to shut down, America would lose enough power for nearly 11 million people—power that doesn't result in air pollution.

Another option for plants would be for these utilities to build additional on-site storage. This would cost tens of millions of dollars—money that would come from the pocketbooks of electricity customers. Those same consumers who have already paid so many billions of dollars to the Government for spent fuel storage would be forced to pay twice for the same service. Officials at Palo Verde estimate that their initial capital costs and licensing for new on-site storage would be in the neighborhood of $20 million with annual monitoring expenditures of about $10 million.

To remedy this inequity, along with several other Senators, including Senators CRAIG and MURKOWSKI, I introduced S. 1271, the Nuclear Waste Policy Act of 1995. This bill proposes an interim storage facility at the Nevada Test Site near Yucca Mountain and would enable the Government to meet its obligation to begin accepting spent fuel and defense waste in 1998. This bill passed out of the Energy Committee in March of this year. Just last week, Senators CRAIG and MURKOWSKI introduced S. 1936, the Nuclear Waste Policy Act of 1996, in an attempt to address a number of concerns that had been expressed with respect to S. 1271. The new bill was also drafted to broaden the bipartisan support for this important legislation. I am pleased to co-sponsor this new legislation.

The bill has been successful in gaining bipartisan support, as evidenced by the cloture vote of 65 to 34 on July 16. I believe that the changes made are reasonable and will go a long way toward reaching agreement with the House bill. Just as important, Senator BENNETT JOHNSTON, the ranking member on the Energy Committee, has agreed to cosponsor S. 1936 and has sent a letter to the White House, urging the President to reconsider his previous veto statement. As Senator JOHNSTON points out in his July 11 letter to President Clinton:

> Nuclear waste has never been a partisan issue. While the current law was signed by a Republican president, it has its roots in the Carter administration. It was passed by a Democratic House and a Republican Senate and amended by a Democratic House and a Democratic Senate, with broad bipartisan support. It would be a terrible, terrible mistake to make it a partisan issue now.

Continuing in this bipartisan tradition is S. 1936, which amends the Nuclear Waste Policy Act of 1982. Introduced July 9 by Senators LARRY CRAIG and FRANK MURKOWSKI, it retains the fundamental principles of S. 1271, which passed Energy Committee in March. S. 1936 would develop an integrated management system for used nuclear fuel from commercial nuclear power plants and for high-level radioactive materials from defense activities, all of which is now stored in 41 States.

CENTRAL INTERIM STORAGE

Under S. 1936, construction of an interim facility could begin December 31, 1998. If the President determines by that date that Yucca Mountain is not a suitable site for a permanent repository, an alternate interim storage site may be chosen. An alternate storage site must be selected by the President by June 30, 2000, and Congress must approve construction at that alternate site by December 31, 2000. If those milestones are not met, an interim storage facility will be built at the Nevada Test Site. This provision is significant because it ensures that the construction of an interim storage facility at

the Yucca Mountain site will not occur before the President and Congress have had an ample opportunity to review the technical assessment of the suitability of the Yucca Mountain site for a permanent repository and to designate an alternative site for interim storage based upon that technical information. This provision of S. 1936, in effect, de-links permanent and interim storage. This linkage was a criticism of S. 1271 which would have allowed construction of an interim storage facility on October 1, 1998. S. 1936 provides time to determine if Yucca Mountain is a viable site for a permanent repository before building an interim site in Nevada. If it is not, S. 1936, again, provides the option for finding an alternate interim storage site.

RATEPAYER FUNDING OF THE WASTE DISPOSAL PROGRAM

S. 1936 ensures that funds are available for the program when needed. The bill continues electricity customers' payments into the Waste Fund at the rate of 1 mill per kilowatt-hour, or about $600 million per year, until September 30, 2020. After that date, the program will be funded by a user fee, which will be capped at 1 mill. The bill also requires that all one-time fees owed by utilities for spent fuel generated before 1983 be paid by September 30, 2020 and imposes a penalty on utilities that fail to pay the one-time fee. In S. 1271, the 1 mill fee would have continued indefinitely. One-time fees would have been paid when DOE fulfilled its contractual obligation to begin taking waste in 1998.

S. 1936 ensures that electricity customers' deposits of about $12 billion to the Federal Nuclear Waste Fund are made available as needed for the nuclear waste management program, and that the monies are spent for their intended purpose.

Both bills assure continued funding for the nuclear waste management program. S. 1936 resolves budget issues relating to "PAY-GO" and assures that funds are made available to the program, and not used to offset the budget deficit.

INTERIM STORAGE CAPACITY

Both bills establish a two phase approach for acceptance of waste at the central facility to encourage timely completion of the permanent repository, without burdening nuclear power plants, many of which are rapidly running out of on-site storage capacity. Under S. 1936, spent fuel acceptance in Phase I would begin November 30, 1999, and the facility capacity would be capped at 15,000 metric tons. Phase I under S. 1271 would have begun on the same date, with a 20,000 MTU capacity. Under S. 1936, Phase II begins by December 2, 2002. The storage capacity would increase to 40,000 MTU. However, a provision in S. 1936 would increase the capacity cap to 60,000 MTU if DOE fails to complete the Yucca Mountain viability assessment by June 30, 1998, or if it fails to submit a repository license application by February 1, 2002, or it fails to begin repository operation by January 17, 2010. Phase II in S. 1271 would have also begun by December 31, 2002, but with a 100,000 MTU capacity. S. 1936 provides storage capacity through 2019 and maintains pressure to complete construction of a repository by 2010.

TRANSPORTATION

Like S. 1271, S. 1936 designated Caliente, NV, as an intermodal transfer point and provides for heavy haul truck transfer to the Nevada Test Site. S. 1936 clarifies that transporting spent nuclear fuel will be governed by all Federal, State, and local requirements to the same extent as anyone engaging in interstate transportation. S. 1936 also contains more stringent requirements for promulgating employee safety rules, provides greater detail in transportation requirements, and provides training for workers in all phases of the integrated waste management system and emergency response personnel.

NATIONAL ENVIRONMENTAL POLICY ACT AND PREEMPTION

S. 1936 requires that DOE conduct an environmental impact statement for licensing both the interim spent fuel storage facility and the permanent repository. Environmental reviews are also required for the intermodal transfer facility. S. 1936, far from overriding all State and local laws, actually expands jurisdiction of all applicable Federal, State, and local and tribal laws. The only time Federal law would override, or preempt, State or local law is when these are patently unreasonable as would be the case if a State passed a law declaring illegal the passage of nuclear waste through it. Such laws as this, which would be an insuperable obstacle to carrying our S. 1936, would be preempted. This is in contrast to S. 1271, which said the storage facility would be governed solely by the Nuclear Waste Policy Act, Atomic Energy Act, and the Hazardous Material Transportation Act, to the exclusion of all laws below the Federal level. S. 1936 takes into account an expanded universe of Federal, State, and local and tribal laws, while ensuring that the program is not obstructed.

LOCAL RELATIONS

S. 1936 restores financial assistance to Nevada's local governments and to tribes, and it provides land transfers to Nye and Lincoln Counties, and the city of Caliente. The bill's affected areas see the land transfer provision as attractive, since the vast majority of Nevada land is government owned. S. 1936 provides equitable treatment for Nevada's local governments and tribes.

TRANSPORTATION

The Federal Government must plan today to ensure its ability to transport spent nuclear fuel from commercial nuclear power plants to a central storage facility beginning in 1999. The Energy Department is responsible for transporting spent nuclear fuel to a central storage facility and repository. S. 1936 instructs DOE to use private contractors to the fullest extent possible in each aspect of the transportation network. Spent fuel must be transported from nuclear power plants to an interim storage facility in containers certified by the Nuclear Regulatory Commission. DOE selects transportation routes for spent fuel shipments to Nevada, and the agency must notify States along the transportation routes in advance of spent fuel shipments. As mentioned, the containers would be transferred at an intermodal facility at Caliente, NV and shipped by heavy haul truck over the final 120 miles to the central storage facility.

The bill also provides technical assistance to States, local governments and Indian tribes for training in procedures required for routine transportation and in emergency response. The transportation provisions in S. 1936 are consistent with preemption authority found in the Hazardous Materials Transportation Act.

AMOUNTS TO BE SHIPPED

Radioactive materials currently account for about 3 percent of the 100 million packages of hazardous materials shipped each year in the United States. Of those 3 million radioactive packages, fewer than 100 contain high-level radioactive waste. The number of spent fuel shipments will increase to about 300 to 500 per year by the turn of the century, when the DOE is expected to begin accepting high-level radioactive waste at a central storage facility. Even then, high-level radioactive waste will comprise a small percentage of all hazardous material shipments.

During the past 30 years, the commercial nuclear industry has built a solid safety record during more than 2,400 shipments of spent fuel over U.S. highways and railroads. During this time, no fatalities, injuries or environmental damage have been caused by the radioactive nature of the cargo. Spent nuclear fuel is placed in dry, rugged containers for shipment. These specially designed containers—certified by the NRC—use heavy steel-walled technology to safely confine radioactive materials.

Because of the strict controls by DOE, NRC and other State and Federal agencies, utilities and other U.S. companies have a long history of safe spent fuel transportation. Spent fuel has been shipped from temporary storage facilities at West Valley, NY and Morris, IL, back to utilities; from the Three Mile Island plant to the Idaho National Engineering Laboratory; and from the Hope Creek nuclear power plant in New Jersey to a General Electric facility in California.

DESIGNATION OF TRANSPORTATION ROUTES

Spent fuel can be shipped only along specified rail and highway routes. The routes will be selected by the DOE, but States participate in the designation process. Eleven States have registered preferred routes for transportation of high-level radioactive materials. S. 1936 requires DOE to adhere to NRC regulations requiring advance notification of State and local governments prior to transportation of spent fuel.

For those shipments that will be transported by truck, most of the designated routes travel along interstate highways and bypasses—not through major cities and towns. However, States may propose alternatives to the interstate highway system. Potentially affected States must be consulted in the designation of alternative routes. Shippers must file a written route plan with the NRC, including the origin-destination of the shipment, routes, planned stops, estimated arrival times at each stop, and emergency telephone numbers in each State the shipment will enter.

PROTECTION OF PUBLIC HEALTH AND SAFETY DURING SHIPMENTS

Federal regulations for transporting radioactive material ensure that the public and the environment are protected from dangerous releases of radioactivity. Three Federal agencies each play a key role in the safe transfer of radioactive materials from nuclear power plants to a central storage facility. The DOE is responsible for accepting, transporting, storing and disposing of spent fuel from nuclear power plants. The DOT regulates highway routing, packaging, labeling, shipping papers, personnel training, loading and unloading, handling and storage, as well as transportation vehicle requirements. The NRC regulates container design and manufacturing to ensure that containers maintain their integrity under routine transportation conditions and during severe accidents. S. 1936 requires that containers for nuclear fuel transport be licensed by the NRC. The agency also examines shipping routes to ensure the security of spent fuel shipments.

According to NRC regulations, the radiation level of containers during shipment cannot exceed 10 millirem per hour at a distance of 6 feet from the truck. At this level, a person who spends 30 minutes standing 6 feet away from the vehicle carrying radioactive materials would receive 5 millirem of radiation. By comparison, the average person receives about 300 millirem each year from natural background radiation.

ACCIDENTS

Between 1971 and 1989, seven accidents occurred involving transportation of spent nuclear fuel. None caused any release of radioactivity. The most severe of these accidents occurred in 1971 in Tennessee. A tractor-trailer carrying a 25-ton spent fuel shipping container swerved to avoid a head-on collision, went out of control and overturned. The trailer, with the container still attached, broke free of the tractor and skidded into a rain-filled ditch. The container suffered minor damage, but did not release any radioactive material.

LOCAL RESPONSE-TRAINING

The Federal Government provides training and other assistance to the States so they may adequately respond in the event of an accident. Under existing law and S. 1936, DOE provides funding from the Federal Nuclear Waste Fund to train State and local officials and tribal emergency rescue workers and to develop emergency response and preparedness plans. S. 1936 also required the Secretary of Transportation to establish training standards applicable to workers directly involved in the removal, transportation, interim storage, and disposal of high-level radioactive waste.

The DOE operates a Radiological Assistance Program, with eight regional offices staffed with experts available for immediate assistance. If necessary, police will summon those experts to handle the transportation package and remove any radioactive material that may have been released.

TERRORISM

Terrorism has been given considerable attention in the planning, procedures and regulation of spent fuel transportation. It is highly unlikely that a terrorist would have the opportunity, the equipment, or the required expertise to sufficiently damage a spent nuclear fuel container to cause a radiation release.

Points of origin, schedule, route, and mode of transportation are known only by a core group of Federal and State government officials. Special devices on vehicles, sophisticated satellite tracking, and armed security through populated areas will be employed to deter terrorist threats.

Tests by Sandia National Laboratories evaluated the possibility of a terrorist attack. For security reasons, much of this information is classified; however, we do know that, for testing purposes, a container was subjected to a device 30 times more powerful than a typical anti-tank weapon. This test was conducted in a carefully controlled environment and resulted in a one-fourth of an inch in diameter hole through the primary containment wall. The NRC estimates that even a device this powerful would have caused a release of less than 10 grams of spent fuel.

THE 100 MILLIREM STANDARD

S. 1936 establishes a 100 millirem standard for release of radioactivity from the repository as a maximum annual dose to an average member of the general population in the vicinity of Yucca Mountain. This standard is consistent with current national and international standards designed to protect the public health and safety and the environment. S. 1936 also would allow the NRC to establish another standard if it finds that the 100 millirem level would pose an unreasonable risk to the health and safety of Nevadans.

CONCLUSION

In sum, I believe that S. 1936 is an effective short-term solution to our nuclear waste disposal, for both commercial and defense waste. A central interim storage facility is both environmentally and economically sound. To me, the choice seems clear. Why leave nuclear waste scattered throughout the country in various sites when it can be safely transferred and stored in one central site? A single storage site is clearly the pro-environmental option. Interim storage at a central Federal site enhances safety and efficiency in the management of spent fuel. In addition to the environmental benefits, central storage is significantly more cost-effective for electricity customers. Storing used fuel at a central interim storage facility would save consumers $4.3 billion if the facility is operating by 2000 and a repository begins accepting spent fuel in 2010.

America's 110 nuclear power plants are this Nation's second largest source of electricity, constituting about 20 percent of our electric power. Nuclear energy supplies over 40 percent of all the new electricity required by the American people since 1973. Our nuclear power plants will also make the largest contribution of any technology toward meeting the Administration's year 2000 goals for reducing greenhouse gas emissions.

Whether we build new nuclear power plants in the future or not, we must deal responsibly with the nuclear fuel produced by our currently operating plants. We must also deal with the defense waste that this Nation has produced. S. 1936 is good policy and represents a safe, responsible solution that enjoys strong bipartisan support.

TRIBUTE TO LTG ROBERT L. ORD III

Mr. INOUYE. Mr. President, today I wish to congratulate and pay tribute to a great American leader, statesman and soldier. Lt. Gen. Robert L. Ord, III, Commanding General of the U.S. Army, Pacific (USARPAC) will retire on July 31, 1996 after more than 34 years of dedicated service to our nation and our Army.

A native of Medford Lakes, NJ, Lieutenant General Ord graduated from the U.S. Military Academy at West Point in 1962 and was commissioned as a second lieutenant of Infantry. Over the course of the next three decades, he served our country honorably and

faithfully in a variety of exceptionally challenging troop and staff assignments in the United States, Vietnam, and Korea.

A leader in both peace and war, he has commanded at every level from platoon to division and Army major command. Lieutenant General Ord commanded a rifle company in Vietnam and the 2d Battalion, 1st Infantry Training Brigade at Fort Benning, Ga. Following graduation from the Army War College in 1980, he served as the Operations Officer, Chief of Staff, and Commander of the 9th Infantry Regiment, 7th Infantry Division (Light) at Ford Ord, CA. He then served in the Pentagon as the Executive Officer to the Army's Deputy Chief of Staff for Personnel followed by promotion to brigadier general and assignment in Korea as Chief of Staff of the United States-Korea Combined Field Army. Subsequently, he returned to Fort Ord as Assistant Division Commander of the 7th Infantry Division (Light), where he participated in Operation Just Cause in Panama, followed by Command of the U.S. Total Army Personnel Command in Washington, DC.

From February 1992 until September 1993, Lieutenant General Ord served as the commanding general of the 25th Infantry Division (Light) and the United States Army, Hawaii where his relentless pursuit of excellence and focus on mission training placed the 25th Infantry Division (Light) on the cutting edge of combat readiness. Through his innovative, aggressive and creative leadership, the 25th Infantry Division (Light) and United States Army, Hawaii became fully integrated, modernized, manned and equipped forces capable of exceptional tactical mobility, lethality and versatility.

As Commanding General, United States Army, Pacific, Fort Shafter, HA, from November 1993 to June 1996, Lieutenant General Ord has been the consummate statesman and ambassador for the United States throughout the Pacific. He has utilized his vast diplomatic skills with senior leaders from over 37 countries of the Asia-Pacific region to win friends and influence foreign governments; thereby, broadening the prestige of the U.S. Army and deterring hostile action from potential adversaries. Through his insightful guidance and visionary leadership, he has redefined the future of the Army in the Pacific and made dramatic progress toward its "end-state" with alignment and restructuring of apportioned Army forces.

Throughout his career, Lieutenant General Ord has demonstrated a deep and personal concern for soldiers, Army civilians, retirees, and their families that has earned him a reputation as a commander who would spare no effort to ensure that their needs were met. His extraordinary leadership and brilliant statesmanship have significantly enhanced the vital national security interests of the United States and were the driving force behind preparing America's Army in the Pacific for the 21st Century. With resolute commitment and dedication, he has accomplished the Army's most challenging tasks of downsizing, reorganizing and streamlining while maintaining exceptional combat readiness and quality of life in his forces.

Lieutenant General Ord's career has been the epitome of selfless service to our nation and the quintessential example of all we could hope our military leaders to be. And through the decades of service and sacrifice, he has been supported by a loving family. The Nation shares Lieutenant General Ord with his wife Gail, their daughters Traci and Ginger, and grandchildren Mariah and Zachary. They too have served our country, supporting in countless ways the career of this dedicated soldier and statesman.

Lieutenant General Ord, a consummate professional, a loyal servant of the Constitution, a leader of demonstrated moral and physical vigor and courage—on behalf of the Congress of the United States and the people we represent, I offer our heartfelt appreciation and sincere thanks to you and your family for your selfless and dedicated service. Mahalo, aloha and best wishes for a bright and happy future.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, I think so often of that November evening long ago in 1972 when the television networks reported that I had been elected as a U.S. Senator from North Carolina. I remember well the exact time that the announcement was made and how stunned I was.

It had never really occurred to me that I would be the first Republican in history to be elected by the people of North Carolina to the U.S. Senate. When I got over my astonishment, I thought about a lot of things. And I made some commitments to myself one of which was that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously meaningful to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them are greatly concerned about the total Federal debt which back in February exceeded $5 trillion for the first time in history. Congress created this monstrous debt which coming generations will have to pay.

Mr. President, the young people who visit with me almost always are inclined to discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Tuesday, July 16, 1996, stood at $5,158,429,724,926.15. On a per capita basis, the existing Federal debt amounts to $19,442.95 for every man, woman, and child in America on a per capita basis.

The increase in the national debt in the 24 hours since my report yesterday—which identified the total Federal debt as of close of business on Monday, July 15, 1996—shows an increase of more than $2 billion—$2,116,065,511.60, to be exact. That 1-day increase alone is enough to match the total amount needed to pay the college tuitions for each of the 313,770 students for 4 years.

FOREIGN OIL CONSUMED BY THE UNITED STATES? HERE'S THE WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending July 12, the United States imported 7,300,000 barrels of oil each day, 800,000 barrels less than the 8,100,000 barrels imported during the same week a year ago.

Americans relied on foreign oil for 53 percent of their needs last week, and there are no signs that this upward spiral will abate. Before the Persian Gulf War, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,300,000 barrels a day.

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 Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE PRESIDENT'S ADVISORY BOARD ON ARMS PROLIFERATION POLICY—MESSAGE FROM THE PRESIDENT—PM 160

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 Armed Services.

To the Congress of the United States:

As required by section 1601(d) of Public Law 103-160 (the "Act"), I transmit herewith the report of the President's Advisory Board on Arms Proliferation Policy. The Board was established by Executive Order 12946 (January 20, 1995), pursuant to section 1601(c) of the Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 17, 1996.*

REPORT CONCERNING THE EMIGRATION LAWS AND POLICIES OF THE REPUBLIC OF BULGARIA—MESSAGE FROM THE PRESIDENT—PM 161

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 Finance.

To the Congress of the United States:

On June 3, 1993, I determined and reported to the Congress that Bulgaria is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Bulgaria and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated report to the Congress concerning emigration laws and policies of the Republic of Bulgaria. The report indicates continued Bulgarian compliance with U.S. and international standards in the area of emigration policy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 17, 1996.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 248. An act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 966. An act for the relief of Nathan C. Vance, and for other purposes.

S. 1899. An act entitled the "Mollie Beattie Wilderness Area Act.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1975. An act to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

H.R. 2001. An act for the relief of Norton R. Girault.

H.R. 3249. An act to authorize appropriations for a mining institute or institutes to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes.

H.R. 3458. An act to increase, effective as of December 1, 1996, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

H.R. 3643. An act to amend title 38, United States Code, to extend through December 31, 1998, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans who were exposed to Agent Orange or who served in the Persian Gulf War and to make such authority permanent in the case of certain veterans exposed to ionizing radiation, and for other purposes.

H.R. 3673. An act to amend title 38, United States Code, to revise and improve certain veterans programs and benefits, to authorize the American Battle Monuments Commission to enter into arrangements for the repair and long-term maintenance of war memorials for which the Commission assumes responsibility, and for other purposes.

H.R. 3674. An act to amend title 38, United States Code, to clarify the causal relationship required between a veteran's service-connected disability and employment handicap for purposes of determining eligibility for training and rehabilitation assistance entitlements from the Post-Vietnam Era Educational Assistance Program to the Montgomery GI Bill, and for other purposes.

At 3:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the terms of the Senate:

H.R. 361. An act to provide authority to control exports, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2001. An act for the relief of Norton R. Girault; to the Committee on the Judiciary.

H.R. 3458. An act to increase, effective as of December 1, 1996, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans Affairs.

H.R. 3643. An act to amend title 38, United States Code, to extend through December 31, 1998, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans who were exposed to Agent Orange or who served in the Persian Gulf War and to make such authority permanent in the case of certain veterans exposed to ionizing radiation, and for other purposes; to the Committee on Veterans Affairs.

H.R. 3673. An act to amend title 38, United States Code, to revise and improve certain veterans programs and benefits, to authorize the American Battle Monuments Commission to enter into arrangements for the repair and long-term maintenance of war memorials for which the Commission assumes responsibility, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3674. An act to amend title 38, United States Code, to clarify the causal relationship required between a veteran's service-connected disability and employment handicap for purposes of determining eligibility for training and rehabilitation assistance entitlements from the Post-Vietnam Era Educational Assistance Program to the Montgomery GI Bill, and for other purposes; to the Committee on Veterans Affairs.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 1954. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

H.R. 3396. An act to define and protect the institution of marriage.

The following measures were read the first and second times and placed on the calendar:

H.R. 1975. An act to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

H.R. 3249. An act to authorize appropriations for a mining institute or institutes to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes.

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-3411. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans," received on July 11, 1996; to the Committee on Labor and Human Resources.

EC-3412. A communication from the Acting Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Reorganization, Renumbering, and Reinvention of Regulations," (RIN1212-AA75) received on July 9, 1996; to the Committee on Labor and Human Resources.

EC-3413. A communication from the General Counsel of the Navy, transmitting, a draft of proposed legislation to amend section 329 of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3414. A communication from the Assistant Secretary for Employment and Training, Department of Labor, transmitting, pursuant to law, the rule entitled "Attestations by Employers Using Alien Crewmember for Longshore Work in U.S. Ports," (RIN1205-

AB03) received on July 8, 1996; to the Committee on the Judiciary.

EC-3415. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Sport Commission Conflict of Interest Amendment Act of 1996; to the Committee on Government Affairs.

EC-3416. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Mutual Holding Company Act of 1996; to the Committee on Governmental Affairs.

EC-3417. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Automobile Insurance Amendment Act of 1996; to the Commission on Governmental Affairs.

EC-3418. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996; to the Committee on Governmental Affairs.

EC-3419. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Interference with Medical Facilities and Health Professionals Amendment Act of 1996; to the Committee on Governmental Affairs.

EC-3420. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Excepted Service Positions Designation Temporary Amendment Act of 1996; to the Committee on Governmental Affairs.

EC-3421. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to the Noise Control Amendment Act of 1996; to the Committee on Governmental Affairs.

EC-3422. A communication from the Acting Director, Office of Management and Budget, transmitting, pursuant to law, a report relative to the Statement of Federal Financial Accounting Standards; to the Committee on Governmental Affairs.

EC-3423. A communication from the Chairman, PCA Retirement Committee, First South Production Credit Association, transmitting, pursuant to law, a report relative to the annual pension plan; to the Committee on Governmental Affairs.

EC-3424. A communication from the Comptroller General, transmitting, pursuant to law, the under the Chief Financial Officers Act for fiscal years 1995 and 1994; to the Committee on Governmental Affairs.

EC-3425. A communication from the Secretary of Defense, transmitting, pursuant to law, the report under the Inspector General Act from the period October 1, 1995 through March 31, 1996; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-656. A resolution adopted by the Senate of the Legislature of the Commonwealth of Massachusetts; to the Committee on Governmental Affairs.

"RESOLUTION

"Whereas, at the end of the Korean war in nineteen hundred and fifty-three over eight thousand American troops were unaccounted for; and

"Whereas, historically, the position of the United States Government has been that there were no longer any surviving prisoners of war from the Korean war in North Korea; and

"Whereas, a recent Department of Defense report acknowledges that between ten and fifteen prisoners of war from the Korean war have been sighted, still alive and being held in North Korea; and

"Whereas, many more of the eight thousand troops still unaccounted for may still be alive and held in North Korea; and

"Whereas, recent evidence indicates that these prisoners of the war wish to return to the United States; and

"Whereas, the Korean war has been over for more than forty years and the prisoners are now becoming elderly, making swift action imperative: Now therefore be it

"*Resolved*, That the Massachusetts senate respectfully urges the Congress of the United States to take immediate action to determine the presence of American prisoners of war in North Korea and to ensure the prompt return of any such prisoners to the United States; and be it further

"*Resolved*, That a copy of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, to the Presiding Officer of each branch of Congress and to each Member thereof from the Commonwealth."

POM-657. A concurrent resolution adopted by the Legislature of the State of Delaware; to the Committee on Labor and Human Resources.

HOUSE CONCURRENT RESOLUTION NO. 38

"Whereas improving patient access to quality health care is a paramount national goal; and

"Whereas the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products, and medical devices; and

"Whereas minimizing the delay between discovery and eventual approval of a new drug, biological product, or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

"Whereas current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals, and patients, and unfairly limit the right of free speech guaranteed by the First Amendment to the United States Constitution; and

"Whereas the current rules and practices governing the review of new drugs, biological products, and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessary expensive: Now, therefore be it

Resolved by the house of representatives of the 138th General Assembly of the State of Delaware (the senate concurring therein), That the State Legislature respectfully urges the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products, and medical devices, without compromising patient safety or product effectiveness; and be it further,

"*Resolved*, That copies of this Resolution be transmitted forthwith by the Clerk of the House or Secretary of the Senate to the President of the United States, the Speaker of the United States House of Representatives, and President of the United States Senate, and to each member of the United States Senate and the United States House of Representative."

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. ROCKEFELLER (for himself and Mr. MACK):

S. 1963. A bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. HOLLINGS):

S. 1964. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services of registered dietitians and nutrition professionals; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BIDEN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. SPECTER, Mr. WYDEN, Mr. DEWINE, Mr. HARKIN, Mr. D'AMATO, Mr. KYL, Mr. REID, and Mr. ASHCROFT):

S. 1965. A bill to prevent the illegal manufacturing and use of methamphetamine; ordered held at the desk.

By Mr. CAMPBELL (for himself, Mr. CHAFEE, and Ms. MOSELEY-BRAUN):

S. 1966. A bill to extend the legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 1967. A bill to provide that members of the Armed Forces who performed services for the peacekeeping efforts in Somalia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 1968. A bill to reorder United States budget priorities with respect to United States assistance to foreign countries and international organizations; to the Committee on Foreign Relations.

By Mr. JEFFORDS (for himself, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. KERREY, Mr. COHEN, Mr. BINGAMAN, Mr. CHAFEE, and Mr. WYDEN):

S. 1969. A bill to establish a Commission on Retirement Income Policy; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (for himself and Mr. MACK):

S. 1963. A bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program; to the Committee on Finance.

THE MEDICARE CANCER CLINICAL TRIAL COVERAGE ACT OF 1996

Mr. ROCKEFELLER. Mr. President, today, I am introducing legislation to

continue the effort to expand treatment options for older Americans who happen to have cancer. I am especially pleased my colleague from Florida, Senator MACK, is joining me as an original cosponsor. Senator MACK is a vigorous and persistent advocate for cancer research and improvements in patient care for those with cancer. He has been fighting this battle for a long time.

Our bipartisan sponsorship, which is just a nice thing to happen around here anyway, is intended to say to the American people, especially to the millions of Medicare beneficiaries with cancer, that we in the Congress are, in fact, very, very serious about trying to be helpful.

Over 1.3 million people will be diagnosed with cancer this year. Over 11,000 of those people, newly diagnosed with cancer, will be people I represent, that is West Virginians. Cancer is, in fact, the second leading cause of death in West Virginia, second only to heart disease. This legislation is aimed at improving Medicare coverage, since Medicare beneficiaries account for more than half of all cancer diagnoses, and 60 percent of all cancer deaths.

Our bill deals with the very specific problem faced by Medicare beneficiaries who are currently prevented from receiving care that may extend or save their lives. To put it very simply and very bluntly, Americans over the age of 65 who are struck with cancer believe they should get the best shot in fighting their disease. The Medicare Cancer Clinical Trial Coverage Act of 1996, which is the bill I am introducing, is a bill to do something very targeted to give older Americans their best shot at fighting cancer. With this bill we want to tackle the frustrating, often anguishing problem faced by older Americans who are unable to participate in cancer clinical trials. Let me explain.

Consider the story of a West Virginian who was treated with an experimental drug for lung cancer, under a research trial approved by the National Cancer Institute. Because Medicare would not cover the cost of hospitalization required to administer the anticancer treatment, he decided he could only pay for one more treatment out of the money from his own pocket. This West Virginian could not bring himself to bankrupt his family, yet getting the additional treatments might bring the gift of a longer life for him and, obviously, much more stability and happiness for his family. This is a terrible choice that should not have to be made by anybody in this country.

While we still have a long way to go in discovering a cure for cancer, there are constantly popping up reports of exciting new advances in the treatment of cancer. The bad news is that millions of people with cancer cannot take advantage of these path-breaking treatments because they are provided in a setup which is called clinical trials. To insurers, including the Medicare Program, that labels them experimental. In other words, clinical trials are labeled experimental and, therefore, the basis for turning down coverage with no ifs, ands, or buts.

Critics of coverage for clinical trials argue that care provided in trials is purely investigational and too costly. In fact, these trials can provide essential information about which treatments are effective and which ones are not. This is one of the best ways for the health care system to learn about the various advantages and disadvantages of treatment options, including what costs are involved before a certain course is expanded widely or prematurely.

The bill I am introducing today with Senator CONNIE MACK is very careful in pursuing a solution. We lay out a framework for a major demonstration project to come up with the information and the experience needed to then modify Medicare's policy toward clinical trials. With this demonstration we want the Medicare Program to find out more about the costs of covering high-quality clinical trials for its beneficiaries with cancer, and then compare them to the benefits and other results learned through the demonstration. There is truly an urgent need to get on with this study, and then where the findings should take us in changing Medicare's policy toward clinical trials. With new cancer therapies rapidly unfolding, dealing with a disease that its victims are desperately trying to battle, peer-reviewed clinical trials may be the best and only available care.

Cancer researchers themselves—and there is a long list of associations and organizations who support this legislation—are eager to have more older Americans involved in these trials. More needs to be learned about the biological responses to various treatments within different age groups, and this bill can help fill that particular gap.

In our bill we confine the demonstration to covering a select group of high-quality clinical trials. Our criteria say the trials covered under this demonstration have to be the result of top-notch peer review procedures.

This legislation does not write any new policies for Medicare into stone, but it does lay the foundation for a Medicare policy toward cancer treatments that factors in what clinical trials now have to offer. We give the program 5 years to conduct the demonstration, and then we call on the Secretary of HHS to tell Congress how Medicare should or perhaps should not be changed in its policy toward cancer and other kinds of clinical trials.

Many researchers, physicians, patients, and many of us in Congress have already been pushing for more coverage for clinical trials by Medicare and other insurers. In its 1994 report to Congress, a very long-named advisory group—something called the National Cancer Advisory Board's Subcommittee to Evaluate the National Cancer Program—emphasized the need for private insurance and Medicare coverage for approved clinical trials. And we use that report in our bill to create the criteria for what kinds of trials should be covered in the Medicare demonstration that Senator MACK and I are proposing.

I continue to believe that all Americans should be guaranteed access to quality health care. I would love to see Congress acting immediately to ensure that any American struck by cancer, whether age 21 or age 71, could get coverage for treatment in a clinical trial if that is judged the best option for them. Those are highly ambitious goals, and today Senator MACK and I offer this bill as one more incremental step in their direction.

I actually started some years ago with legislation to improve cancer care for Medicare patients. That legislation ended up being enacted in 1993. It was really sort of embarrassingly simple. My legislation required Medicare coverage of oral anticancer drugs if those drugs would otherwise have been covered by Medicare if administered intravenously in a doctor's office. Obviously, the result being cost savings and almost simple beyond belief. But, nevertheless, it was not allowed prior to my legislation.

We changed the law, and now it is allowed. A lot of money is being saved, and people are being helped because they can take an oral drug at home rather than having an injection in a doctor's office. As a result, many Medicare beneficiaries with cancer can take advantage of drugs that they were, in a sense, walled off from before.

The other part of my bill set an uniform standard for Medicare coverage of anticancer drugs. Prior to the enactment of my legislation, there was significant variation in Medicare coverage of anticancer drugs because individual Medicare carriers made their own decisions on coverage. A GAO report found that Medicare's unreliable and inconsistent coverage of accepted off-label uses of cancer drugs forced oncologists to alter their preferred treatment. Now there is clear and consistent Medicare policy regarding coverage of anticancer drugs.

In conclusion, I think it is time again for Congress to take another small, yet crucial, step in improving coverage for elderly cancer patients who deserve every chance they have to battle this horrible disease.

I hope to get the help of colleagues on both sides of the aisle—and I am sure Senator MACK shares this wish with me—to get more supporters to recognize that this urgent need has to be attended to as soon as possible.

Mr. President, I ask unanimous consent that a copy of our bill and a summary of the legislation, along with a list of its supporters, be printed in the RECORD.

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

S. 1963

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 "Medicare Cancer Clinical Trial Coverage Act of 1996".

SEC. 2. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—Not later than January 1, 1997, the Secretary of Health and Human Services (in this Act referred to as the "Secretary") shall establish a demonstration project which provides for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) APPLICATION.—The beneficiary cost sharing provisions under the medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual participating in a demonstration project conducted under this Act.

(c) APPROVED CLINICAL TRIAL PROGRAM.—For purposes of this Act, the term "approved clinical trial program" means a clinical trial program which is approved by—

(1) the National Institutes of Health;

(2) a National Institutes of Health cooperative group or a National Institutes of Health center;

(3) the Food and Drug Administration (in the form of an investigational new drug or device exemption);

(4) the Department of Veterans Affairs;

(5) the Department of Defense; or

(6) a qualified nongovernmental research entity identified in the guidelines issued by the National Institutes of Health for center support grants.

(d) ROUTINE PATIENT CARE COSTS.—

(1) IN GENERAL.—For purposes of this Act, "routine patient care costs" shall include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) EXCLUSION.—For purposes of this Act, "routine patient care costs" shall not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

SEC. 3. STUDY, REPORT, AND TERMINATION.

(a) STUDY.—The Secretary shall study the impact on the medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(b) REPORT TO CONGRESS.—Not later than January 1, 2001, the Secretary shall submit a report to Congress that contains a statement regarding—

(1) any incremental cost to the medicare program under title XVIII of the Social Security Act resulting from the provisions of this Act; and

(2) a projection of expenditures under the medicare program if coverage of routine patient care costs in an approved clinical trial program were extended to individuals entitled to benefits under the medicare program who have a diagnosis other than cancer.

(c) TERMINATION.—The provisions of this Act shall not apply after June 30, 2001.

MEDICARE CANCER CLINICAL TRIAL COVERAGE ACT OF 1996

CURRENT LAW

Medicare generally does not pay for the costs of patient care if they are incurred in the course of a clinical trial. An exception adopted last year allows Medicare coverage of investigational medical devices used in clinical trials, and of the associated medical care, if the FDA determines that the investigational device is similar to a previously approved or cleared device.

PROPOSED CHANGE

The Secretary of HHS would be required to conduct a demonstration project, beginning no later than January 1, 1997, which would study the feasibility of covering patient costs for beneficiaries diagnosed with cancer and enrolled in certain approved clinical trials. Eligibility for coverage would be dependent on approval of the trial design by one of several high quality peer-review organizations, including the National Institutes of Health, the Food and Drug Administration, the Department of Defense, and the Department of Veterans Affairs. No later than January 1, 2001, the Secretary would be required to report to the Congress concerning any incremental costs of such coverage and the advisability of covering other diagnoses under the same circumstances. The demonstration project would sunset on June 30, 2001.

Supported by:

National Coalition for Cancer Survivorship; Candlelighters Childhood Cancer Foundation; Cancer Care, Inc.; National Alliance of Breast Cancer Organizations (NABCO); US TOO International Y-ME National Breast Cancer Organization; American Cancer Society; American Society of Clinical Oncology; American Society of Pediatric Hematology/Oncology; Association of American Cancer Institutes; Association of Community Cancer Centers; Cancer Research Foundation of America; North American Brain Tumor Coalition; Leukemia Society of America; National Breast Cancer Coalition; National Childhood Cancer Foundation; National Coalition for Cancer Research; Oncology Nursing Society; Prostate Cancer Support-group Network; and Society of Surgical Oncology.

By Mr. BINGAMAN (for himself and Mr. HOLLINGS):

S. 1964. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of medical nutrition therapy services of registered dietitians and nutrition professionals; to the Committee on Finance.

THE MEDICAL NUTRITION THERAPY ACT OF 1996

• Mr. BINGAMAN. Mr. President, I introduce the Medical Nutrition Therapy Act of 1996 on behalf of myself and my friend and colleague from South Carolina, Senator HOLLINGS.

This legislation is similar to a bill, H.R. 2247, that was introduced last year in the House by Representative JOSÉ SERRANO. It provides for coverage under part B of the Medicare Program of medical nutrition therapy services which are furnished by or under the supervision of a registered dietitian or nutrition professional.

Mr. President, at a time when the Medicare system is under increasing scrutiny and the Congress and administration are debating how to ensure the long-term stability of the program, I believe that the legislation I am introducing should be an integral part of those debates.

Medical nutrition therapy is the assessment of patient nutritional status followed by therapy, ranging from diet modification to administration of specialized nutrition therapies such as intravenous or tube feedings. It has proven to be a medically necessary and cost-effective way of treating and controlling many diseases and medical conditions, including AIDS, cancer, kidney disease, diabetes, and severe burns. The treatment of all of these conditions and numerous others saves health care costs by speeding recovery and reducing the incidence of complications. This in turn results in fewer hospitalizations, shorter hospital stays, and reduced drug, surgery, and treatment needs.

An analysis of nearly 2,400 case studies submitted by members of American Dietetic Association members showed that on average more than $8,000 per patient can be saved with the intervention of medical nutrition therapy. The July 1995 issue of the American Journal of Medicine highlighted a study that found that the use of a diabetes team, led by an endocrinologist working with a nurse diabetes educator and dietitian, resulted in a 56-percent reduction in length of hospital stays among patients hospitalized with a primary diagnosis of diabetes compared with patients treated by an internist alone. Currently, hospital care of diabetic patients costs an estimated $65 billion a year. The potential 5-day reduction in hospitalization found by this study translates into billions of dollars per year in potential health care savings and that is only the savings related to diabetes treatment. The true saving resulting from the increased use of medical nutrition therapy in other illnesses is substantial and that is why I am here today to offer this legislation.

Mr. President, no consistent policy or approach exists for covering the

costs for medical nutrition therapy. In inpatient settings, dietitians' services are often folded into hospital room and board charges and are not reimbursed while equipment and prescribed medical nutritional products are often, but not always, treated in the same manner. In outpatient settings, coverage is inconsistent for both dietitians' services and other nutrition therapies. Medicare and some Medicaid programs cover physician-prescribed medical nutrition therapies as part of a home care therapy benefit. However, professional dietitian services are not covered as a reimbursable expense.

I believe that we need to change this and the legislation I am offering today will achieve that. I also believe that as the relevant studies are developed it will be clearly shown that coverage of medical nutrition therapy of reducing health care expenditures and should be an integral part of any long-term solution to the solvency of the Medicare Program.●

By Mr. HATCH (for himself, Mr. BIDEN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. SPECTER, Mr. WYDEN, Mr. DEWINE, Mr. HARKIN, Mr. D'AMATO, Mr. KYL, Mr. REID and Mr. ASHCROFT):

S. 1965. A bill to prevent the illegal manufacturing and use of methamphetamine; ordered held at the desk.

THE COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1996

Mr. HATCH. Mr. President, I rise today to introduce S. 1965, a bipartisan bill to combat the methamphetamine epidemic, a serious and growing public health problem which poses a special threat to our Nation's youth who are abusing the drug in record numbers.

According to the latest information from the Drug Enforcement Administration, 50 percent of the methamphetamine consumed in the United States is illegally imported. The other 50 percent is manufactured illegally in the United States in clandestine labs. Accordingly, any national strategy to combat methamphetamine must target both the source of import and these clandestine labs.

Methamphetamine presents a unique problem in the fight against illegal drugs. It is not grown, but is manufactured from other chemicals, virtually all of which are legally used for other purposes.

Clandestine methamphetamine laboratories manufacture methamphetamine from chemicals with legitimate medical uses. Two of the most common precursor drugs—ephedrine and pseudoephedrine—are common ingredients in cold and cough preparations. Other precursor chemicals include iodine, often used in iodized salt; red phosphorous, often used in the production of matches; and hydrochloric acid, used for a variety of chemical purposes.

In addition, methamphetamine distribution has become a major target of opportunity for sophisticated drug trafficking rings, including vicious, poly-drug organizations in Mexico who have beaten well-trodden paths into the United States. Willing European suppliers provide them with tons of ephedrine, the precursor drug used to manufacture the illegal meth.

These Mexican methamphetamine traffickers are organized—and they do not hesitate to use extreme violence. They showed their true colors when they murdered DEA special agent Richard Fass in Glendale, AZ, in June 1994—just 1 day before he was to be transferred to a new assignment.

Any legislative solution to the meth crisis must, by necessity, balance the need to stem this illegal tide of methamphetamine into the United States against the need to ensure access to precursor chemicals which have legitimate medical uses and upon which millions of Americans rely.

Mr. President, methamphetamine has wreaked havoc across America, especially on communities in the Southwest. And, unfortunately, it is spreading east. It has entered the intermountain west, especially Utah, and is beginning to be seen throughout the rest of the country as well.

An indication of the magnitude of this problem is the fact that methamphetamine emergency room cases are up 256 percent over the 1991 levels, according to the latest information from the Drug Abuse Warning Network.

In 1994, the last year that data were available, there were 17,400 methamphetamine-related emergency visits. In California, methamphetamine seizures are up 518 percent over the 1991 level.

In Utah, we had 56 lab seizures in 1995, up from 13 in 1994. From January through June of this year we have already had 37 lab seizures. Utah has ranked in the top three States in the number of methamphetamine lab seizures for the past 2 years, an alarming trend.

According to the Centers for Disease Control and Prevention, Utah has experienced the second greatest increase in methamphetamine-related admissions in the entire country—a 133-percent increase in admissions between 1992 and 1993.

But statistics don't tell the whole story. This crisis is more than numbers, it involves real people suffering real problems. Let me show you examples of the people behind those numbers.

One of these people is Russell Ray Thompson. After a long day of drinking alcohol and injecting methamphetamine, Thompson shot an unarmed female friend six times with a rifle, leaving her two orphaned children to live with their grandparents.

Another is Connie Richens, from Vernal, UT. As Ms. Richens was preparing to meet her husband at a bowling alley, two men forced themselves into her apartment and slashed her throat four times. Uinta County sheriff's deputies found powdered methamphetamine a few feet from her dead body.

Methamphetamine is a killer. It kills those who abuse it, as well as innocent bystanders. It is the latest outrage perpetrated on American society by those who deal in drugs. We must put a stop to this terrible problem.

At this point, I would like to summarize the major provisions in S. 1965.

The first title contains measures to stop the importation of methamphetamine and precursor chemicals into the United States. We have included a long-arm provision, which imposes a maximum 10-year penalty on the manufacture outside the United States of a list I chemical—which is a chemical that is used to manufacture a controlled substance—with intent to import it into this country.

The second title contains several provisions to control the manufacture of methamphetamine in clandestine labs. It includes an important provision to permit the seizure and forfeiture of list I chemicals that are involved in illegal trafficking. Another provision increases penalties for the manufacture and possession of equipment used to make controlled substances. These provisions will not only impact the manufacture of methamphetamine, but other drugs illegally manufactured as well.

After a great deal of work with the Department of Justice, Senator BIDEN, and the DEA, I have also included a provision that will allow the Attorney General to commence a civil action for appropriate relief to shut down the production and sale of listed chemicals by individuals or companies that knowingly sell precursor agents for the purpose of the illegal manufacture of a controlled substance.

I believe that these provisions are important, as they give law enforcement additional authority to stop the flow of these precursor substances that are diverted for the manufacture of illegal controlled substances and to shut down clandestine labs. This bill gives the law enforcement community the muscle it needs to fight trafficking in methamphetamine and its precursor drugs.

In addition to the provisions I have already outlined, the third title increases penalties for trafficking in methamphetamine and list I precursor chemicals, enhances penalties for the dangerous handling of controlled substances, allows the Government to seek restitution for the clean up of the clandestine laboratory sites from those who created the contamination, and allows for the seizure of the modes of transportation of illegal methamphetamine and list I chemicals.

In developing these provisions, we were cognizant of the fact that the

DEA and the administration have stated that one important way to stop meth abuse is to increase the penalties for illegal importation of precursor chemicals. This will reduce the number of domestic, clandestine methamphetamine labs which, in turn, will decrease the availability of this dangerous drug, improve the safety of our neighborhoods, and eliminate a source of environmental damage.

It is an unfortunate consequence of enhanced domestic penalties that some of the domestic labs may relocate to Central and South America. It is my hope that the provisions in this bill requiring additional coordination between the United States and these countries will allow for the development of an international strategy that will combat this problem too.

In particular, fighting this problem effectively is going to require improved cooperation from Mexico. I believe that Congress stands ready to support the administration in international efforts to stem the flow of drugs into the United States.

The fourth title cracks down hard on the ability of rogue companies to sell large amounts of precursor chemicals that are diverted to clandestine labs. Provisions in this title limit the package size that precursor drugs may be sold in at the retail level, and require the product to be packaged in blister packs when technically feasible.

Mr. President, this title contains carefully drafted provisions that balance the need to crack down on precursor chemicals against the need to maintain the availability of drugs such as pseudoephedrine for legitimate purposes. I recognize the need to take measures to decrease the availability of the precursor list I chemicals for diversion to clandestine methamphetamine laboratories. However, in so doing, we must not restrict the ability of law-abiding citizens to use common remedies for colds and allergies, or subject sales of such legal products to onerous recordkeeping at the retail level.

It is no secret that I have been critical of the DEA's proposed regulations in this area. The provisions included in S. 1965, I believe, will achieve our common goal without the negative side effects of the proposed regulations.

In fact, I believe that our provisions with regard to the sale of the precursor chemicals pseudoephedrine and phenylpropanolamine go much farther in preventing the diversion of these products while maintaining their access for legitimate uses. In this bill we lower the single transaction threshold for pseudoephedrine—containing products from 1,000 grams to 24 grams. Our bill also allows the Attorney General to lower this single—transaction limit further, as necessary to prevent the diversion of products to meth labs. That provision was inserted to meet the concerns of Senator FEINSTEIN and others who believe that retail sales are a significant source of precursor drugs for clandestine labs.

Some of my colleagues may have seen an article this morning in USA Today, which leaves one with the impression that retail cough and cold preparations are a significant source of precursor drugs. I have spent a great deal of time studying this issue, consulting extensively with the DEA and State and local law enforcement officials in Utah. I remain unconvinced that legitimate products purchased at the retail level are a significant source of precursor drugs for the manufacture of methamphetamine. Nevertheless, I have included several provisions in this title that will limit the potential diversion of legitimate products at the retail level to methamphetamine labs.

When this legislation is enacted, I will continue to monitor this situation very closely. If the data show that retail products containing pseudoephedrine and phenylpropanolamine are contributing to the methamphetamine problems, I pledge to revisit this issue next Congress.

In addition, we have strict reporting and recordkeeping provisions for those companies that sell ephedrine, pseudoephedrine and phenylpropanolamine by mail. These provisions - which go far beyond what DEA has proposed to date—will shut down loopholes in current law that allow these products to get to the meth labs.

This bill gets tough on those who divert legitimate products to clandestine methamphetamine labs. I would have it no other way.

In anticipation of questions regarding this provision, I want to underscore that the bill does not apply to dietary supplement products in any way.

Finally, an important title of our legislation improves and expands existing education and research activities related to methamphetamine and other drug abuse. This approach, I feel, is key to the success of a comprehensive drug control policy. Increased emphasis on research, prevention, and treatment go hand in hand with efforts to reduce supply.

Consequently, our bill creates a methamphetamine interagency working group to design, implement, and evaluate a comprehensive methamphetamine education and prevention program. It requires public health monitoring programs to monitor methamphetamine abuse in the United States.

In addition, the legislation calls for a methamphetamine national advisory panel to develop a program to educate distributors of precursor chemicals and supplies to decrease the likelihood of diversion of these products to clandestine laboratories, and creates a suspicious orders task force to improve the reporting of suspicious orders and sales of list I chemicals.

In closing, Mr. President, I want to make clear that the legislation we introduce today represents a consensus position based on literally hundreds of hours of consultations with representatives of Federal, State, and local law enforcement, as well as substance abuse prevention and treatment experts and representatives of manufacturers of legitimate products containing the precursor chemicals.

In particular, I want to recognize the input from the Drug Enforcement Agency and Department of Justice, who have been instrumental in the development of a bill that we all can support.

I want to thank Senator BIDEN for his leadership role in developing this bill and for his willingness to move forward in a bipartisan way so that we can take steps toward addressing this important public health problem this session.

In addition, I want to recognize the significant contributions of Senator WYDEN, who early on indicated his interest in working with me to develop a bipartisan bill, and Senators SPECTER, DEWINE, ASHCROFT, and HARKIN.

Finally, I must also recognize the efforts of Senators FEINSTEIN, GRASSLEY, and KYL. They have contributed significant time and energy to bringing this issue before Congress and are strong advocates for legislation to deal with this problem.

The bill that my colleagues and I rise to introduce today represents a bipartisan, comprehensive response to control the methamphetamine abuse problem in our country. We still have a few issues to work out as this bill moves forward, but I am confident that we can quickly address any remaining areas of concern, so that we can pass this bill this session.

Methamphetamine abuse is a growing threat to the public health of this country. I hope that the Senate can move quickly to pass this bill so we can enact a comprehensive program to stop this problem in its tracks.

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. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Methamphetamine Control Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS
Sec. 101. Support for international efforts to control drugs.

Sec. 102. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.

Sec. 202. Study and report on measures to prevent sales of agents used in methamphetamine production.

Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances.

Sec. 204. Addition of iodine and hydrochloric gas to list II.

Sec. 205. Civil penalties for firms that supply precursor chemicals.

Sec. 206. Injunctive relief.

Sec. 207. Restitution for cleanup of clandestine laboratory sites.

Sec. 208. Record retention.

Sec. 209. Technical amendments.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Trafficking in methamphetamine penalty increases.

Sec. 302. Penalty increases for trafficking in listed chemicals.

Sec. 303. Enhanced penalty for dangerous handling of controlled substances: amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.

Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.

Sec. 502. Public health monitoring.

Sec. 503. Public-private education program.

Sec. 504. Suspicious orders task force.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

(2) The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including—

(A) a dramatic increase in deaths associated with methamphetamine ingestion;

(B) an increase in the number of violent crimes associated with methamphetamine ingestion; and

(C) an increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

(3) Illegal methamphetamine manufacture and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.

SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED CHEMICALS OUTSIDE THE UNITED STATES WITH INTENT TO IMPORT THEM INTO THE UNITED STATES.

(a) UNLAWFUL IMPORTATION.—Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended—

(1) in the matter before paragraph (1), by inserting "or listed chemical" after "schedule I or II"; and

(2) in paragraphs (1) and (2), by inserting "or chemical" after "substance".

(b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—Paragraphs (1) and (2) of section 1009(b) of the Controlled Substances Import and Export Act (21 U.S.C. 959(b)) are amended by inserting "or listed chemical" after "controlled substance".

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.".

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

SEC. 201. SEIZURE AND FORFEITURE OF REGULATED CHEMICALS.

(a) PENALTIES FOR SIMPLE POSSESSION.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended—

(1) in subsection (a)—

(A) by adding after the first sentence the following: "It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of this title or section 1008 of title III if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration."; and

(B) by striking "drug or narcotic" and inserting "drug, narcotic, or chemical" each place it appears; and

(2) in subsection (c), by striking "drug or narcotic" and inserting "drug, narcotic, or chemical".

(b) FORFEITURES.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraphs (2) and (6), by inserting "or listed chemical" after "controlled substance" each place it appears; and

(2) in paragraph (9), by—

(A) inserting "dispensed, acquired," after "distributed," both places it appears; and

(B) striking "a felony provision of".

(c) SEIZURE.—Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) in subsection (a)(3), by inserting "or listed chemical" after "controlled substance"; and

(2) by amending subsection (b) to read as follows:

"(b) As used in this section, the terms 'controlled substance' and 'listed chemical' have the meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION.

(a) STUDY.—The Attorney General of the United States shall conduct a study on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine. Nothing in this section shall preclude the Attorney General from taking any action the Attorney General already is authorized to take with regard to the regulation of listed chemicals under current law.

(b) REPORT.—Not later than January 1, 1998, the Attorney General shall submit a report to the Congress of its findings pursuant to the study conducted under subsection (a) on the need for and advisability of preventive measures.

(c) CONSIDERATIONS.—In developing recommendations under subsection (b), the Attorney General shall consider—

(1) the use of red phosphorous, iodine, hydrochloric gas, and other agents in the illegal manufacture of methamphetamine;

(2) the use of red phosphorous, iodine, hydrochloric gas, and other agents for legitimate, legal purposes, and the impact any regulations may have on these legitimate purposes; and

(3) comments and recommendations from law enforcement, manufacturers of such chemicals, and the consumers of such chemicals for legitimate, legal purposes.

SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking "(d) Any person" and inserting "(d)(1) Except as provided in paragraph (2), any person"; and

(2) by adding at the end the following:

"(2) Any person who, with the intent to manufacture or facilitate to manufacture methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both; except that if any person commits such a violation after one or more prior convictions of that person—

"(A) for a violation of paragraph (6) or (7) of subsection (a);

"(B) for a felony under any other provision of this subchapter or subchapter II of this chapter; or

"(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $60,000, or both.".

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the sentencing guidelines to ensure that the manufacture of methamphetamine in violation of section 403(d)(2) of the Controlled Substances Act, as added by subsection (a), is treated as a significant violation.

SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS TO LIST II.

(a) IN GENERAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by adding the end the following:

"(I) Iodine.

"(J) Hydrochloric gas.".

(b) IMPORTATION REQUIREMENTS.—Iodine shall not be subject to the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

(2) EFFECT OF EXCEPTION.—The exception made by paragraph (1) shall not limit the authority of the Attorney General to impose the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRECURSOR CHEMICALS.

(a) OFFENSES.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (9), by striking "or" after the semicolon;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this title or title III, with reckless disregard for the illegal uses to which such a laboratory supply will be put.

As used in paragraph (11), the term 'laboratory supply' means a listed chemical or any chemical, substance, or item, on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if a firm distributes or continues to distribute a laboratory supply to a customer where the Attorney General has previously notified, at least two weeks before the transaction(s), the firm that a laboratory supply sold by the firm, or any other person or firm, has been used by that customer, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals."

(b) CIVIL PENALTY.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by adding at the end the following:

"(C) In addition to the penalties set forth elsewhere in this title or title III, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.".

SEC. 206. INJUNCTIVE RELIEF.

(a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—Section 401(f) of the Controlled Substances Act (21 U.S.C. 841(f)) is amended by—

(1) inserting "manufacture, exportation," after "distribution,"; and

(2) striking "regulated".

(b) TEN-YEAR INJUNCTION OTHER OFFENSES.—Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in subsection (e), by—

(A) inserting "manufacture, exportation," after "distribution,"; and

(B) striking "regulated"; and

(2) by adding at the end the following:

"(f) INJUNCTIONS.—(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section or section 402.

"(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

"(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 402.

"(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE LABORATORY SITES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(q) The court, when sentencing a defendant convicted of an offense under this title or title III involving the manufacture of methamphetamine, may—

"(1) order restitution as provided in sections 3612 and 3664 of title 18, United States Code;

"(2) order the defendant to reimburse the United States for the costs incurred by the United States for the cleanup associated with the manufacture of methamphetamine by the defendant; and

"(3) order restitution to any person injured as a result of the offense as provided in section 3663 of title 18, United States Code.".

SEC. 208. RECORD RETENTION.

Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended by striking the dash after "transaction" and subparagraphs (A) and (B) and inserting "for two years after the date of the transaction.".

SEC. 209. TECHNICAL AMENDMENTS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34), by amending subparagraphs (P), (S), and (U) to read as follows:

"(P) Iso safrole.

"(S) N-Methylephedrine.

"(U) Hydriodic acid."; and

(2) in paragraph (35), by amending subparagraph (G) to read as follows:

"(G) 2-Butanone (or Methyl Ethyl Ketone).".

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 301. TRAFFICKING IN METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—

(1) LARGE AMOUNTS.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,"; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(2) SMALLER AMOUNTS.—Section 401(b)(1)(B)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,"; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(b) IMPORT AND EXPORT ACT.—

(1) LARGE AMOUNTS.—Section 1010(b)(1)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(H)) is amended by—

(A) striking "100 grams or more of methamphetamine," and inserting "50 grams or more of methamphetamine,"; and

(B) striking "1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

(2) SMALLER AMOUNTS.—Section 1010(b)(2)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(H)) is amended by—

(A) striking "10 grams or more of methamphetamine," and inserting "5 grams or more of methamphetamine,"; and

(B) striking "100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "50 grams or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 302. PENALTY INCREASES FOR TRAFFICKING IN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking the period and inserting the following: "or, with respect to a violation of paragraph (1) or (2) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty corresponding to the quantity of controlled substance that could have been produced under subsection (b).".

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking the period and inserting the following: ", or, with respect to an importation violation of paragraph (1) or (3) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals imported, the penalty corresponding to the quantity of controlled substance that could have been produced under title II.".

(c) DETERMINATION OF QUANTITY.—

(1) IN GENERAL.—For the purposes of this section and the amendments made by this section, the quantity of controlled substance that could reasonably have been provided shall be determined by using a table of manufacturing conversion ratios for list I chemicals.

(2) TABLE.—The table shall be—

(1) established by the United States Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission deems appropriate; and

(2) dispositive of this issue.

SEC. 303. ENHANCED PENALTY FOR DANGEROUS HANDLING OF CONTROLLED SUBSTANCES: AMENDMENT OF SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States

Code, the United States Sentencing Commission shall determine whether the Sentencing Guidelines adequately punish the offenses described in subsection (b) and, if not, promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of such an offense.

(b) OFFENSE.—The offense referred to in subsection (a) is a violation of section 401(d), 401(g)(1), 403(a)(6), or 403(a)(7) of The Controlled Substances Act (21 U.S.C. 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in which in the commission of the offense the defendant violated—

(1) subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act (relating to handling hazardous waste in a manner inconsistent with Federal or applicable State law);

(2) section 103(b) of the Comprehensive Environmental Response, Compensation and Liability Act (relating to failure to notify as to the release of a reportable quantity of a hazardous substance into the environment);

(3) section 301(a), 307(d), 309(c)(2), 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal Water Pollution Control Act (relating to the unlawful discharge of pollutants or hazardous substances, the operation of a source in violation of a pretreatment standard, and the failure to notify as to the release of a reportable quantity of a hazardous substance into the water); or

(4) section 5124 of title 49, United States Code (relating to violations of laws and regulations enforced by the Department of Transportation with respect to the transportation of hazardous material).

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMICALS.

(a) IN GENERAL.—Section 102(39) of the Controlled Substances Act (21 U.S.C. 802(39)) is amended—

(1) in subparagraph (A)(iv)(I)(aa), by striking "as" through the semicolon and inserting ", pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 204(e) of this title;"; and

(2) in subparagraph (A)(iv)(II), by inserting ", pseudoephedrine, phenylpropanolamine," after "ephedrine".

(b) LEGITIMATE RETAILERS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (39)(A)(iv)(I)(aa), by adding before the semicolon the following: ", except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996)";

(2) in paragraph (39)(A)(iv)(II), by adding before the semicolon the following: ", except that any sale of products containing pseudoephedrine or phenylpropanolamine, other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine products, by retail distributors shall not be a regulated transaction if the distributor's sales are limited to less than the threshold quantity of 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in each single transaction";

(3) by redesignating paragraph (43) relating to felony drug abuse as paragraph (44); and

(4) by adding at the end the following:

"(45) The term 'ordinary over-the-counter pseudoephedrine or phenylpropanolamine product' means any product containing pseudoephedrine or phenylpropanolamine that is—

"(A) regulated pursuant to this title; and

"(B)(i) except for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base, and that is packaged in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches; and

"(ii) for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base.

"(46)(A) The term 'retail distributor' means—

"(i) with respect to an entity that is a grocery store, general merchandise store, or drug store, a distributor whose activities relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales, both in number of sales and volume of sales, directly to walk-in customers; and

"(ii) with respect to any other entity, a distributor whose activities relating to ordinary over-the-counter pseudoephedrine or phenylpropanolamine products are limited primarily to sales directly to walk-in customers for personal use.

"(B) For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.

"(C) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

"(i) A grocery store is an entity within SIC code 5411.

"(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

"(iii) A drug store is an entity within SIC code 5912.".

(c) REINSTATEMENT OF LEGAL DRUG EXEMPTION.—Section 204 of the Controlled Substances Act (21 U.S.C. 814) is amended by adding at the end the following new subsection:

"(e) REINSTATEMENT OF EXEMPTION WITH RESPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE DRUG PRODUCTS.—The Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2). Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4).".

(d) REGULATION OF RETAIL SALES.—

(1) PSEUDOEPHEDRINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of pseudoephedrine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for pseudoephedrine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of pseudoephedrine base, the Attorney General shall establish, following notice, comment, and an informal hearing that since the effective date of this section there are a significant number of instances where ordinary over-the-counter pseudoephedrine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802 (45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being used as a significant source of precursor chemicals for illegal manufacture of a controlled substance in bulk.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(2) PHENYLPROPANOLAMINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of phenylpropanolamine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for phenylpropanolamine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of phenylpropanolamine base, the Attorney General shall establish, following notice, comment, and an informal hearing, that since the effective date of this section there are a significant number of instances where ordinary over-the-counter phenylpropanolamine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being used as a significant source of precursor chemicals for illegal manufacture of a controlled substance in bulk.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(3) DEFINITION OF BUSINESS.—For purposes of this subsection, the term "business" means the entity that makes the direct sale

and does not include the parent company of a business not involved in a direct sale regulated by this subsection.

(4) JUDICIAL REVIEW.—Any regulation promulgated by the Attorney General under this section shall be subject to judicial review pursuant to section 507 of the Controlled Substances Act (21 U.S.C. 877).

(e) EFFECT ON THRESHOLDS.—Nothing in the amendments made by subsection (b) or the provisions of subsection (d) shall affect the authority of the Attorney General to modify thresholds (including cumulative thresholds) for retail distributors for products other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine products (as defined in section 102(45) of the Controlled Substances Act, as added by this section) or for non-retail distributors, importers, or exporters.

(f) EFFECTIVE DATE OF THIS SECTION.—Notwithstanding any other provision of this Act, this section shall not apply to the sale of any over-the-counter pseudoephedrine or phenylpropanolamine product initially introduced into interstate commerce prior to 9 months after the date of enactment of this Act.

SEC. 402. MAIL ORDER RESTRICTIONS.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by adding at the end the following:

"(3) MAIL ORDER REPORTING.—(A) Each regulated person who engages in a transaction with a nonregulated person which—

"(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

"(ii) uses or attempts to use the Postal Service or any private or commercial carrier;

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

"(B) The data required for such reports shall include—

"(i) the name of the purchaser;

"(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

"(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.".

TITLE V—EDUCATION AND RESEARCH

SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.

(a) ESTABLISHMENT.—There is established a "Methamphetamine Interagency Task Force" (referred to as the "interagency task force") which shall consist of the following members:

(1) The Attorney General, or a designee, who shall serve as chair.

(2) 2 representatives selected by the Attorney General.

(3) The Secretary of Education or a designee.

(4) The Secretary of Health and Human Services or a designee.

(5) 2 representatives of State and local law enforcement and regulatory agencies, to be selected by the Attorney General.

(6) 2 representatives selected by the Secretary of Health and Human Services.

(7) 5 nongovernmental experts in drug abuse prevention and treatment to be selected by the Attorney General.

(b) RESPONSIBILITIES.—The interagency task force shall be responsible for designing, implementing, and evaluating the education and prevention and treatment practices and strategies of the Federal Government with respect to methamphetamine and other synthetic stimulants.

(c) MEETINGS.—The interagency task force shall meet at least once every 6 months.

(d) FUNDING.—The administrative expenses of the interagency task force shall be paid out of existing Department of Justice appropriations.

(e) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the interagency task force.

(f) TERMINATION.—The interagency task force shall terminate 4 years after the date of enactment of this Act.

SEC. 502. PUBLIC HEALTH MONITORING.

The Secretary of Health and Human Services shall develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program shall include the collection and dissemination of data related to methamphetamine abuse which can be used by public health officials in policy development.

SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.

(a) ADVISORY PANEL.—The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) CONTINUATION OF CURRENT EFFORTS.—The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

SEC. 504. SUSPICIOUS ORDERS TASK FORCE.

(a) IN GENERAL.—The Attorney General shall establish a "Suspicious Orders Task Force" (the "Task Force") which shall consist of—

(1) appropriate personnel from the Drug Enforcement Administration (the "DEA") and other Federal, State, and local law enforcement and regulatory agencies with the experience in investigating and prosecuting illegal transactions of listed chemicals and supplies; and

(2) representatives from the chemical and pharmaceutical industry.

(b) RESPONSIBILITIES.—The Task Force shall be responsible for developing proposals to define suspicious orders of listed chemicals, and particularly to develop quantifiable parameters which can be used by registrants in determining if an order is a suspicious order which must be reported to DEA. The quantifiable parameters to be addressed will include frequency of orders, deviations from prior orders, and size of orders. The Task Force shall also recommend provisions as to what types of payment practices or unusual business practices shall constitute prima facie suspicious orders. In evaluating the proposals, the Task Force shall consider effectiveness, cost and feasibility for industry and government, an other relevant factors.

(c) MEETINGS.—The Task Force shall meet at least two times per year and at such other times as may be determined necessary by the Task Force.

(d) REPORT.—The Task Force shall present a report to the Attorney General on its proposals with regard to suspicious orders and the electronic reporting of suspicious orders within one year of the date of enactment of this Act. Copies of the report shall be forwarded to the Committees of the Senate and House of Representatives having jurisdiction over the regulation of listed chemical and controlled substances.

(e) FUNDING.—The administrative expenses of the Task Force shall be paid out of existing Department of Justice funds.

(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the Task Force.

(g) TERMINATION.—The Task Force shall terminate upon presentation of its report to the Attorney General, or two years after the date of enactment of this Act, whichever is sooner.

Mr. BIDEN. Mr. President, the story of our failure to foresee—and prevent—the crack cocaine epidemic is one of the most significant public policy mistakes in modern history. Although warning signs of an outbreak flared over several years, few took action until it was too late.

We now face similar warning signs with another drug—methamphetamine. Without swift action now, history may repeat itself.

So today, Senator HATCH and I, along with Senators FEINSTEIN, SPECTER, HARKIN, WYDEN, D'AMATO, and DEWINE are introducing legislation to address this new emerging drug epidemic before it is too late.

Within the past few years the production and use of methamphetamine have risen dramatically. Newspaper and media reports over the past few months have highlighted these increases. I have been tracking this development and pushing legislation to increase Federal penalties and strengthen Federal laws against methamphetamine production, trafficking, and use since 1990.

And what I and others have found is alarming: From 1991 to 1994 methamphetamine-related emergency room episodes increased 256 percent—the increase from 1993 to 1994 alone was 75 percent—with more than 17,000 people overdosing and being brought to the emergency room because of methamphetamine. A survey of high school seniors, which only measures the use of "ice"—a fraction of the methamphetamine market—found that in 1995 86,000 12th graders had used "ice" in the past year, 39,000 had used it in the past month, and 3,600 reported using "ice" daily. This same survey found that only 54 percent of high school seniors perceived great risk in trying "ice"—down from 62 percent in 1990. And 27 percent of these children said it would be easy for them to get "ice" if they wanted it.

The cause for concern over a methamphetamine epidemic is further fueled by drug-related violence—again

something we saw during the crack era—that we can expect to flourish with methamphetamine as well. Putting the problem in perspective, drug experts claim that "ice surpasses PCP in inducing violent behavior."

In addition to the violence—both random and irrational—associated with methamphetamine users, there is also the enormous problem of violence among methamphetamine traffickers and the environmental and life-threatening conditions endemic in the clandestine labs where methamphetamine is produced.

The bill we are now introducing addresses all of the dangers of methamphetamine and takes bold actions to stop this potential epidemic in its tracks. The Hatch-Biden methamphetamine enforcement bill will take six major steps toward cracking down on methamphetamine production, trafficking, and use, particularly use by the most vulnerable population threatened by this drug—our young people.

First and foremost, we increase penalties for possessing and trafficking in methamphetamine.

Second, we crack down on methamphetamine producers and traffickers by increasing the penalties for the illicit possession and trafficking of the precursor chemicals and equipment used to manufacture methamphetamine.

Third, we increase the reporting requirements and restrictions on the legitimate sales of products containing these precursor chemicals in order to prevent their diversion, and we impose even greater requirements on all firms which sell these products by mail. This includes the use of civil penalties and injunctions to stop legitimate firms from recklessly providing precursor chemicals to methamphetamine manufacturers.

Fourth, we address the international nature of methamphetamine manufacture and trafficking by coordinating international enforcement efforts and strengthening provisions against the illegal importation of methamphetamine and precursor chemicals.

Fifth, we ensure that methamphetamine manufacturers who endanger the life on any individual or endanger the environment while making methamphetamine will receive enhanced prison sentences.

Finally, we require Federal, State and local law enforcement and public health officials to stay ahead of any potential growth in the methamphetamine epidemic by creating national working groups on the protecting the public from the dangers of methamphetamine production, trafficking, and abuse.

The Hatch-Biden bill addresses all of the needs with a fair balance between the needs of manufacturers and consumers of legitimate products which contain methamphetamine precursor chemicals and the need to protect the public by instituting harsh penalties for any and all methamphetamine-related activities.

This legislation is the crucial, comprehensive tool we need to stay ahead of the methamphetamine epidemic and to avoid the mistakes made during the early stages of the crack-cocaine explosion.

I want to thank Senator HATCH and my other colleagues who share my desire to move now on the problem of methamphetamine. I also want to thank the Clinton administration, which also was determined to act now on this issue and worked with us in developing several of the provisions in this bill.

I urge all my colleagues to join us in protecting our children and our society from the devastations of methamphetamine by supporting this vital legislation.

Mr. WYDEN. Mr. President, I rise today to join my colleagues, Senator HATCH, Senator BIDEN, and others to introduce the Comprehensive Methamphetamine Control Act of 1996.

Methamphetamine is one of the most insidious drugs to hit the streets in decades. In a few short years in Oregon, methamphetamine has become the second most frequently detected drug in workplace drug testing and in motor vehicle driver drug checks. This drug has become not only a scourge on Oregon's streets, increasing crime and creating toxic environmental hazards in the labs where it is produced, but has repercussions throughout the social services system as well. Foster care caseloads have increased because of the meth epidemic, and drug treatment centers are struggling with rising numbers of people needing help to escape the effects of this highly addictive and damaging drug.

According to Sheriff Robert Kennedy, who serves the State in Jackson County in southwestern Oregon, methamphetamine arrests in his county have increased 1,100 percent in the past 5 years. This drug has become an urban and rural problem, and is being abused across the economic and social spectrum. Statewide, the Oregon Narcotics Enforcement Association and others have joined together to fight the public safety and health problems associated with methamphetamine.

From the problems associated with cleaning up labs, to stopping the influx of Mexican-manufactured methamphetamine from coming into Oregon, law enforcement officials across the State have told me that meth is quickly becoming a major problem demanding high priority.

That is why I am pleased today to join in the effort to help the country's law enforcement officers fight the methamphetamine epidemic. The Comprehensive Methamphetamine Control Act takes on the battle against the drug on a number of fronts.

To combat the precursor drugs manufactured across the border in Mexico, this legislation includes a long-arm provision that allows the United States to prosecute people who manufacture methamphetamine precursor chemicals, with an intent to import them into our country.

Here at home, the bill significantly increases penalties for illegal trafficking in methamphetamine. Penalties for methamphetamine trafficking have been too low for too long. This bill will make drug dealers think twice by making penalties for dealing methamphetamine comparable to those for crack cocaine.

The legislation also cracks down on trafficking in the precursor chemicals used to produce methamphetamine, increasing penalties and allowing law enforcement increased flexibility to obtain injunctions to stop the production and sale of precursor chemicals when an individual or company knowingly sells these chemicals to methamphetamine dealers.

Finally, the act addresses the problem that many methamphetamine producers use legal, over-the-counter drugs, containing precursor chemicals, to manufacture methamphetamine. The bill will confront this in a direct way by limiting bulk quantities of these drugs that can be sold over the counter and, at the same time, creating a safe harbor for retailers so smaller quantities of the drugs can be sold to consumers who need unimpeded access to these helpful and commonly used products.

According to the Drug Enforcement Agency, every 4 hours, an illicit lab can produce a quarter pound of methamphetamine that sells for $2,000. These labs can be set up anywhere—in cars, hotel rooms, and abandoned buildings. Their byproducts pollute the area of the lab with carcinogenic toxins and, often times, these dangerous chemicals are dumped by the side of the road, in waterways or in other public areas.

It is time for Congress to join in the fight against this drug that pollutes our communities, drives crime and violence, and floods our social services systems. I am pleased to join in this effort, and I commend my colleagues for their bipartisan efforts and hard work in crafting this important piece of legislation.

Mr. HARKIN. Mr. President, in February, Iowa was featured on the front page of the New York Times—but it wasn't the kind of publicity I want to see our State receive. The article highlighted a problem that is exploding around Iowa—the growing use of the drug methamphetamine, commonly known as meth or crank.

There's no doubt that meth has invaded our State with a fury. The statistics tell the tragic story. More than 35 percent of new incarcerations in

Iowa involve meth. Federal methamphetamine investigations have doubled and meth arrests have more than tripled over the past 2 years. The Division of Iowa Narcotics Enforcement has reported a nearly 400-percent increase in meth seizures in a 1-year period. And in our largest city of Des Moines, meth seizures increased more than 4,000 percent.

The number of labs producing meth has also increased dramatically. And many of the traffickers are illegal aliens from Mexico, presenting additional problems and burdens on law enforcement. This is especially challenging because Iowa currently has no Immigration and Naturalization Service office.

Meth is now termed Iowa's "drug of choice." And unfortunately, its spread has left no part of our State untouched.

In a word, meth is poison. It destroys lives, families, and communities. The experts describe methamphetamine as a synthetic central nervous system stimulant—the strongest and most intense of the amphetamine group. A leading Iowa doctor referred to meth as the most malignant, addictive drug known to mankind.

Meth is a killer. It causes brain, heart, liver, and kidney damage. It breaks down the immune system and often leads to paranoid psychosis, violent behavior, and death.

The narcotic is primarily used by young male adults. But experts have found that a growing number of women and teens are now turning to meth.

A majority of Iowa law enforcement officials responding to a recent Governor's Alliance on Substance Abuse Survey ranked meth as the No. 1 problematic drug in their area.

The legislation we are introducing today will help States like Iowa fight back. The Comprehensive Methamphetamine Enforcement Act of 1996 cracks down on the use and manufacture of methamphetamine by increasing the sentencing scheme to be comparable to crack cocaine. It also goes after the precursor chemicals and equipment used to manufacture methamphetamine as well as companies who intentionally sell chemicals for manufacture of meth. The bill also includes public health monitoring and a task force and advisory panel for public education.

This legislation will complement another initiative I have been working on. I have spent a lot of time with local, State, and Federal law enforcement officials in Iowa who tell me that they simply don't have the resources necessary to adequately tackle this skyrocketing new challenge. That's why I am working hard to increase the arsenal in Iowa's fight against meth and to help our law enforcement on the frontlines.

Several years ago, Congress created the High Intensity Drug Trafficking Area initiative to provide added resources to highly affected areas. The program has proven useful, but it has been limited to urban areas such as Miami and Philadelphia.

I believe that it's time to apply this model to help Iowa and surrounding Midwestern States to combat the large methamphetamine trafficking networks, curtail sale and distribution of the narcotic and reduce related violence. This would open the door for the hiring of additional field investigators, chemists, prosecutors and other law enforcement personnel specifically targeted to the methamphetamine problem.

I recently wrote to National Drug Control Policy Director, Gen. Barry McCaffrey, outlining just such a plan. Because of the urgent need I proposed a $7 million increase in resources to begin such an initiative. I will continue to work with Director McCaffrey and my colleagues on the appropriations committee to make this a reality.

People in Iowa have worked hard to cultivate a good quality of life. They have worked hard to make their communities a place to raise a family, a safe place, a decent place, but drug dealers are planting the seeds of destruction and are wreaking havoc on small towns and rural communities all over America.

We must win back our communities and we must fight back. It's a question of priorities and the determination to defend our homes from a threat that is right down the street, not halfway around the world.

Mr. D'AMATO. Mr. President, I rise today to join my colleagues in introducing a bill that will combat a plague on our citizens and communities: methamphetamine.

Methamphetamine is an addictive synthetic drug, used by an increasing number of students and young professionals. Methamphetamine abuse is now the fourth cause of emergency room visits in this country. Clearly, an epidemic has arisen in the United States.

In the early 1990's, emergency room episodes caused by methamphetamine use rose 350 percent, while deaths nearly tripled, according to the DEA.

While methamphetamine use has increased dramatically in the Southwest and Midwest regions of this country, officials have recognized a trend showing that the methamphetamine trade is moving eastward. The whole country is at risk.

The growing methamphetamine trade demands immediate and tough action, especially against the traffickers that are selling this poison to our children. This bill is a sound response to the emerging epidemic.

As methamphetamine abuse has experienced a massive growth, the purity of the drug has increased to the highest potency in 12 years. And not only has the methamphetamine itself changed in the past few years, but so has the traffickers. Mexico-based criminal organizations have mostly replaced the outlaw motorcycle gangs who had monopolized the methamphetamine production and distribution.

These Mexican drug traffickers are self-sufficient in all aspects of the methamphetamine production and trade. They are able to purchase the precursor drugs internationally, produce the drug, and transport the methamphetamine across the border into the U.S. It differs from the cocaine trade in that the Mexican criminal groups can operate this trade without sharing profits with the Colombian cartels.

According to a Justice report, the seizure of methamphetamine from Mexico to the U.S. rose dramatically from 6.5 kilograms in 1992 to 306 kilograms in 1993 to a whopping 653 kilograms in 1995. That is an increase of 1,000 percent in just 3 years.

In response to the sudden and dramatic increase in the trafficking of methamphetamine across the southern border, this bill will impose penalties of up to 10 years for the manufacturing of precursor drugs with the intent of importing it into this country.

The salient points of this bill include: One, enhanced penalties for the manufacture and possession of the equipment used to make the controlled substances; two, seizure and forfeiture of trafficking in precursor chemicals; and three, provides the Attorney General with the authority to shut down the production and sale of the precursor chemicals if the individual or company knowingly sell the precursor in order to produce methamphetamine.

Most importantly, the penalties associated with trafficking methamphetamine will be raised to make it comparable with crack cocaine. A 5-year mandatory minimum will be imposed for every 5 grams trafficked and 10 years to life for a conviction involving the trafficking of 50 grams.

The statistics do not reveal the effects the drug has on the addicts who use it. The effects are appalling. The methamphetamine user will experience an irritable and paranoid effect and then begin the downward spiral of a crippling depression. As with any drug addict, the family suffers tremendously through the entire occurrence.

But it is not only those close to the methamphetamine user who bears the burden. An article in the magazine Police Chief last March describes the perspective of law enforcement that encounters the altered behavior of the addict. "Simply put, when methamphetamine production and abuse become prevalent in any geographic area, the ancillary criminal behavior in that area will grow as well."

It is clear that this epidemic must be addressed here and now. I urge my colleagues to support this bill and urge its immediate passage.

Mr. KYL. Mr. President, methamphetamine is, if not the most dangerous drug in America today, one of the fastest spreading. In Western States, meth is already the crack epidemic of the 1990's.

Meth is cheap, easy to manufacture, and readily available. The drug is a synthetic compound that stimulates the central nervous system and causes psychosis, paranoid delusions, and acts of violence.

The drug is most prevalent in four Western cities—Phoenix, Los Angeles, San Diego, and San Francisco. The damage the drug has caused in Arizona is startling. Phoenix police attribute meth use as a factor in the 40 percent jump in homicides in 1994. Meth-related deaths in Phoenix have soared from 11 in 1991 to 122 in 1994. According to the Arizona Criminal Justice Commission, 1 in 17 Arizona high school students reported using meth in the last 30 days. The drug is also behind the headlines of several horrific crimes that have occurred in the State.

Arizona has taken action, and a methamphetamine bill offered by State Representative Paul Mortenson, passed the legislature in Phoenix and was signed into law by Governor Symington this April. The bill increases the penalties for those who produce and sell the drug, and criminalizes the possession of equipment or chemicals used in the manufacture of dangerous drugs.

Appropriately, the U.S. Senate, in a bipartisan fashion, is addressing the methamphetamine explosion. I would particularly like to point out the fine work of Senator FEINSTEIN on this issue. Senator FEINSTEIN introduced the predecessor to this bill, and last month successfully amended a defense bill to stop the Federal Government from inadvertently selling to illicit manufacturers the chemicals used to make meth.

The Methamphetamine Control Act accomplishes much. The bill:

Increases the penalties for the trafficking and manufacture of methamphetamine and its precursor chemicals. The new penalties put the penalties for meth on the same level with crack;

Increases the penalties for the illegal manufacture and possession of equipment used to manufacture meth;

Requires those convicted of offenses relating to methamphetamine to provide restitution to the United States for the costs incurred by the United States for the cleanup associated with the manufacture of methamphetamine;

Regulates the sale of over-the-counter drugs that contain the precursor chemicals for methamphetamine if the sale exceeds a substantial threshold quantity; and

Establishes a Methamphetamine Interagency Task Force to develop strategies to fight the use of this drug.

The devastating effects of meth are seen every day in our jails, our emergency rooms, and our morgues. We must do everything we can to withstand this tide of poison. America can't afford another epidemic like crack, which destroyed countless individuals, families, and communities.

By Mr. CAMPBELL (for himself, Mr. CHAFEE and Ms. MOSELEY-BRAUN):

S. 1966. A bill to extend the legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work; to the Committee on Energy and Natural Resources.

THE BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL ACT OF 1996

Mr. CAMPBELL. Mr. President, on behalf of myself and my distinguished colleagues, Senator CHAFEE and Senator MOSELEY-BRAUN, today I introduce legislation that seeks to extend the legislative authority for the construction of the Black Revolutionary War Patriots Memorial and for the Foundation raising funds to construct the memorial.

Mr. President, in 1986, the Congress enacted and President Reagan signed into law legislation establishing a Black Revolutionary War Patriots Memorial, a memorial to honor the more than 5,000 African-Americans who fought for this country during the Revolutionary War. In order to appropriately recognize the bravery and sacrifice of these honorable and distinguished patriots, Public Law 99-558 sought to establish a suitable memorial, a monument which will be located on the Mall here in Washington, DC. When complete, the memorial will be the first monument on the Mall to be dedicated solely to the accomplishments of African-Americans.

The centerpiece of P.L. 99-558 was the establishment of the Black Revolutionary War Patriots Foundation, as a not-for-profit organization whose sole charter is to raise the necessary funding for the costs associated with constructing the memorial.

When enacted, the foundation was authorized to operate for a period of 10 years, no more. While the foundation has raised a substantial amount of funding, it remains short of its $9.5 million goal. This legislation would provide for a 2-year extension of the legislative authority for the establishment of the memorial, providing the foundation with valuable time to complete its fundraising.

I have a couple of reasons for wishing to see this extension approved by Congress. First, this memorial serves a noble purpose, honoring the service and patriotism of individuals long deserving of this praise. Second, the sculptor who has been commissioned to design this memorial is a Coloradan named Ed Dwight. Mr. Dwight, the first African-American astronaut, is an accomplished artist residing in Denver. His work is known across the world, and I would like to see his design for the Black Revolutionary War Patriots Memorial become a reality and be situated near several of this country's most distinguished monuments.

Mr. President, I believe Congress has demonstrated its commitment to the establishment of the Black Revolutionary War Patriots Memorial by authorizing its construction almost 10 years ago. In addition, my distinguished colleagues, Senator JOHN CHAFEE and Representative NANCY JOHNSON, have also introduced legislation which will raise funds for construction costs through the minting and issuing of a commemorative coin honoring these patriots. To date, 376 Members have signed on as cosponsors to these measures, myself included.

It is my hope this legislation will receive the full, expeditious support of the Senate.

By Mr. FAIRCLOTH:

S. 1968. A bill to reorder United States budget priorities with respect to United States assistance to foreign countries and international organizations; to the Committee on Foreign Relations.

THE FOREIGN AID REFORM ACT OF 1996

Mr. FAIRCLOTH. Mr. President, I rise to introduce the Foreign Aid Reform Act of 1996. I would like to offer just a few brief remarks about this legislation and its three component parts.

First, it bars foreign aid to countries that vote against the United States more often than not in recorded votes at the United Nations.

Second, this legislation creates a point of order to require the Congress to enact domestic appropriations bills before it considers foreign aid bills.

Third, this bill prohibits foreign aid to be distributed by agencies that are essentially domestic, and it defines domestic agencies as those not primarily responsible for foreign affairs or national security.

Mr. President, 64 percent of American foreign aid recipients voted against the United States more often than not in the 1995 session of the United Nations. India, for example, received $157 million of American taxpayers' money last year—it is the fifth largest recipient of American aid—and, yet, it voted against the United States in 83 percent of their U.N. votes. India ties Cuba and exceeds Iran in its record of opposition to American diplomatic goals.

In fact, the nations that voted against us a majority of the time at the United Nations received a total of $3.1 billion in foreign aid in 1996. I find it incredible that we gave $3 billion to

nations that refused to offer some consistent support to our diplomatic initiatives.

The United States sent troops to Haiti to restore President Aristide and sent $123 million in financial aid. The aid continues, but, Mr. President, Haiti voted against the United States 60 percent of the time.

President Clinton engineered a $40 billion bailout for Mexico, and, yet, Mexico voted against us 58 percent of the time in the United Nations.

United Nations votes are based on a range of considerations. However, foreign aid is sold to the American people as a program to defend American interests, to promote our interests, and to assist our friends, but it is clear that support for our diplomatic efforts is not a popular response to our generous distribution of aid.

The second provision of this bill, Mr. President, subjects the foreign operations appropriations bill to a point of order that requires the Congress to complete domestic appropriations prior to consideration of the foreign assistance budget.

The foreign operations bill for fiscal year 1996 became law on February 12 of this year, but four domestic spending bills remained unfinished for another 10 weeks. In fact, foreign operations is probably going to be among the first three appropriations bills that we consider during the current budget process.

The American people will have every right to be upset if part of the Government shuts down, and benefit and payroll checks are not delivered, but the foreign aid checks flow freely. The constitutional charge of the Congress is to attend to the Federal business of the American people. The American people worked to earn this money, and we should attend to their business first, not to foreign aid.

This bill also takes domestic agencies out of the foreign aid business. I will illustrate the need for this provision with some rather remarkable examples of waste in just one Agency, the Environmental Protection Agency, although I am confident that it exists at numerous others.

The EPA was one of the few domestic agencies to receive a real increase in its 1996 budget. After receiving an increase in its budget, however, it awarded 106 grants worth a total of $28 million to foreign countries between 1993 and 1995.

The foreign assistance budget sent $600,000 to Communist China, but, Mr. President, the EPA sent $1,200,000 to Communist China. The EPA, in effect, tripled their infusion of American aid. This aid went to a country that voted against us 79 percent of the time in the United Nations and with which we recorded a $34 billion trade deficit.

The EPA awarded a $20,000 grant to the Chinese Ministry of Public Security. Of course, the Ministry of Public Security is not an environmental agency, but a national police force that issued shoot to kill orders during the pro-democracy rallies of 1989. The grant was designed for "halon management and maintenance training," which, Mr. President, turns out to be upkeep of fire extinguishers. The taxpayers are responsible for this program, Mr. President, because the Clean Air Act obligates the American people to assist developing nations. In my opinion, however, a nation that builds and maintains nuclear weapons should be able to maintain their fire extinguisher without the hard-earned American taxpayers' money.

The EPA sent $175,000 to China to build a clearinghouse in Peking for information about Chinese coal mining issues. The American taxpayer will be delighted to know that they bought the Chinese a $25,000 computer and spent $4,500 to air condition the clearinghouse office.

These are not isolated incidents. It goes on: $350,000 for a refrigeration project, $160,000 for an energy efficiency center, and $125,000 to assist in the construction of an environmental industrial park. This is to a country that boasts a $34 billion trade surplus.

China is not the only foreign nation to receive EPA grants. Nigeria, which voted against us 69 percent of the time at the United Nations, earns billions of dollars each year in oil exports, but the EPA sent them $410,000 to study gas emissions.

Oman, one of the wealthiest countries in the world, received a $100,000 grant. Oman, indeed, voted against us 65 percent of the time in the United Nations. I find it impossible to imagine that this Persian Gulf monarchy could not afford $100,000 for an environmental study of its own environmental issues.

The list continues. The Swedish National Board for Industrial and Technical Development received $50,000 to study efficient lighting. It appalls me that our money—American taxpayers' money—is going to Sweden, one of the most technically advanced countries in the world, to study efficient lights.

The EPA sent $50,000 to a university in Austria to help host a conference in an Israeli beach resort town on indoor air quality. The EPA also sent $50,000 to the Clean Air Society of Australia and New Zealand, two of the nations with the cleanest air in the world, and $140,000 to a university in Denmark.

Mr. President, these are not Third World nations, and I certainly do not believe the American people need to fund conferences and research in countries that can easily afford these efforts.

The grants that I describe were all funded with Environmental Protection Agency discretionary money. As you know, the EPA is very vocal about its budget. The EPA claims the environment will suffer if its budget is scrutinized, but, clearly, millions of dollars are squandered.

I think that these grants reflect a profound lack of appreciation for the hard work that the American people perform to pay their taxes. If the Federal Government can find no better use of the taxpayers' money than these wasteful grants, then Washington should return it to the American people.

The American people do not carry their lunch buckets to work in order to send their dollars to the security forces that order soldiers to shoot students in China. The American people do not labor in order to send Austrian professors to beach resorts. The American people do not labor to help the Sultan of Oman develop a list of emissions from his bountiful oil wells. Unfortunately, however, that is the case. It is an outrageous waste of American tax dollars. I hope my colleagues will join me in cosponsoring the Foreign Aid Reform Act of 1996.

By Mr. JEFFORDS (for himself, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. KERREY, Mr. COHEN, Mr. BINGAMAN, Mr. CHAFEE and Mr. WYDEN):

S. 1969. A bill to establish a Commission on Retirement Income Policy; to the Committee on Labor and Human Resources.

THE COMMISSION ON RETIREMENT INCOME POLICY ACT OF 1996

Mr. JEFFORDS. Mr. President, I introduce the "Commission on Retirement Income Policy Act of 1996" with my colleagues BILL BRADLEY, BILL COHEN, BOB KERREY, NANCY KASSEBAUM, JEFF BINGAMAN, JOHN CHAFEE, and RON WYDEN. As you can see, this is a bi-partisan effort by many of the members of the Senate/House Ad Hoc Steering Committee on Retirement Income Security. This bill is a companion to a bill introduced in the House on March 13, 1996, by Nancy Johnson and Earl Pomeroy HR 3077.

The objective of the Steering Committee, which is co-chaired by Senator BRADLEY, Representative NANCY JOHNSON and EARL POMEROY, in its first year of operation has been to engage Members of Congress and experts in the private sector in a national dialog concerning this country's retirement income policies. Over the past 9 months, the Steering Committee has hosted a series of luncheons for members and staff to discuss retirement savings issues. During that time, we heard from a variety of experts who represent a cross-section of views and interest in the retirement policy field.

Although, generally I am not a great fan of Commissions, I believe after this past year of informal meetings with Members and private sector experts that it is imperative that we as a Nation go back to basics regarding all of the components that make up retirement income. I am referring to the

three-legged-stool approach which was so nicely illustrated at our first luncheon on November 9, 1995, by Deborah Briceland-Betts, Executive Director, Older Women's League. The three-legged-stool which represents our national retirement savings is collapsing. The problem is that not only is one leg shaky instead all three legs, employer pension benefit plans, Social Security and individual savings, are wobbly.

The private pension system simply does not cover a majority of workers. Those employees fortunate enough to have coverage will find their pension plans will not provide them with sufficient retirement income to meet their expected needs. The Social Security program which is now over 60 years old, is heading for a collapse under the weight of the baby boom generation. Personal savings have been in a downward spiral for years, Americans have become used to personal deficit spending.

Financial planners, actuaries, pension consultants, and economists have begun to warn the public and policy makers that, if current trends continue, the retirement income of future retirees will fall far short of their anticipated needs. Yet, more pressing issues, such as health care costs and coverage, cuts in government spending, and other domestic concerns, have made if difficult for the message to get through to the American public. By the time individuals start to plan for retirement income needs they often become overwhelmed. Faced with falling wages and competing savings demands for college for the kids or providing for long-term health care needs for aging parents, many baby boomer sense they are in a deep financial hole from the start.

If we continue to ignore this looming retirement crisis and wait until the baby boomers begin to retire, it will be too late. Future retirees must save throughout their earnings lifetimes and we as a society must find the way to shore up the Social Security and private pension systems by determining how the two systems can work as a team to meet this Nation's goal of adequate retirement income for all Americans.

I would like to take a few minutes to outline the bill. First, the Commission will review trends in retirement savings in the United States, and will evaluate existing federal incentives and programs designed to encourage and protect such savings. In developing recommendations, the bill requires the Commission to consider the amounts of retirement income that future retirees will need (including amounts needed to pay for medical and long-term care), the various sources of retirement income which are available to individuals, the needs of retirement plan sponsors for simplicity and reasonable cost, and the recent shift away from defined benefit plans toward defined contribution plans. The Commission will gather information through a series of public hearings and through receipt of testimony and evidence from a wide variety of witnesses.

This Commission must report to Congress and the President within 1 year after being established. It will recommend concrete steps to ensure that future retirees have adequate retirement income. While the Commission will consider savings generally, it will focus on private savings vehicles and will not make recommendations regarding an overhaul of the Social Security Program, rather it will look to ways the private and public programs can work together. The Commission's recommendations will address the role that traditional pension plan coverage should play in reaching retirement income goals, as well as the role to be played by other retirement savings tools such as 401(k)s and Individual Retirement Accounts (IRAs). The bill requires that any recommendations for new federal incentives or programs to encourage retirement savings also identify the funds necessary to finance these initiatives.

Finally, the only change that we have made from the House bill is the compliment of the Commission. Our Senate version has put greater emphasis on having private sector representation. The Commission will have 16 members, four appointed by the President, of which at least two must be from private life. Three members each, appointed by both the Majority and Minority Leaders of the Senate, of which at least two must be from private life. Three members each, appointed by both the Speaker of the House of Representatives and the Minority Leader the House of Representatives, of which at least two must be from private life.

Mr. President in closing, I along with Senator BRADLEY, would also like to acknowledge with special gratitude, the American Society of Pension Actuaries for their letter of endorsement, which we would like inserted in the RECORD, for this bill we are introducing today in the Senate.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

AMERICAN SOCIETY OF PENSION ACTUARIES, ACTUARIES, CONSULTANTS, ADMINISTRATORS AND OTHER BENEFITS PROFESSIONALS,
Arlington, VA, July 11, 1996.

Hon. JIM JEFFORDS,
513 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR JEFFORDS: The purpose of the American Society of Pension Actuaries is to educate pension actuaries, consultants, and administrators and other benefits professionals and to preserve and enhance the private pension system as part of the development of a cohesive and coherent national retirement income policy.

ASPA supports the establishment of a commission on retirement income policy. We are very excited that you and Senator Bradley plan to introduce legislation in the Senate as a companion bill to HR 3077. When Representatives Nancy Johnson and Earl Pomeroy introduced HR 3077, a bipartisan call for the creation of a special commission to examine the scope of our nation's growing retirement savings crisis and recommend policies to help improve the economic security of retired workers, ASPA applauded the initiative shown by this session of Congress to safeguard our nation's economic future.

Because of the looming retirement income crisis that will occur with the convergence of the Social Security trust fund's potential exhaustion and the World War II "baby boomers" reaching retirement age, ASPA created a National Retirement Income Policy Committee to study these alarming issues and suggest potential solutions. Without a thriving private pension system, ASPA's NRIP Committee believes there will be insufficient resources to provide adequate retirement income for future generations.

ASPA's NRIP Committee devoted two years to preparing six in-depth research papers on this topic. The National Retirement Income Policy Research Papers, published in 1994, present an integrated plan for avoiding a retirement income crisis and develop constructive solutions to: (a) stimulate interest and debate over retirement income policy issues; (2) make specific policy recommendations on what "retirement savings" for Americans should encompass; and (3) call for the creation of a commission on retirement income policy as described in HR 3077.

Enclosed are the ASPA NRIP papers Executive Summary and Research Papers which are: Income Replacement in Retirement, Social Security, Working Beyond Retirement Age, Personal Savings, Targets for Personal Savings, and Private Plans.

We believe you will find these papers to be highly creative, quite stimulating and helpful in understanding the urgent need for legislation such as HR 3077 and the creation of a retirement income commission.

Sincerely,

CHESTER J. SALKIND,
Executive Director.

Mr. BRADLEY. Mr. President, today, Senator JIM JEFFORDS and I are introducing a bill to create a special national commission to study retirement issues and recommend specific policies to improve the economic security of retired Americans. Millions of Americans are not saving nearly enough through pension plans or in their own personal savings accounts to provide for their retirements, and they cannot rely upon the Social Security system to provide a comfortable life for them. A crisis is brewing—and we will only be able to prevent it if we focus on solving our retirement savings problems now. That is what this commission is for, to start that process comprehensively and in earnest.

The aging of our population is a principal contributor to the impending retirement crisis. Baby boomers are turning 50 this year, 1 every 7 seconds. The economic implications of this demographic shift are tremendous. By 2030, 20 percent of our population will

be retired, compared to 12 percent today. There will also be a lot fewer workers in our economy to support a lot more retirees. In the 1940's, there were 42 workers for every retiree. Today, there are 4.8 workers supporting each retiree. In 2030, there will be only 2.8.

Not only can we expect a lot more retirees, we can expect that they will be retired for a lot longer, with increasingly high expenses. Persons working today can expect to live about 25 percent of their adult lives in retirement, compared to 7 percent in 1940, because life spans are lengthening considerably. Enjoying a longer life is a miracle of science and good health management, but it is also very expensive. We will need to support ourselves for more years of retirement, and we will face dramatically rising health care costs, which disproportionately consume the incomes of retired persons, particularly as individuals live longer.

Meanwhile, the Social Security system is expected to completely exhaust its resources by 2029. Yet 60 percent of all retirees (over the age of 65) rely on Social Security for at least 70 percent of their total retirement income.

Unless we are hoping to support ourselves on the backs of our children or are willing to accept impoverishment and destitution in our retirements, we as individuals and as a nation need to be sure we are saving enough now to support ourselves in the future. But the fact is we are not. Despite the initiation of savings incentives such as favorable tax treatment for Individual Retirement Accounts and frequent warnings about the need to save, the U.S. savings rate remains among the lowest in the developed world. We should be saving more in our own personal accounts than our parents did since we are anticipating longer and more expensive retirements—but we are putting aside less.

Moreover, far too many Americans will be unable to rely on an adequate pension income to supplement their meager savings. Nearly half of all full-time workers are not currently covered by an employer-based retirement plan. Although two-thirds of middle-aged employees are expected to receive some type of employer pension benefit upon retirement, the amount of these benefits may not be adequate to offer them security. The one-third who are not expected to receive pension benefits will be even less secure, forced to continue to work into their last years or become a burden on their families or whatever social safety net remains.

Concerns about inadequate pension incomes are heightened by recent trends such as the movement away from traditional pension plans toward plans which give employees more responsibility for starting, maintaining, and investing their own retirement savings accounts. Our national public policy needs to understand the implications of this evolution and develop effective methods to educate and encourage Americans to make responsible investments for their retirements. We need to figure out how to encourage more employers to offer good pension plans. We need to know what prevents or deters Americans from participating in those plans. And we need to assess what government policy can do to encourage people to save more.

The changing nature of our economic world and the workplace complicate these tasks. Old solutions may not be effective in today's environment of downsizing, outsourcing, and international competition. The availability, size, and security of pensions tighten as various industries are squeezed by global competition. Compounding the problem is the fact that workers anticipate changing jobs much more often in the past, so that many will leave each workplace before they have had a chance to accumulate a decent pension. Women may feel the pain of this problem even more acutely, because more women work part-time or in industries with poorer pension benefits, and because women more often enter and leave the workforce in order to care for children or elderly parents. We need a new approach to retirement policy that surmounts the insecurity implicit in our changing economic environment and delivers increased availability, security, and portability of decent pensions.

We also need to recognize how other social changes play a role in reducing the opportunity for saving. For instance, the tendency of parents to have children later in life means a shorter period of time between when the parents become empty-nesters and when they retire. As a result, baby boomers and other generations will have less time in which to save for their retirement. This problem is further exacerbated by dramatic increases in college education expenses.

While we are making some positive steps toward improving retirement security through our efforts to save the social security and health care systems, simplify pension laws, and provide increased savings incentives, our efforts are piecemeal. Unfortunately, the magnitude of the retirement crisis that is descending upon us is too awesome to be approached piecemeal. We need to understand how the elements of retirement income—private savings, employer-provided pensions, and social security—fit together to provide security, as well as how they do not. Then, in a comprehensive fashion, we need to consider what public policies might strengthen these various elements and provide true retirement security for all Americans.

The Retirement Income Policy Commission which Senator JEFFORDS and I propose will be charged with this critical assignment. Sixteen experts from both the public and private sectors—chosen in a bi-partisan fashion by the House, Senate, and President—will sit on the panel voluntarily, without pay. Together, they will begin to explore the dimensions of our savings problem, understand its causes, and recommend better government policies to promote retirement security. Within one year of beginning their investigations, they will report their findings to the President and Congress, and the Commission will be dissolved.

It would be easy to look the other way as the retirement crisis quietly descends upon us, but our responsibilities to our parents, our children, and ourselves demand that we do not. Taken alone, the aging of the baby boom generation gives urgency to this matter; when these demographics are coupled with our low savings rates, inadequate pensions, potentially debilitated social security system, and current economic and social trends, they harken a disaster. I urge my colleagues to support this modest first step toward averting that disaster.

I am pleased that distinguished Senators from both sides of the aisle—NANCY KASSEBAUM, BOB KERREY, JOHN CHAFEE, JEFF BINGAMAN, BILL COHEN, and RON WYDEN—are original co-sponsors of the legislation which Senator JEFFORDS and I are introducing today. I am also pleased that endorsements of this bill or the very similar House companion bill have been made by the American Society of Pension Actuaries, the American Council of Life Insurance, the American Association of Engineering Societies, the National Defined Contribution Council, the Society for Human Resource Management, the American Institute of Chemical Engineers, and AT&T. I ask unanimous consent that their letters of endorsement be inserted in the RECORD.

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

AMERICAN COUNCIL OF LIFE INSURANCE,
Washington, DC, May 10, 1996.

Hon. EARL POMEROY,
U.S. House of Representatives, Washington, DC.

DEAR EARL: On behalf of the member companies of the American Council of Life Insurance (ACLI), I want to applaud you for introducing H.R. 3077, the "Commission on Retirement Income Policy Act of 1996". Our members strongly support this legislation, which will establish a commission to review and study trends in retirement savings and Federal incentives that encourage and protect such savings.

As you may know, the life insurance industry manages more than one-third of the assets held in private pension plans today which represents $750 billion in pension assets. With such a large commitment to the retirement security of millions of Americans, our industry is vitally concerned with issues affecting the continued viability and expansion of our retirement system.

Demographic, economic, social and political factors will continue to play a significant role in the financial security of future retirees. The "coming of age" of the baby boom

generation, the shift in business to smaller service companies, the increasing prevalence of two income families and the financial uncertainties underlying the current structure of Social Security will necessitate a reassessment of our current approaches to retirement income savings. A rational national retirement income policy must be developed, communicated and supported so that resources can be allocated most efficiently, ensuring that each American can have a financially secure retirement.

It is imperative to promote a framework in which Americans can enjoy a dignified and financially secure retirement. We believe your legislation can help develop that framework. Accordingly, we applaud the leadership role you have undertaken on this important issue and we would encourage your colleagues to co-sponsor the bill. Please do not hesitate to call on the ACLI for support to help enact the legislation.

Sincerely,

CARROLL A. CAMPBELL, JR.

AMERICAN ASSOCIATION OF ENGINEERING SOCIETIES,
Washington DC, April 26, 1996.

Hon. NEIL ABERCROMBIE,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ABERCROMBIE: I am writing on behalf of the American Association of Engineering Societies (AAES) to request that your consider co-sponsoring H.R. 3077, which provides for the establishment of the Commission on Retirement Income Policy. The bill was introduced by Representative Earl Pomeroy and Representative Nancy Johnson. A summary of the bill's provisions is attached.

AAES is a multidisciplinary organization of 28 engineering and scientific societies whose more than 800,000 members are dedicated to advancing the knowledge, understanding, and practice of engineering in the public interest. The AAES December 1994 Statement on Retirement Income Policy called for a commission on retirement income policy.

AAES is committed to improving opportunities for engineers and other workers to earn retirement income that will enable them to remain economically secure at the conclusion of their working lives. As the 21st century approaches, demographic and economic changes are imposing severe strains on the nation's retirement income delivery system. For most workers, including engineers, career-long employment with one company is a thing of the past. Members of the U.S. work force now experience periodic unemployment, frequent job changes, and increasing reliance on part-time, temporary, or contract employment, which affect their current livelihood, and their future retirement income security.

AAES believes that the Commission on Retirement Income Policy would give national focus to this crucial issue and would contribute to a fiscally responsible effort to resolve retirement security problems.

We hope you will co-sponsor and work for active consideration of H.R. 3077. Thank you very much for your attention and interest.

Sincerely,

E.L. CUSSLER,
1996 AAES Chairman.

NATIONAL DEFINED CONTRIBUTION COUNCIL,
Denver, CO, May 13, 1996.

Hon. EARL POMEROY,
U.S. Congress, Washington, DC.

DEAR CONGRESSMAN POMEROY: On behalf of the National Defined Contribution Council ("NDCC"), I am writing to applaud your leadership on retirement savings issues and support your efforts to establish a commission on retirement income policy.

The NDCC fully supports H.R. 3077, "The Commission on Retirement Income Policy Act of 1996" and looks forward to working with you and other members of Congress on its passage.

The NDCC is a national organization dedicated to the promotion and protection of the defined contribution industry. It has been organized specifically for plan service providers and focuses on public policy analysis, legislative advocacy and educating the public on the need for retirement savings.

The NDCC commends you on your recent proposal to create a commission charged with studying policies to help improve Americans' economic security during retirement. Please feel free to call on us in this effort.

Sincerely,

MARY RUDIE BARNEBY,
President.

SOCIETY FOR HUMAN RESOURCES MANAGEMENT,
July 3, 1996.

Hon. NANCY JOHNSON,
Hon. EARL POMEROY,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVES JOHNSON AND POMEROY: On behalf of the Society for Human Resource Management, SHRM, I am writing to enthusiastically endorse H.R. 3077, The Commission on Retirement Income Policy Act of 1996. SHRM is the leading voice of the human resource profession, representing the interests of more than 70,000 professional and student members from around the world.

Today most individuals are able to retire comfortably. On average, workers retire earlier and live longer than in the past. However, a number of trends in the economy and workplace suggest that it will become increasingly difficult for American workers to meet their needs for adequate retirement income. The U.S. population is aging rapidly and the elderly live longer. The retirement of the baby boom generation will impose severe pressure on Social Security, Medicare and Medicaid. It is clear that a coordinated strategy is needed.

That is why H.R. 3077 is so critical. The establishment of the Commission on Retirement Income Policy would give Congress access to the research and recommendations of experts so that America can meet the challenges ahead. This bipartisan legislation should be cosponsored and actively supported by all members of Congress.

Thank you for introducing this key legislation. SHRM looks forward to working with you to see H.R. 3077 considered and passed in 1996.

Sincerely,

MICHAEL R. LOSEY, SPHR,
President & CEO.

AT&T,
Washington, DC, July 17, 1996.

Hon. EARL POMEROY,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN POMEROY: As you are aware, AT&T has a strong interest in its employees and the manner in which they are, or will be, provided for in retirement. Because of our interest in these matters, we were extremely pleased to see the legislation which you and Congresswoman Nancy Johnson have introduced in the House (H.R. 3077). It is our understanding that the legislation, if passed, would establish a commission for the purpose of studying how to best deal with the future retirement needs of this country. The commission, in turn, would issue its findings and recommendations to both the President and Congress by the end of 1997.

AT&T believes that proper planning for the financial needs of retirement and the safeguarding of the retirement savings of U.S. workers is extremely important, and strongly supports your and Rep. Johnson's efforts in introducing and moving H.R. 3077 forward. We urge your House colleagues to co-sponsor this important legislation and to work with us to achieve its swift passage.

Sincerely,

THOMAS R. BERKELMAN,
Director,
Federal Government Affairs.

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 1251

At the request of Mr. HATFIELD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1251, a bill to establish a National Fund for Health Research to expand medical research programs through increased funding provided to the National Institutes of Health, and for other purposes.

S. 1632

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1632, a bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes.

S. 1645

At the request of Mr. KERRY, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1645, a bill to regulate United States scientific and tourist activities in Antarctica, to conserve Antarctic resources, and for other purposes.

S. 1729

At the request of Mrs. HUTCHISON, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 1729, a bill to amend title 18, United States Code, with respect to stalking.

S. 1731

At the request of Mr. CRAIG, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1731, a bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

S. 1862

At the request of Mr. PRESSLER, the name of the Senator from Wyoming

[Mr. THOMAS] was added as a cosponsor of S. 1862, a bill to permit the interstate distribution of State-inspected meat under appropriate circumstances.

S. 1936

At the request of Mr. CRAIG, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1936, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1962

At the request of Mr. MCCAIN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1962, a bill to amend the Indian Child Welfare Act of 1978, and for other purposes.

AMENDMENT NO. 4440

At the request of Mr. ROBB, his name was added as a cosponsor of amendment No. 4440 proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 4441

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of amendment No. 4441 proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 4444

At the request of Mr. MCCAIN, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. WARNER], the Senator from Indiana [Mr. COATS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Nebraska [Mr. KERREY], the Senator from Indiana [Mr. LUGAR], the Senator from New Hampshire [Mr. SMITH], the Senator from North Carolina [Mr. HELMS], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of amendment No. 4444 proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 4492

At the request of Mr. SIMON, his name was added as a cosponsor of amendment No. 4492 proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 4575

At the request of Mr. SPECTER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of amendment No. 4575 proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

SENATE RESOLUTION 279—TO COMMEND DR. LEROY T. WALKER

Mr. STEVENS submitted the following resolution; which was considered and agreed to:

S. RES. 279

Whereas, Dr. LeRoy T. Walker, as President of the U.S. Olympic Committee from 1992 to 1996, and through a life long commitment to amateur athletics, has significantly improved amateur athletic opportunities in the United States;

Whereas Dr. Walker has contributed in numerous capacities with the U.S. Olympic Committee since 1977;

Whereas, Dr. Walker is the first African-American to serve as President of the U.S. Olympic Committee in its one hundred year history;

Whereas Dr. Walker has furthered amateur athletics in the United States through service in numerous other amateur athletic organizations, including the Atlanta Committee for the Olympic Games, the North Carolina Sports Development Commission, the Pan American Sports Organization, the Special Olympics, USA Track and Field, the Athletics Congress, the Amateur Athletic Union, the Army Specialized Training Program, the American Alliance of Health, Physical Education, Recreation and Dance, the National Association of Intercollegiate Athletics, North Carolina Central University, Duke University, Prairie View State College, Bishop College, Benedict College, and many others;

Whereas, Dr. Walker was an accomplished athlete himself in collegiate football, basketball and track at Benedict College, and an All-American in football in 1940;

Whereas, as a track and field coach, Dr. Walker helped 77 All-Americans, 40 national champions, eight Olympians, and hundreds of others, reach their potential amateur sports;

Whereas, Dr. Walker epitomizes the spirit of the Amateur Sports Act of 1978, the nation's law governing amateur sports;

Whereas, Dr. Walker was inducted into the U.S. Olympic Hall of Fame in 1987;

Whereas Dr. Walker is recognized as a worldwide leader in the furtherance of amateur athletics;

Whereas Dr. Walker will be leaving his post as the 23rd President of the U.S. Olympic Committee in 1966: Now, therefore, be it

Resolved, That the Senate commends and thanks Dr. LeRoy T. Walker for his service with the U.S. Olympic Committee, his lifelong dedication to the improvement of amateur athletics, and for the enrichment he has brought to so many Americans through these activities.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

INOUYE AMENDMENT NO. 4589

Mr. STEVENS (for Mr. INOUYE) proposed an amendment to amendment No. 4439 proposed by Mr. STEVENS to the bill (S. 1894) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes; as follows:

In lieu of the matter to be inserted by amendment number 4439, at an appropriate place in the bill insert:

SEC. 8099. (a) Notwithstanding any other provision of this Act, the number of Military Personnel, Navy shall be $16,948,481,000, the number for Military Personnel, Air Force shall be $17,026,210,000, the number for Operation and Maintenance, Army shall be $17,696,659,000 the number for Operation and Maintenance, Air Force shall be $17,326,909,000, the number for Operation and Maintenance, Defense-Wide shall be $9,887,142,000, the number for Overseas Contingency Operations Transfer Fund shall be $1,140,157,000, the number for Defense Health Program shall be $10,251,208,000, and the number for Defense Health Program Operation and maintenance shall be $9,931,738,000.

(b) Of the funds appropriated under the heading Aircraft Procurement, Air Force, $11,500,000 shall be made available only for modification to B-52 bomber aircraft.

(c) Of the funds appropriated in title VI of this Act, under the heading Chemical Agents and Munitions Destruction, Defense for Research, development, test and evaluation, $3,000,000 shall only be for the accelerated development of advanced sensors for the Army's Mobile Munitions Assessment System.

(d) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Defense-Wide, $56,200,000 shall be available for the Corps Surface-to-Air Missile (CORPS SAM) program and $515,743,000 shall be available for the Other Theater Missile Defense/Follow-On TMD Activities program.

(e) Funds appropriated in title II of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house government costs.

(f) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Navy, $2,000,000 is available for titanium processing technology.

(g) Advance billing for services provided or work performed by the Navy's defense business operating fund activities is prohibited: *Provided*, That of the funds appropriated under the heading Operation and Maintenance, Navy, $2,976,000,000 shall be available only for depot maintenance activities and programs, and $989,700,000 shall be available only for real property maintenance activities.

(h) The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

(i) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Defense-Wide, $3,000,000 shall be available for a defense technology transfer pilot program.

(j) Of the funds appropriated in title IV of this Act, under the heading Research, Development, Test and Evaluation, Navy, $4,000,000 is available for the establishment of the National Coastal Data Centers required by section 7901(c) of title 10, United

States Code, as added by the National Defense Authorization Act for Fiscal Year 1997.

(k)(1) Of the amounts appropriated or otherwise made available by this Act for the Department of the Air Force, $2,000,000 shall be available to provide comprehensive care and rehabilitation services to children with disabilities who are dependents of members of the Armed Forces at Lackland Air Force, Base, Texas.

(2) Subject to subsection (3), the Secretary of the Air Force shall grant the funds available under subsection (a) to the Children's Association for Maximum Potential (CAMP) for use by the association to defray the costs of designing and constructing the facility referred to in subsection (1).

(3)(a) The Secretary may not make a grant of funds under subsection (2) until the Secretary and the association enter into an agreement under which the Secretary leases to the association the facility to be constructed using the funds.

(b)(1) The term of the lease under paragraph (1) may not be less than 25 years.

(2) As consideration for the lease of the facility, the association shall assume responsibility for the operation and maintenance of the facility, including the costs of such operation and maintenance.

(c) The Secretary may require such additional terms and conditions in connection with the lease as the Secretary considers appropriate to protect the interests of the United States.

GORTON AMENDMENT NO. 4590

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, S. 1894, supra; as follows:

On page 29, line 20, strike out "Forces." and insert in lieu thereof "Forces: *Provided further*, That of the funds appropriated in this paragraph, $7,500,000 shall be available for 1.5 ship years in the university research fleet under the Oceanographic and Atmospheric Technology program.".

SIMON (AND OTHERS) AMENDMENT NO. 4591

Mr. SIMON (for himself, Mr. SPECTER, and Mr. HARKIN) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) CONSIDERATION OF PERCENTAGE OF WORK PERFORMED IN THE UNITED STATES.—None of the funds appropriated to the Department of Defense under this Act may be obligated or expended to evaluate competitive proposals submitted in response to solicitations for a contract for the procurement of property or services except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) a factor in such evaluation, as stated in the solicitation, is the percentage of work under the contract that the offeror plans to perform in the United States; and

(2) a high importance is assigned to such factor.

(b) BREACH OF CONTRACT FOR TRANSFERRING WORK OUTSIDE THE UNITED STATES.—None of the funds appropriated to the Department of Defense under his Act may be obligated or expended to procure property or services except when it is made known to the Federal official having authority to obligate or expend such funds that each contract for the procurement of property or services includes a clause providing that the contractor is deemed to have breached the contract if the contractor performs significantly less work in the United States than the contractor stated, in its response to the solicitation for the contract, that it planned to perform in the United States.

(c) EFFECT OF BREACH ON CONTRACT AWARDS AND THE EXERCISE OF OPTIONS UNDER COVERED CONTRACTS.—None of the funds appropriated to the Department of Defense under this Act may be obligated or expended to award a contract or exercise an option under a contract, except when it is made known to the Federal official having authority to obligate or expend such funds that the compliance of the contractor with its commitment to perform a specific percentage of work under such a contract inside the United States is a factor of high importance in any evaluation of the contractor's past performance for the purpose of the contract award or the exercise of the option.

(d) REQUIREMENT FOR OFFERORS TO PERFORM ESTIMATE.—None of the funds appropriated to the Department of Defense under this Act may be obligated or expended to award a contract for the procurement of property or services unless the solicitation for the contract contains a clause requiring each offeror to provide an estimate of the percentage of work that the offeror will perform in the United States.

(e) WAIVERS.—(1) Subsections (a), (b), and (c) shall not apply with respect to funds appropriated to the Department of Defense under this Act when it is made known to the Federal official having authority to obligate or expend such funds that an emergency situation or the national security interests of the United States requires the obligation or expenditure of such funds.

(2) Subsections (a), (b) and (c) may be waived on a subsection-by-subsection basis for all contracts described in subsection (f) if the Secretary of Defense or the Deputy Secretary of Defense—

(A) makes a written determination, on a nondelegable basis, that—

(1) the subsection cannot be implemented in a manner that is consistent with the obligations of the United States under existing Reciprocal Procurement Agreements with defense allies; and

(2) the implementation of the subsection in a manner that is inconsistent with existing Reciprocal Procurement Agreements would result in a net loss of work performed in the United States; and

(B) report to the Congress, within 60 days after the date of enactment of this Act, on the reasons for such determinations.

(f) SCOPE OF COVERAGE.—This section applies—

(1) to any contract for any amount greater than the simplified acquisition threshold (as specified in section 2302(7) of title 10, United States Code), other than a contract for a commercial item as defined in section 2302(3)(I); and

(2) to any contract for items described in section 2534(a)(5) of such title.

(g) CONSTRUCTION.—Subsections (a), (b), and (c) may not be construed to diminish the primary importance of considerations of quality in the procurement of defense-related property or services.

(h) EFFECTIVE DATE.—This section shall apply with respect to contracts entered into on or after 60 days after the date of the enactment of this Act.

THE NUCLEAR WASTE POLICY ACT OF 1982 AMENDMENT ACT OF 1996

REID AMENDMENTS NOS. 4592–4630

(Ordered to lie on the table.)

Mr. REID submitted 39 amendments intended to be proposed by him to the bill (S. 1936) to amend the Nuclear Waste Policy Act of 1982; as follows:

AMENDMENT NO. 4592

On page 22, between lines 6 and 7, insert the following:

"(c) TRANSPORTATION INCIDENT MANAGEMENT PLANNING.—The Secretary shall develop a program plan in accordance with section 203(f) that ensures that there will be a timely and effective response by a trained and equipped force to deal with any disruptive incident involving the transportation of spent nuclear fuel or high-level radioactive waste. On page 26, between lines 21 and 22, insert the following:

"(h) TRANSPORTATION INCIDENT MANAGEMENT.—

"(1) DEFINITION.—In this subsection, the term 'disruptive incident' includes an accident, an act of terrorism, vandalism, a civil disobedience, or civil protest, and any other disruption of a shipment of spent nuclear fuel or high-level radioactive waste.

"(2) CERTIFICATION.—The individual or contractor directly responsible to the Secretary for effecting a shipment of spent nuclear fuel or high-level radioactive waste shall certify the availability and timely effectiveness of a trained and equipped incident response team to respond to any disruptive incident that may occur during the shipment.

"(3) REQUIREMENTS.—For the purposes of paragraph (1)—

"(A) a response time shall be considered to be timely if the incident response time is capable of commencing active intercession at the site of a disruptive incident not more than 30 minutes after initiation of the incident;

"(B) the incident response team shall be organically prepared to interrupt and terminate acts of terrorism, vandalism, and civil disobedience; and

"(C) the incident response team shall be trained and equipped to mitigate the health or safety consequences of incidents that threaten the integrity or violate the integrity of waste shipment containers.

"(4) CIVIL LIABILITY.—A person that suffers any form of personal injury or pecuniary loss as a result of an accident or disruptive incident during the course of a shipment of spent nuclear fuel or high-level radioactive waste may recover damages in a civil action in United States District from any person who commits an act, or who, having a duty to act, fails to act, and thereby causes or contributes to the cause of the accident or disruptive incident.

"(5) CRIMINAL LIABILITY.—

"(A) FALSE CERTIFICATION.—A person that makes a certification under paragraph (2) that is false shall be imprisoned not less than 5 nor more than 15 years, fined under title 18, United States Code, or both.

"(B) CAUSATION OF ACCIDENT OR DUSRUPTIVE INCIDENT.—A person who commits an act, or who, having a duty to act, fails to act, and thereby causes or contributes to the cause of accident or disruptive incident during the course of a shipment of spent nuclear fuel or high-level radioactive waste shall be imprisoned not less than 15 nor more than 25 years, fined under title 18, United States Code, or both".

AMENDMENT NO. 4593

On page 26, between lines 21 and 22, insert the following:

"(h) TRANSPORTATION INCIDENT MANAGEMENT.—

"(1) DEFINITION.—In this subsection, the term 'disruptive incident' includes an accident, an act of terrorism, vandalism, a civil disobedience, or civil protest, and any other disruption of a shipment of spent nuclear fuel or high-level radioactive waste.

"(2) CERTIFICATION.—The individual or contractor directly responsible to the Secretary for effecting a shipment of spent nuclear fuel or high-level radioactive waste shall certify the availability and timely effectiveness of a trained and equipped incident response team to respond to any disruptive incident that may occur during the shipment.

"(3) REQUIREMENTS.—For the purposes of paragraph (1)—

"(A) a response time shall be considered to be timely if the incident response time is capable of commencing active intercession at the site of a disruptive incident not more than 30 minutes after initiation of the incident;

"(B) the incident response team shall be organically prepared to interrupt and terminate acts of terrorism, vandalism, and civil disobedience; and

"(C) the incident response team shall be trained and equipped to mitigate the health or safety consequences of incidents that threaten the integrity or violate the integrity of waste shipment containers.

"(4) CIVIL LIABILITY.—A person that suffers any form of personal injury or pecuniary loss as a result of an accident or disruptive incident during the course of a shipment of spent nuclear fuel or high-level radioactive waste may recover damages in a civil action in United States District from any person who commits an act, or who, having a duty to act, fails to act, and thereby causes or contributes to the cause of the accident or disruptive incident.

"(5) CRIMINAL LIABILITY.—

"(A) FALSE CERTIFICATION.—A person that makes a certification under paragraph (2) that is false shall be imprisoned not less than 5 nor more than 15 years, fined under title 18, United States Code, or both.

"(B) CAUSATION OF ACCIDENT OR DISRUPTIVE INCIDENT.—A person who commits an act, or who, having a duty to act, fails to act, and thereby causes or contributes to the cause of accident or disruptive incident during the course of a shipment of spent nuclear fuel or high-level radioactive waste shall be imprisoned not less than 15 nor more than 25 years, fined under title 18, United States Code, or both."

AMENDMENT NO. 4594

On page 21, between lines 2 and 3, insert the following:

"(k) SAFETY ASSESSMENT.—The Secretary shall conduct a comprehensive operational safety assessment of all transportation modes and operations that—

"(1) considers all possible accident scenarios and quantifies resulting possible environments; and

"(2) addresses—

"(A) transportation vehicle design requirements that minimize adverse environments experienced by loaded containers;

"(B) transportation container design requirements that ensure survivability in possible accident scenarios and environments;

"(C) full-scale performance testing for transportation container designs;

"(D) acceptance testing requirements for empty containers;

"(E) acceptance testing requirements for filled containers; and

"(F) transportation operational concepts that minimize accident risks."

AMENDMENT NO. 4595

On page 32, between lines 18 and 19, insert the following:

"(e) INTERIM STORAGE FACILITY LICENSING STANDARDS.—

"(1) NO EPA STANDARDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not issue, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the interim storage facility, and any such standards that are in effect on the date of enactment of this Act shall not be incorporated in licensing regulations.

"(2) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall establish a standard for protection of the public from release of radioactive material or radioactivity from the interim storage facility that prohibits any release that would expose a member of the general population to an annual dose of more than 25 millirems.

"(3) BASIS FOR LICENSING DETERMINATION.—The interim storage facility licensing determination made by the Commission for the protection of the public shall be based solely on a finding whether the repository is capable of being operated in conformance with the overall system performance standard established under paragraph (2)."

AMENDMENT NO. 4596

On page 44, lines 15 through 18, strike "that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems" and insert "that would expose a member of the general population to an annual dose of more than 25 millirems.".

AMENDMENT NO. 4597

Beginning on page 73, strike line 17 and all that follows through page 74, line 3, and insert the following:

"All actions authorized by this Act shall be subject to and governed by the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), chapter 51 of title 49, United States Code, and the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) (including regulations issued under those Acts)."

AMENDMENT NO. 4598

On page 33, strike lines 10 through 20 and insert the following:

"(2) EMPLACEMENT OF FUEL AND WASTE.—"

AMENDMENT NO. 4599

On page 34, strike line 21 and all that follows through page 38, line 24, and insert the following:

"(1) MAJOR FEDERAL ACTION.—Construction and operation of the interim storage facility shall be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy act of 1969 (42 U.S.C. 4321 et seq.).

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary shall—

"(A) at the same time as the Secretary submits to the Commission an application for a license for the interim storage facility, submit to the Commission an environmental impact statement on the construction and operation of the interim storage facility; and

1"(B) supplement the environmental impact statement as appropriate.

"(3) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary shall not consider in the environmental impact statement the need for, or alternative sites or designs for, the interim storage facility."

AMENDMENT NO. 4600

On page 42, line 4, strike "reasonably".

AMENDMENT NO. 4601

On page 42, lines 11 and 12, strike "reasonable".

AMENDMENT NO. 4602

Beginning on page 45, strike lines 15 and all that follows through page 46, line 1, and insert the following: "repository performance; and

"(B) the Commission shall ensure that".

AMENDMENT NO. 4603

Beginning on page 73, strike line 17 and all that follows through page 74, line 3, and insert the following:

"All actions authorized by this Act shall be subject to and governed by the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 432 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), chapter 51 of title 49, United States Code, and the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 ct seq.) (including regulations issued under those Acts)."

AMENDMENT NO. 4604

On page 11, strike lines 9 through 12.

AMENDMENT NO. 4605

On page 11, lines 23 and 24, strike "not later than November 30, 1999" and insert "on a date that is after the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT NO. 4606

Beginning on page 13, strike line 22 and all that follows through page 21, line 3, and insert the following:

"SEC. 201. TRANSPORTATION PLANNING."

AMENDMENT NO. 4607

On page 21, line 9, strike "not later than November 30, 1999" and insert "on a date that is after the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT NO. 4608

On page 21, line 24, strike "no later than November 30, 1999" and insert "on a date that is after the date on which a site for the

permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4609

On page 27, line 8, strike "by January 31, 1999" and insert "by the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4610

Beginning on page 27, strike line 12 and all that follows through page 29, line 20, and insert the following: "radioactive waste by the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated.

"(2) Immediately on designation of an interim storage facility site by the President under paragraph (1), the Secretary shall proceed".

AMENDMENT No. 4611

On page 30, line 6, strike "no later than November 30, 1999" and insert "not later than the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4612

On page 31, lines 4 and 5, strike "no later than November 30, 1999" and insert "not later than the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4613

On page 31, lines 6 through 8, strike "No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996" and insert "Not later than the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4614

On page 31, lines 23 through 25, strike "No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996" and insert "Not later than 36 months after the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4615

On page 32, line 15, strike "The license" and all that follows through the period on line 18.

AMENDMENT No. 4616

On page 32, lines 23 and 24, strike "date of enactment of the Nuclear Waste Policy Act of 1996" and insert "date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4617

On page 33, strike lines 10 through 20 and insert the following:

"(2) EMPLACEMENT OF FUEL AND WASTE.—".

AMENDMENT No. 4618

On page 39, line 20, strike "No later than February 1,2002," and insert "By February 1, 2002, or such later date as is consistent with confident identification and designation of Yucca Mountain as a permanent repository site,".

AMENDMENT No. 4619

On page 39, line 26, strike "geologic repository" and insert "permanent repository site".

AMENDMENT No. 4620

On page 48, lines 18 and 20, strike "the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are" and insert "the Yucca Mountain site as described in subsection (b), is".

AMENDMENT No. 4621

On page 48, line 25, strike "the interim storage facility site and".

AMENDMENT No. 4622

Beginning on page 49, strike line 4 and all that follows through page 51, line 3, and insert the following:

"(3) RESERVATION.—Until any such date as the Yucca Mountain Site may be determined to be unsuitable for use as a repository, the Yucca Mountain site is reserved for the use of the Secretary for the construction and operation of a repository and activities associated with the purposes of this title.

"(b) LAND DESCRIPTIONS.—

"(1) INTERIM STORAGE FACILITY.—Not later than 180 days after the date on which a site for the permanent disposition of spend nuclear fuel and high-level radioactive waste has been identified and designated, the Secretary shall—

"(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

"(B) establish boundaries of an interim storage facility site proximate to the repository site, depict those boundaries on a map entitled 'Interim Storage Facility Site Withdrawal Map', and file copies of the map and the legal description of the interim storage facility site with Congress, the Secretary of the Interior, the Governor of the State in which the interim storage facility site is situated, and the Archivist of the United States.

"(2) PERMANENT REPOSITORY.—

"(A) IN GENERAL.—The boundaries depicted on the map entitled "Yucca Mountain Site Withdrawal Map," dated March 1995, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

"(B) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct a repository at the Yucca Mountain site, the Secretary shall—

"(i) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

"(ii) file copies of the map described in subparagraph (A), and the legal description of the Yucca Mountain site with Congress, the Secretary of the Interior, the Governor of the State of Nevada, and the Archivist of the United States.

"(3) CONSTRUCTION.—The maps and legal description of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites."

AMENDMENT No. 4623

On page 84, strike lines 15 through 20 and insert the following:

"(2) The Secretary shall ensure that all reasonable effort is made to meet spent fuel emplacement rates of—

"(A) 1,200 MTU in each of the first and second years of operation;

"(B) 2,000 MTU in each of the third and fourth years of operation;

"(C) 2,700 MTU in the fifth year of operation; and

"(D) 3,000 MTU in each year after the fifth year of operation."

AMENDMENT No. 4624

On page 84, line 22, strike "January 31, 1999" and insert "the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4625

On page 85, line 7, strike "in fiscal year 2000," and insert "within 2 years after the date on which a site for the permanent disposition of spent nuclear fuel and high-level radioactive waste has been identified and designated".

AMENDMENT No. 4626

On page 61, between line 5 and 6, insert the following:

"SEC. 306. COMPENSATION FOR LOSS OF PROPERTY VALUES.

"An owner of property may bring a civil action in United States district court to recover from the Secretary the amount by which the property is diminished in value as a result of the construction or operation of the interim storage facility or the transportation of spent nuclear fuel or high-level radioactive waste under this Act."

AMENDMENT No. 4627

On page 22, strike lines 12 through 16 and insert the following:

"(b) ADVANCE NOTIFICATION.—

"(1) IN GENERAL.—Not more than 45 nor less than 30 days before the date on which spent nuclear fuel or high-level radioactive waste is to be transported in a State, the Secretary shall provide to the State, to each local government within the jurisdiction of which the spent nuclear fuel or high-level radioactive waste is to be transported, and to each owner of property, resident of property, and operator of a business on property within 50 miles of each point along the route on which the spent nuclear fuel or high-level radioactive waste is to be transported, a notice containing the information described in paragraph (2).

"(2) INFORMATION TO BE PROVIDED.—A notice under paragraph (1) shall describe the precise route on which spent nuclear fuel or high-level radioactive waste is to be transported and describe the date and approximate (within 60 minutes) time of day that the spent nuclear fuel or high-level radioactive waste will pass each tenth mile along the route."

AMENDMENT No. 4628

On page 100, line 24, strike "annul" and insert "annual".

AMENDMENT No. 4629

On page 8, lines 10 and 11, strike "specific site within area 25 of the Nevada test".

AMENDMENT No. 4630

On page 37, strike lines 12 through 24.

GLENN AMENDMENTS NOS. 4631–4633

(Ordered to lie on the table.)

Mr. GLENN submitted three amendments intended to be proposed by him to the bill S. 1936, supra; as follows:

AMENDMENT NO. 4631

Beginning on page 95, strike line 8 and all that follows through page 97, line 20.

AMENDMENT NO. 4632

Beginning on page 73, strike line 16 and all that follows through page 74, line 3.

AMENDMENT NO. 4633

Beginning on page 43, strike line 19 and all that follows through page 46, line 15, and insert the following:

"(d) ANALYSIS OF SYSTEM PERFORMANCE.—The Commission

BRYAN AMENDMENTS NOS. 4634–4665

(Ordered to lie on the table.)

Mr. BRYAN submitted 32 amendments intended to be proposed by him to the bill S. 1936, supra; as follows:

AMENDMENT NO. 4634

On page 31, line 5, strike "1999" and insert "2012".

AMENDMENT NO. 4635

On page 27, line 17, strike "1998" and insert "2023".

AMENDMENT NO. 4636

On page 31, line 18, strike "15,000" and insert "850".

AMENDMENT NO. 4637

On page 31, line 18, strike "15,000" and insert "50".

AMENDMENT NO. 4638

On page 13, after line 13, insert "(3) the protection offered States being considered by the Department of Energy for a permanent repository under section 145 (g) or section 141 (g) of the Nuclear Waste Policy Act of 1982".

AMENDMENT NO. 4639

On page 13, after line 13, insert "(3) rights reserved for the State of Nevada under the tenth amendment of the United States Constitution."

AMENDMENT NO. 4640

On page 13, after line 13, insert "(3) commitments made to the citizens of Nevada under the Nuclear Waste Policy Act of 1982."

AMENDMENT NO. 4641

On page 11, line 24, strike "1999" and insert "2030".

AMENDMENT NO. 4642

On page 11, line 24, strike "1999" and insert "2020".

AMENDMENT NO. 4643

On page 11, line 24, strike "1999" and insert "2015".

AMENDMENT NO. 4644

On page 13, strike line 4 through line 13.

AMENDMENT NO. 4645

On page 11, strike line 19 through line 24.

AMENDMENT NO. 4646

On page 31, line 18, strike "15,000" and insert "455".

AMENDMENT NO. 4647

On page 31, line 5, strike "1999" and insert "2010".

AMENDMENT NO. 4648

On page 31, line 18, strike "15,000" and insert "700".

AMENDMENT NO. 4649

At the end of Title 1, add "(h) Limitation.—Nothing in this Act shall be construed to subject the United States to financial liability for transportation, storage, or disposal of any waste generated by commercial nuclear utilities."

AMENDMENT NO. 4650

On page 85, strike line 13 through line 15.

AMENDMENT NO. 4651

Strike section 508.

AMENDMENT NO. 4652

On page 84, strike line 21 through page 85, line 11.

AMENDMENT NO. 4653

On page 79, strike line 20 through page 80 line 8.

AMENDMENT NO. 4654

On page 64, line 6, strike "1.0" and insert "2.5".

AMENDMENT NO. 4655

On page 95, line 12, strike all after "Business." through line 16.

AMENDMENT NO. 4656

On page 90, strike section 603.

AMENDMENT NO. 4657

On page 75, strike line 10 through line 20.

AMENDMENT NO. 4658

At the appropriate place, add

SEC. . INDEPENDENT REVIEW.

(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the science advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (referred to in this act as the "Commission").

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(A) Environmental groups;

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, State, and local regulatory agencies;

(J) Utilities; and

(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c) REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) LIMITATION.

Notwithstanding any other provision of this Act, the Secretary shall take no actions related to interim storage of spent nuclear fuel or high-level radioactive waste until the Commission report has been filed with Congress.

(e) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(f) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act."

AMENDMENT NO. 4659

On page 27, line 8, strike "1999" and insert "2010".

AMENDMENT NO. 4660

At the appropriate place, add:

"SEC. 13. PRIVATE PROPERTY RIGHTS PROTECTION.

(a) FINDINGS.—

The Congress finds that—

(1) the private ownership of property is essential to a free society and is an integral part of the American tradition of liberty and limited government;

(2) the framers of the United States Constitution, in order to protect private property and liberty, devised a framework of Government designed to diffuse power and limit Government;

(3) to further ensure the protection of private property, the fifth amendment to the United States Constitution was ratified to prevent the taking of private property by the Federal Government, except for public use and with just compensation;

(4) the purpose of the takings clause of the fifth amendment of the United States Constitution, as the Supreme Court stated in Armstrong v. United States, 364 U.S. 40, 49 (1960), is "to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole";

(5) the Federal Government has singled out property holders to shoulder the cost that

should be borne by the public, in violation of the just compensation requirement of the takings clause of the fifth amendment of the United States Constitution;

(6) there is a need both to restrain the Federal Government in its overzealous regulation of the private sector and to protect private property, which is a fundamental right of the American people; and

(7) the incremental, fact-specific approach that courts now are required to employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment of the United States Constitution has been ineffective and costly and there is a need for Congress to clarify the law and provide an effective remedy.

(b) DEFINITIONS.—

(1) "just compensation"—

(A) means compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, other means; and

(B) shall include compounded interest calculated from the date of the taking until the date the United States tenders payment;

(2) "owner" means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(3) "private property" or "property" means all property protected under the fifth amendment to the Constitution of the United States, any applicable Federal or State law, or this Act, and includes—

(A) real property, whether vested or unvested, including—

(i) estates in fee, life estates, estates for years, or otherwise;

(ii) inchoate interests in real property such as remainders and future interests;

(iii) personalty that is affixed to or appurtenant to real property;

(iv) easements;

(v) leaseholds;

(vi) recorded liens; and

(vii) contracts or other security interests in, or related to, real property;

(B) the right to use water or the right to receive water, including any recorded lines on such water right;

(C) rents, issues, and profits of land, including minerals, timber, fodder, crops, oil and gas, coal, or geothermal energy;

(D) property rights provided by, or memorialized in, a contract, except that such rights shall not be construed under this title to prevent the United States from prohibiting the formation of contracts deemed to harm the public welfare or to prevent the execution of contracts for—

(i) national security reasons; or

(ii) exigencies that present immediate or reasonably foreseeable threats or injuries to life or property;

(E) any interest defined as property under State law; or

(F) any interest understood to be property based on custom, usage, common law, or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest;

(4) "taking of private property", "taking", or "take"—

(A) means any action whereby private property is directly taken as to require compensation under the fifth amendment to the United States Constitution or under this Act, including by physical invasion, regulation, exaction, condition, or other means.

(c) LIMITATION.—

(1) Notwithstanding any other provision of this Act, the Secretary shall take no actions related to the transportation of spent nuclear fuel or high-level radioactive waste until publishing in the Federal Register a determination that the owners of all property likely to be subject to a taking as a result of such transportation, as defined by this Act, have received just compensation for such taking out of the Nuclear Waste Fund.

(2) Notwithstanding any other provision of this Act, the Secretary shall take no actions related to the interim storage of spent nuclear fuel or high-level radioactive waste until publishing in the Federal Register a determination that the owners of all property likely to be subject to a taking as a result of such storage, as defined by this Act, have received just compensation for such taking out of the Nuclear Waste Fund."

AMENDMENT NO. 4661

On page 27, line 8, strike "1999" and insert "2011".

AMENDMENT NO. 4662

At the appropriate place, add:

"SEC. . INDEPENDENT REVIEW.

(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the Science Advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (referred to in this act as the "Commission").

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(A) Environmental groups;

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, state, and local regulatory agencies;

(J) Utilities; and

(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c) REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(e) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act."

AMENDMENT NO. 4663

On page 39, strike line 3 through line 8.

AMENDMENT NO. 4664

On page 37, strike line 13 through line 24.

AMENDMENT NO. 4665

On page 37, strike line 5 through line 12.

THE NUCLEAR WASTE POLICY ACT OF 1982 AMENDMENT ACT OF 1996

COCHRAN (AND LOTT) AMENDMENT NO. 4666

Mr. STEVENS (for Mr. COCHRAN, for himself and Mr. LOTT) proposed an amendment to the bill, S. 1894, supra; as follows:

At the end of the bill, insert:

SEC. . LEASE TO FACILITATE CONSTRUCTION OF RESERVE CENTER, NAVAL AIR STATION, MERIDIAN, MISSISSIPPI.

(a) LEASE OF PROPERTY FOR CONSTRUCTION OF RESERVE CENTER.—(1) The Secretary of the Navy may lease, without reimbursement, to the State of Mississippi (in this section referred to as the "State"), approximately five acres of real property located at Naval Air Station, Meridian, Mississippi, only for use by the State to construct a reserve center of approximately 22,000 square feet and ancillary supporting facilities.

(2) The term of the lease under this subsection shall expire on the same date that the lease authorized by subsection (b) expires.

(b) LEASEBACK OF RESERVE CENTER.—(1) The Secretary may lease from the State the property and improvements constructed pursuant to subsection (a) for a five-year period. The term of the lease shall begin on the date on which the improvements are available for occupancy, as determined by the Secretary.

(2) Rental payments under the lease under paragraph (1) may not exceed $200,000 per year, and the total amount of the rental payments for the entire period may not exceed 20 percent of the total cost of constructing the reserve center and ancillary supporting facilities.

(3) Subject to the availability of appropriations for this purpose, the Secretary may use funds appropriated pursuant to an authorization of appropriations for the operation and

maintenance of the Naval Reserve to make rental payments required under this subsection.

(c) EFFECT OF TERMINATION OF LEASES.—At the end of the lease term under subsection (b), the State shall convey, without reimbursement, to the United States all right, title, and interest of the State in the reserve center and ancillary supporting facilities subject to the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the leases under this section as the Secretary considers appropriate to protect the interests of the United States.

THE NUCLEAR WASTE POLICY ACT OF 1982 AMENDMENT ACT OF 1996

BRYAN AMENDMENTS NOS. 4667–4824

(Ordered to lie on the table.)

Mr. BRYAN submitted 158 amendments intended to be proposed by him to the bill S. 1936, supra; as follows:

AMENDMENT No. 4667

On page 36, strike line 24 through page 37, line 4.

AMENDMENT No. 4668

On page 36, strike lines 14 through 26.

AMENDMENT No. 4669

On page 36, strike lines 9 through 11.

AMENDMENT No. 4670

On page 36, line 8, strike "not".

AMENDMENT No. 4671

At the appropriate place, add the following:

"Notwithstanding any other provision of this Act, federal interim storage of commercial spent nuclear fuel shall only be available as follows:

Interim Storage Program

Findings and Purposes

Sec. 131. (a) Findings.—The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) Purposes.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

Sec. 132

Available Capacity for Interim Storage of Spent Nuclear Fuel

Sec. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law; and

(5) the views of the population surrounding such reactor.

SEC. 133

INTERIM AT REACTOR STORAGE

Sec. 133. The Commission shall, by rule, established procedures for the licensing of any technology approved by the Commission under section 219(a)1 for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

Sec. 134. (a) Oral Argument.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a Civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) Adjudicatory Hearing.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 before December 31, 2005.

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

(c) Judicial Review.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

Sec. 135. (a) Storage Capacity.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the

storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974; or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969, such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any site owned by the Federal Government on the date of enactment of this Act;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term "facility" means any building or structure.

(b) Contracts.—(1) Subject to the capacity limitation established in subsections (a) (1)3 and (d)4 the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capacity at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determination required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969.

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at the site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES AND STATE PARTICIPATION—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigations. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State for the interim storage of spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

(4) For the purpose of this subsection, "process of consultation and cooperation" means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right, to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than 180 days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress on the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of this decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submissions of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead of such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity a the site located at _____, with respect to which a notice of disapproval was submitted by _____ on _____.". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and, legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of such consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(7) As used in this section, the term "affected Tribal Council" means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site of such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

(e) LIMITATIONS.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than 3 years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent nuclear fuel.

(f) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operations of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capacity is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of addition spent nuclear fuel poor capacity, or such other technologies as may be approved by the Commission.

(h) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 2172 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

SEC. 136. CONTRACTS.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 2010, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however*, That the Secretary shall not enter into contracts for spent nuclear fuel in amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

(2) The Secretary shall undertake a study and, not later then 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1996. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear

fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in section 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) All receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), 1 which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e),2 for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135;

(4) the cost of transportation of spent nuclear fuel; and

(5) impact assistance as described in subsection (e).

(e) IMPACT ASSISTANCE.—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdictional boundaries of such government or governments and authorized under this subtitle: Provided, however, That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) $15 per kilogram of spent fuel, whichever is less;

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this subsection shall be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

(6) As used in this subsection, the term "unit of local government" means a county, parish, township, municipality, and shall include a borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

(f) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SECTION 137

Sec. 137.2 (a) Transportation.—(1) Transportation of spent nuclear fuel under section

136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost."

AMENDMENT NO. 4672

On page 96, line 7, strike all after "Service." through the end of line 12.

AMENDMENT NO. 4673

Strike all after the enacting clause, and insert:

"TITLE I. INDEPENDENT REVIEW

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Waste Independent Review Act".

SEC. 2. FINDINGS.

Congress find that—

(1) despite the enactment of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), ratepayer contributions to the Nuclear Waste Fund established by section 302 of the Act (42 U.S.C. 10222) of over $6,000,000,000, and expenditures of over $4,000,000,000, the high-level radioactive waste program is behind schedule and is the subject of numerous fundamental controversies, including the very concept of deep geologic storage;

(2) the Federal Government's only proposed transuranic waste disposal facility, the Waste Isolation Pilot Plant (WIPP), is beset with unresolved engineering, geologic, and certification problems and suffers from cost overruns;

(3) Federal and State efforts to site low-level radioactive waste disposal sites have failed in many instances because of technical problems and public opposition; and

(4) there has never been a comprehensive independent review of Federal nuclear waste policies.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a commission to conduct a full independent review of United States nuclear waste policy.

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—The President, in consultation with the Science Advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (referred to in this act as the "Commission").

(b) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view toward providing representation from—

(1) Environmental groups;

(2) Consumer groups;

(3) Taxpayer groups;

(4) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(5) State and local governments;

(6) Indian tribes;

(7) Transportation experts;

(8) Management experts;

(9) Federal, State, and local regulatory agencies;

(10) Utilities; and

(11) Other affected industries.

(c) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(d) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

SEC. 5. ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

SEC. 6. REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

SEC. 7. MORATORIUM ON ISSUANCE OF LICENSES.

No Federal agency may issue a license for a facility for the storage or disposal of radioactive waste (except a license for temporary on-site storage) until the date on which the Commission submits its report under section 6.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

TITLE II. RATEPAYER EQUITY.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Spend Nuclear Fuel Storage Act of 1995".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. table of contents.
Sec. 3. Definitions.
Sec. 4. Findings.
Sec. 5. Amendments to the Nuclear Waste Policy Act of 1982.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Commission" means the Nuclear Regulatory Commission; and

(2) the term "Secretary" means the Secretary of the Department of Energy.

SEC. 4. FINDINGS.

The Congress finds that—

(1) By 1998, approximately 45,000 tons of spend nuclear fuel will be stored at commercial nuclear reactors across the nation;

(2) the deep geologic high level radioactive waste and spent nuclear fuel repository envisioned by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et. seq.) will not be constructed in time to permit the Secretary to receive and accept high level radioactive waste or spent nuclear fuel as contemplated by sections 123 and 302 of that Act (42 U.S.C. 10143, 10222), with the result that the Secretary will be unable to perform contracts executed pursuant to section 302(a) of that Act with persons who generate or hold title to high level radioactive waste or spend nuclear fuel;

(3) there have been no orders for the development or construction of civilian nuclear power generating facilities since the enactment of the Nuclear Waste Policy Act of 1982; several such facilities that were anticipated when the Act was enacted are not operating now;

(4) it does not now appear that a deep geologic high level radioactive waste and spend nuclear fuel repository will be available before the year 2010 or later;

(5) by the time a deep geologic repository is available many currently operating commercial nuclear reactors will need spend fuel storage capacity beyond the maximum now available in at-reactor spent fuel storage pools; nuclear utilities have spent and will spend major sums to construct facilities, including dry cask spend fuel storage facilities, for use in the interim before a deep geologic repository is available;

(6) the sums spent for the purposes described in paragraph (5) are the same funds that commercial nuclear utilities intended to contribute to the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c));

(7) the technology for long term storage of spent nuclear fuel, including the technology of dry cask storage, has improved dramatically since the enactment of the Nuclear Waste Policy Act of 1982;

(8) the existing statutory jurisdiction of the Commission, under the Atomic Energy Act of 1954 (42 U.S.C. 2001 et. seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et. seq.), Executive Order 11834 (42 U.S.C. 5801 note), the Nuclear Regulatory Commission Reorganization Plan No. 1 of 1980, and the Commission's various authorization Acts includes the jurisdiction to review and evaluate the spent fuel storage capability of commercial nuclear utilities that hold or seek licenses to receive and possess nuclear materials from the Commission;

(9) commercial nuclear utilities that hold licenses to receive and possess nuclear materials are generally well suited to maintain the institutional capability necessary to become stewards of spent nuclear fuel during a period of interim storage;

(10) the increased radioactive decay that will occur in spent nuclear fuel that has been stored for interim period prior to the delivery to the Secretary pursuant to section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) will ease and facilitate its subsequent handling, transportation, and final disposal.

SEC. 5. AMENDMENTS TO THE NUCLEAR WASTE POLICY ACT OF 1982.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended by inserting at the end thereof the following new subsection:

"(f)(1) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payments under subsection (a)(2), offset the expense of providing storage of spent fuel generated after that

date (including expenses reasonably incurred before that date in anticipation of the necessity of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

"(2) The credits described in paragraph (1)—

"(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

"(B) shall be in an amount determined by the Secretary to reflect the cost of storage qualifying under subsection (f)(1)."

AMENDMENT NO. 4674

Strike all after the enacting clause, and insert

"SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Spent Nuclear Fuel Storage Act of 1995".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Findings.
Sec. 5. Amendments to the Nuclear Waste Policy Act of 1982.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Commission" means the Nuclear Regulatory Commission; and

(2) the term "Secretary" means the Secretary of the Department of Energy.

SEC. 4. FINDINGS.

The Congress finds that—

(1) By 1998, approximately 45,000 tons of spent nuclear fuel will be stored at commercial nuclear reactors across the nation;

(2) the deep geologic high level radioactive waste and spent nuclear fuel repository envisioned by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et. seq.) will not be constructed in time to permit the Secretary to receive and accept high level radioactive waste or spent nuclear fuel as contemplated by sections 123 and 302 of that Act (42 U.S.C. 10143, 10222), with the result that the Secretary will be unable to perform contracts executed pursuant to section 302(a) of that Act with persons who generate or hold title to high level radioactive waste or spent nuclear fuel;

(3) there have been no orders for the development or construction of civilian nuclear power generating facilities since the enactment of the Nuclear Waste Policy Act of 1982; several such facilities that were anticipated when the Act was enacted are not operating now;

(4) it does not now appear that a deep geologic high level radioactive waste and spent nuclear fuel repository will be available before the year 2010 or later;

(5) by the time a deep geologic repository is available many currently operating commercial nuclear reactors will need spent fuel storage capacity beyond the maximum now available in at-reactor spent fuel storage pools; nuclear utilities have spent and will spend major sums to construct facilities, including dry cask spent fuel storage facilities, for use in the interim before a deep geologic repository is available;

(6) the sums spent for the purposes described in paragraph (5) are the same funds that commercial nuclear utilities intended to contribute to the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c));

(7) the technology for long term storage of spent nuclear fuel, including the technology of dry cask storage, has improved dramatically since the enactment of the Nuclear Waste Policy Act of 1982;

(8) the existing statutory jurisdiction of the Commission, under the Atomic Energy Act of 1954 (42 U.S.C. 2001 et. seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et. seq.), Executive Order 11834 (42 U.S.C. 5801 note), the Nuclear Regulatory Commission Reorganization Plan No. 1 of 1980, and the Commission's various authorization Acts includes the jurisdiction to review and evaluate the spent fuel storage capability of commercial nuclear utilities that hold or seek licenses to receive and possess nuclear materials from the Commission;

(9) commercial nuclear utilities that hold licenses to receive and possess nuclear materials are generally well suited to maintain the institutional capability necessary to become stewards of spent nuclear fuel during a period of interim storage;

(10) the increased radioactive decay that will occur in spent nuclear fuel that has been stored for interim periods prior to delivery to the Secretary pursuant to section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) will ease and facilitate its subsequent handling, transportation, and final disposal.

SEC. 5. AMENDMENTS TO THE NUCLEAR WASTE POLICY ACT OF 1982.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (a)) is amended by inserting at the end thereof the following new subsection:

"(f)(1) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payments under subsection (a)(2), offset the expense of providing storage of spent fuel generated after that that (including expenses reasonably incurred before that date in anticipation of the necessary of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

"(2) The credits described in paragraph (1)—

"(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

"(B) shall be in an amount determined by the Secretary to reflect the cost of storage qualifying under subsection (f)(1)."

AMENDMENT NO. 4675

On page 73, strike line 1 though line 13.

AMENDMENT NO. 4676

On page 40, strike line 9 through line 13.

AMENDMENT NO. 4677

On page 72, strike line 18 through line 25.

AMENDMENT NO. 4678

On page 41, line 6, strike "unreasonable".

AMENDMENT NO. 4679

On page 51, strike line 5 through page 54 line 15, and insert

"(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the science advisor to the President and the council on environmental quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (referred to in this act as the "Commission").

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view toward providing representation from—

(A) Environmental groups;
(B) Consumer groups;
(C) Taxpayer groups;
(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;
(E) State and local governments;
(F) Indian tribes;
(G) Transportation experts;
(H) Management experts;
(I) Federal, State, and local regulatory agencies;
(J) Utilities; and
(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c) REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) MORATORIUM ON ISSUANCE OF LICENSES.

No Federal agency may issue a license for a facility for the storage or disposal or radioactive waste (except a license for temporary on-site storage) until the date on which the Commission submits its report under section 6.

(e) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(f) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act."

AMENDMENT NO. 4680

On page 51, strike line 5 through page 54 line 15, and insert

"(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the science advisor to the

President and the Council on Environmental quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (referred to in this Act as the "Commission").

(2) REPRESENTATION OF INTEREST GROUPS.—The Membership and structure of the Commission shall be determined by the President with a view toward providing representation from—

(A) Environmental Groups,

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, State, and local regulatory agencies;

(J) Utilities; and

(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, traumatic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experience of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c). REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(e) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act."

AMENDMENT NO. 4681

On page 45, line 2, strike "1,000" and insert "20,000".

AMENDMENT NO. 4682

On page 45, line 2, strike "1,000" and insert "15,000".

AMENDMENT NO. 4683

On page 44, line 15, strike all after "releases" through the end of line 23.

AMENDMENT NO. 4684

On page 44, line 19, strike "unreasonable".

AMENDMENT NO. 4685

On page 44, line 1, strike "not".

AMENDMENT NO. 4686

On page 43, line 21, strike "not".

AMENDMENT NO. 4687

At the appropriate place, insert:

SEC. . TENTH AMENDMENT PROTECTION.

(a) FINDINGS.—The Congress finds that—

(1) in most areas of governmental concern, State governments possess both the Constitutional authority and the competence to discern the needs and the desires of the People and to govern accordingly;

(2) Federal laws and agency regulations, which have interfered with State powers in areas of State jurisdiction, should be restricted to powers delegated to the Federal Government by the Constitution;

(3) the framers of the Constitution intended to bestow upon the Federal Government only limited authority over the States and the People;

(4) under the Tenth Amendment to the Constitution, the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people; and

(5) the courts, which have in general construed the Tenth Amendment not to restrain the Federal Government's power to act in areas of State jurisdiction, should be directed to strictly construe Federal laws and regulations which interfere with State powers with a presumption in favor of State authority and against Federal preemption.

(b) LIMITATION.—No preemption of State law under this Act shall be effective until the Secretary has published in the Federal Register a determination demonstrating the Constitutional basis for the preemption. Such determination shall be subject to challenge through the federal court system.

AMENDMENT NO. 4688

On page 71, strike line 12 through line 21.

AMENDMENT NO. 4689

At the appropriate place, add:

SEC. . SAFE TRANSPORTATION ASSURANCE.

Notwithstanding any other provision of this Act, no transportation of spent nuclear fuel and high-level nuclear waste shall take place under this Act unless the Secretary has determined through rulemaking that all States, units of local governments, and Indian tribes through whose jurisdiction the Secretary plans to transport spent fuel or high-level radioactive waste have developed and implemented plans to ensure the public safety. Such plans shall include emergency response training, evacuation plans, and any other requirements the Secretary deems necessary. The Secretary shall include in such determination an analysis of the sources of funding for such plans.

AMENDMENT NO. 4690

Strike section 501.

AMENDMENT NO. 4691

On page 27, line 17, strike "1998" and insert "2019".

AMENDMENT NO. 4692

On page 27, line 17, strike "1998" and insert "2018".

AMENDMENT NO. 4693

On page 27, line 17, strike "1998" and insert "2017".

AMENDMENT NO. 4694

On page 27, line 17, strike "1998" and insert "2016".

AMENDMENT NO. 4695

On page 27, line 17, strike "1998" and insert "2015".

AMENDMENT NO. 4696

On page 27, line 17, strike "1998" and insert "2014".

AMENDMENT NO. 4697

On page 27, line 17, strike "1998" and insert "2013".

AMENDMENT NO. 4698

On page 27, line 17, strike "1998" and insert "2012".

AMENDMENT NO. 4699

On page 27, line 17, strike "1998" and insert "2011".

AMENDMENT NO. 4700

On page 27, line 17, strike "1998" and insert "2010".

AMENDMENT NO. 4701

Strike all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Waste Independent Review Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) despite the enactment of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), ratepayer contributions to the Nuclear Waste Fund established by section 302 of the Act (42 U.S.C. 10222) of over $6,000,000,000, and expenditures of over $4,000,000,000, the high-level radioactive waste program is behind scheduled and is the subject of numerous fundamental controversies, including the very concept of deep geologic storage;

(2) the Federal Government's only proposed transuranic waste disposal facility, the Waste Isolation Pilot Plant (WIPP), is beset with unresolved engineering, geologic, and certification problems and suffers from cost overruns;

(3) Federal and State efforts to site low-level radioactive waste disposal sites have failed in many instances because of technical problems and public opposition; and

(4) there has never been a comprehensive independent review of Federal nuclear waste policies.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a commission to conduct a full independent review of United States nuclear waste policy.

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—The President, in consultation with the science advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (referred to in this act as the "Commission").

(b) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(1) environmental groups;

(2) consumer groups;
(3) taxpayer groups;
(4) the scientific community, including nuclear-oriented and other fields such as biology and medicine;
(5) State and local governments;
(6) Indian tribes;
(7) transportation experts;
(8) management experts;
(9) Federal, State, and local regulatory agencies;
(10) utilities; and
(11) other affected industries.

(c) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(d) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

SEC. 5. ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

SEC. 6. REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

SEC. 7 MORATORIUM ON ISSUANCE OF LICENSES.

No Federal agency may issue a license for a facility for the storage or disposal of radioactive waste (except a license for temporary on-site storage) until the date on which the Commission submits its report under section 6.

SEC. 8. TERMINATION OF COMMISSION.

The commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

AMENDMENT NO. 4702

At the appropriate place, insert:

SEC. . FISCAL RESPONSIBILITY LIMITATION.

Nothwithstanding any other provision of this Act, no funds authorized under this Act shall be expended in any fiscal year during which the Secretary does not publish in the Federal Register a fee sufficiency report which demonstrates that contract holders will pay the full cost of the storage and disposal of all spent nuclear fuel and high-level radioactive waste produced in relation to civilian nuclear power reactors. Such report shall include the estimated total life cycle cost of all expenditures authorized by this Act, the estimated total payments of contract holders to the Nuclear Waste Fund, the estimated proportionate share of the total life cycle cost attributable to disposal, storage, and transportation of spent nuclear fuel and high-level radioactive waste produced by contract holders, and the surplus or shortfall of contract holders' payments versus proportionate share of the costs.

AMENDMENT NO. 4703

SEC. . LIMITATION.

Notwithstanding any other provisions of this Act, no facility for the interim storage of spent nuclear fuel or high-level radioactive waste shall be sited in a State under consideration as a site for a permanent repository.

AMENDMENT NO. 4704

Strike section 502.

AMENDMENT NO. 4705

On page 74, strike line 1 through line 3.

AMENDMENT NO. 4706

On page 73, line 21, strike all after "system." through page 74, line 3.

AMENDMENT NO. 4707

On page 73, strike line 17 through the word "system." on line 21.

AMENDMENT NO. 4708

On page 72, strike section 404.

AMENDMENT NO. 4709

On page 27, line 8, strike "1999" and insert "2025".

AMENDMENT NO. 4710

On page 27, line 8, strike "1999" and insert "2024".

AMENDMENT NO. 4711

On page 27, line 8, strike "1999" and insert "2023".

AMENDMENT NO. 4712

On page 27, line 8, strike "1999" and insert "2022".

AMENDMENT NO. 4713

On page 27, line 8, strike "1999" and insert "2021".

AMENDMENT NO. 4714

On page 27, line 8, strike "1999" and insert "2020".

AMENDMENT NO. 4715

On page 27, line 8, strike "1999" and insert "2019".

AMENDMENT NO. 4716

On page 27, line 8, strike "1999" and insert "2018".

AMENDMENT NO. 4717

On page 27, line 8, strike "1999" and insert "2017".

AMENDMENT NO. 4718

On page 27, line 8, strike "1999" and insert "2016".

AMENDMENT NO. 4719

On page 31, line 5, strike "1999" and insert "2021".

AMENDMENT NO. 4720

On page 45, line 21, strike "the average for".

AMENDMENT NO. 4721

On page 45, line 22, strike all after "site." through the end of line 25.

AMENDMENT NO. 4722

On page 34, strike from line 21 through page 35, line 12.

AMENDMENT NO. 4723

On page 45, line 1, strike "reasonable".

AMENDMENT NO. 4724

On page 45, line 10, strike "not".

AMENDMENT NO. 4725

On page 27, line 17, strike "1998" and insert "2022".

AMENDMENT NO. 4726

On page 31, line 5, strike "1999" and insert "2017".

AMENDMENT NO. 4727

On page 26, line 25, strike "of spent nuclear fuel and".

AMENDMENT NO. 4728

On page 27, line 7, strike all after "Act." through page 32, line 18.

AMENDMENT NO. 4729

On page 34, strike line 15 through line 18.

AMENDMENT NO. 4730

On page 33, strike line 10 through line 19.

AMENDMENT NO. 4731

On page 31, line 5, strike "1999" and insert "2025".

AMENDMENT NO. 4732

On page 46, strike from line 1 through line 14.

AMENDMENT NO. 4733

On page 31, line 5, strike "1999" and insert "2016".

AMENDMENT NO. 4734

On page 27, line 17, strike "1998" and insert "2020".

AMENDMENT NO. 4735

On page 47, line 23, strike all after "(b)(3)." through page 48, line 10.

AMENDMENT NO. 4736

On page 47, line 12, strike "not."

AMENDMENT NO. 4737

On page 45, strike line 10 through 15.

AMENDMENT NO. 4738

On page 56, line 1, strike "local".

AMENDMENT NO. 4739

On page 55, line 23, strike "local".

AMENDMENT NO. 4740

On page 31, line 18, strike "15,000" and insert "400".

AMENDMENT NO. 4741

On page 63, strike line 7 through line 25.

AMENDMENT NO. 4742

On page 62, line 15, strike all after "shall be" through the word "exceed" on page 63, line 5.

AMENDMENT NO. 4743

On page 62, line 8, strike "and sold between January 7, 1983, and September 30, 2002,".

AMENDMENT NO. 4744

On page 60, line 9, strike "the County of Nye,".

AMENDMENT NO. 4745

On page 59, line 15, strike "the County of Nye".

AMENDMENT NO. 4746

On page 31, line 5, strike "1999" and insert "2019".

AMENDMENT NO. 4747

On page 27, line 17, strike "1998" and insert "2021".

AMENDMENT NO. 4748

On page 31, line 18, strike "15,000" and insert "900".

AMENDMENT NO. 4749

On page 57, line 19, strike "local".

AMENDMENT NO. 4750

On page 31, line 5, strike "1999" and insert "2018".

AMENDMENT NO. 4751

On page 31, line 18, strike "15,000" and insert "750".

AMENDMENT NO. 4752

On page 58, line 22, strike "None of the".

AMENDMENT NO. 4753

On page 58, strike line 1 through line 20.

AMENDMENT NO. 4754

On page 55, line 16, strike "local".

AMENDMENT NO. 4755

On page 56, line 22, strike "local".

AMENDMENT NO. 4756

On page 56, line 19, strike "local".

AMENDMENT NO. 4757

On page 56, line 14, strike "local".

AMENDMENT NO. 4758

On page 56, line 4, strike "local".

AMENDMENT NO. 4759

On page 31, line 5, strike "1999" and insert "2020".

AMENDMENT NO. 4760

On page 31, line 5, strike "1999" and insert "2022".

AMENDMENT NO. 4761

On page 31, line 18, strike "15,000" and insert "320".

AMENDMENT NO. 4762

On page 31, line 18, strike "15,000" and insert "200".

AMENDMENT NO. 4763

On page 31, line 18, strike "15,000" and insert "100".

AMENDMENT NO. 4764

On page 31, line 5, strike "1999" and insert "2024".

AMENDMENT NO. 4765

On page 31, line 5, strike "1999" and insert "2023".

AMENDMENT NO. 4766

On page 31, line 18, strike "15,000" and insert "300".

AMENDMENT NO. 4767

On page 65, line 1, strike "long-term storage and".

AMENDMENT NO. 4768

Strike from page 62, line 6 through page 63, page 22.

AMENDMENT NO. 4769

On page 63, strike line 7 through line 22.

AMENDMENT NO. 4770

On page 63, line 5, strike "1.0" and insert "5.0".

AMENDMENT NO. 4771

On page 64, line 21, strike "2002" and insert "1996".

AMENDMENT NO. 4772

On page 31, line 18, strike "15,000" and insert "830".

AMENDMENT NO. 4773

On page 31, line 18, strike "15,000" and insert "240".

AMENDMENT NO. 4774

On page 31, line 18, strike "15,000" and insert "500".

AMENDMENT NO. 4775

On page 27, line 8, strike "1999" and insert "2015".

AMENDMENT NO. 4776

On page 27, line 8, strike "1999" and insert "2014".

AMENDMENT NO. 4777

On page 27, line 8, strike "1999" and insert "2013".

AMENDMENT NO. 4778

On page 27, line 8, strike "1999" and insert "2012".

AMENDMENT NO. 4779

At the appropriate place, add

"SEC. . RATEPAYER EQUITY.

(a) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payments under subsection (b), offset the expenses of providing storage of spent fuel generated after that date (including expenses reasonably incurred before that date in anticipation of the necessity of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

(b) The credits described in paragraph (1)—

"(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

"(B) shall be in an amount determined by the Secretary to reflect the cost of storage qualifying under subsection (a)."

AMENDMENT NO. 4780

At the appropriate place, add

"SEC. . INDEPENDENT REVIEW.

(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the Science Advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the "Nuclear Waste Policy Review Commission" (Referred to in this act as the "Commission").

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(A) Environmental groups;

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, state, and local regulatory agencies;

(J) Utilities; and

AMENDMENT NO. 4781

On page 31, line 5, strike "1999" and insert "2015".

AMENDMENT NO. 4782

On page 31, line 5, strike "1999" and insert "2014".

AMENDMENT NO. 4783

On page 31, line 5, strike "1999" and insert "2013".

AMENDMENT NO. 4784

On page 27, line 17, strike "1998" and insert "2024".

AMENDMENT NO. 4785

On page 31, line 18, strike all after "MTU." through line 22.

AMENDMENT NO. 4786

On page 32, line 15, strike after "2002." though the end of line 18.

AMENDMENT NO. 4787

On page 23, line 13, strike all after "(g)." though the end of line 15.

AMENDMENT NO. 4788

On page 44, line 17, strike "100" and insert "15".

AMENDMENT NO. 4789

On page 44, line 17, strike "100" and insert "25".

AMENDMENT NO. 4790

On page 44, strike line 11 through line 23, and insert "(1) Notwithstanding any other provision of this Act, the Environmental Protection Agency, though its normal rule making process, shall develop standards for protection of the public from release of radioactive material or radioactivity from the

repository or any other federal high-level waste facility, including the transportation of high-level waste, which protect, with a high level of confidence, the health and safety of all individuals potentially exposed to such radiation or radioactive materials. The Nuclear Regulatory Commission shall require compliance with such standard as a condition of approving any license for a high-level nuclear waste facility."

AMENDMENT NO. 4791

On page 13, strike from line 22 through page 21, line 2.

AMENDMENT NO. 4792

Strike section 204.

AMENDMENT NO. 4793

On page 48, strike line 11 through line 14.

AMENDMENT NO. 4794

On page 48, strike section 206.

AMENDMENT NO. 4795

On page 31, line 18, strike "15,000" and insert "800".

AMENDMENT NO. 4796

On page 27, line 17, strike "1998" and insert "2025".

AMENDMENT NO. 4797

At the appropriate place, add the following: "Notwithstanding any other provision of this Act, the Secretary shall not provide storage or disposal of spent fuel or high-level radioactive waste resulting from operation of civilian nuclear power reactors to any contract holder unless the provisions of this Act provide for full cost recovery to the Treasury of such storage or disposal."

AMENDMENT NO. 4798

On page 65, at the end of line 4, add "No provisions of Title II of this Act shall take effect until all such one-time fees have been paid to the Treasury."

AMENDMENT NO. 4799

At the appropriate place, add "No provision of Title II of this Act shall take effect until all fees under Title IV of this Act have been paid to the Treasury."

AMENDMENT NO. 4800

On page 64, line 23, strike all after the "paid." through page 65, line 4.

AMENDMENT NO. 4801

On page 65, strike line 21 through page 66, line 20.

AMENDMENT NO. 4802

On page 64, line 6, strike "average".

AMENDMENT NO. 4803

On page 11, line 16, strike "storage and".

AMENDMENT NO. 4804

On page 45, line 2, strike "1,000" and insert "35,000".

AMENDMENT NO. 4805

On page 45, line 2, strike "1,000" and insert "50,000".

AMENDMENT NO. 4806

On page 45, line 2, strike "1,000" and insert "100,000".

AMENDMENT NO. 4807

On page 45, line 2, strike "1,000" and insert "15,000".

AMENDMENT NO. 4808

On page 45, line 2, strike "1,000" and insert "1,000,000".

AMENDMENT NO. 4809

On page 41, line 10, strike "substantial".

AMENDMENT NO. 4810

On page 41, line 21, strike "unreasonable".

AMENDMENT NO. 4811

On page 42, line 18, strike "unreasonable".

AMENDMENT NO. 4812

On page 43, line 2, strike "unreasonable".

AMENDMENT NO. 4813

At the appropriate place, insert the following: "No provision of this Act shall take effect until the Secretary has determined that contract holders will pay the full cost of the storage and disposal of spent fuel and high-level radioactive waste derived from spent nuclear fuel used to generate electricity in civilian power reactors."

AMENDMENT NO. 4814

On page 45, line 2, strike "1,000" and insert "10,000".

AMENDMENT NO. 4815

On page 65, line 16, strike "shall propose an adjustment to" and insert "shall adjust".

AMENDMENT NO. 4816

On page 31, line 5, strike "1999" and insert "2011".

AMENDMENT NO. 4817

On page 31, line 18, strike "15,000" and insert "600".

AMENDMENT NO. 4818

On page 49, line 10, strike line 4 through line 9.

AMENDMENT NO. 4819

On page 50, strike line 21 through page 51, line 3.

AMENDMENT NO. 4820

Strike section 207.

AMENDMENT NO. 4821

On page 54, line 19, strike "local".

AMENDMENT NO. 4822

On page 54, line 21, strike "local".

AMENDMENT NO. 4823

On page 45, line 2, strike "1,000" and insert "25,000".

AMENDMENT NO. 4824

On page 45, line 2, strike "1,000" and insert "30,000".

WELLSTONE AMENDMENTS NOS. 4825–4828

(Ordered to lie on the table.)

Mr. WELLSTONE submitted four amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4825

On page 68, line 5 of the amendment, strike "years." and insert the following: "years.

"SEC. 800.—REQUIREMENT OF DISPOSAL FACILITY.

"(a)(1) Notwithstanding any other provision of law, no new civilian nuclear power reactor shall be built until such time as—

"(A) there is a facility licensed by the Federal Government for the permanent emplacement of spent nuclear fuel and high-level radioactive waste from the civilian nuclear power reactor; and

"(B) there is adequate volume of capacity within the emplacement facility to accept all of the spent nuclear fuel and high-level radioactive waste that will be generated by the civilian nuclear power reactor during the reasonably foreseeable operational lifetime of the civilian nuclear power reactor.

"(2) At no time shall the volume of spent fuel and high-level radioactive waste generated, or reasonably expected to be generated, by all civilian nuclear power reactors on which construction was begun after the date of enactment of this Act, exceed the volume of capacity available in facilities licensed by the Federal Government for the permanent emplacement of spent nuclear fuel and high-level radioactive waste.

"(b) Any affected citizen may enforce the provision in (a) by filing a claim in federal district court in the district in which they reside or in the U.S. District Court for the District of Columbia."

AMENDMENT NO. 4826

On page 44 of the amendment, at the end of line 24, insert the following: "The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period a law is enacted disapproving the Secretary's proposed adjustment."

AMENDMENT NO. 4827

On page 57 of the amendment, strike lines 16 and 17 and insert in lieu thereof the following: "Notwithstanding any other provision of this Act or other law or agreement, the Secretary shall not accept title to spent nuclear fuel or high-level nuclear waste generated by a commercial nuclear power reactor unless the Secretary determines that accepting title to the fuel or waste is necessary to enable the Secretary to protect adequately the public health or safety, or the environment. To the extent that the federal government is responsible for personal or property damages arising from such fuel or waste while in the federal government's possession, such liability shall be born by the federal government."

AMENDMENT NO. 4828

On page 57 of the amendment, strike lines 16 and 17 and insert in lieu thereof the following: "Notwithstanding any other provision of this Act (except subsection (b) of this section) or other law or agreement, the Secretary shall not accept title to spent nuclear fuel or high-level nuclear waste generated by a commercial nuclear power reactor unless the Secretary determines that accepting title to the fuel or waste is necessary to enable the Secretary to protect adequately the public health or safety, or the environment. To the extent that the federal government is responsible for personal or property damages arising from such fuel or waste while in the federal government's possession, such liability shall be born by the federal government."

MOSELEY-BRAUN AMENDMENTS NOS. 4829–4830

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted two amendments intended to be proposed by her to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4829

On page 21, beginning on line 6, strike "transport" and all that follows through the period on line 9 and insert "transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent, transportation of spent nuclear fuel and high-level radioactive waste through populated areas or sensitive environmental areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures the safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than November 30, 1999.".

AMENDMENT NO. 4830

On page 21, line 6, after "transport" insert "safely".

CHAFEE AMENDMENTS NOS. 4831–4835

(Ordered to lie on the table.)

Mr. CHAFEE submitted five amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4831

On page 35, lines 4 and 5, strike "and facility use pursuant to paragraph (d)(2) of this section."

AMENDMENT NO. 4832

Beginning on page 43, lines 19 and 20, strike "Notwithstanding" all that follows through the period on page 44, line 2.

AMENDMENT NO. 4833

On page 44, line 4, strike "solely".

AMENDMENT NO. 4834

Beginning on page 73, strike line 16 and all that follows through page 74, line 3, and insert the following:

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

"If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system.

AMENDMENT NO. 4835

On page 35, line 3, strike "the construction and operation of any facility,".

MURKOWSKI AMENDMENTS NOS. 4836–4845

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted 10 amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4836

On page 24, beginning on line 8, strike "(f) EMPLOYEE PROTECTION—" and all that follows through "and 232." on line 19, and insert:

"(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this act shall be subject to and comply fully with employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105; and qualified persons shall be designated to perform the inspection and testing of trains under the provisions of 49 CFR 215 and 232 and shall be trained pursuant to the standard required by section 203(g).".

AMENDMENT NO. 4837

On page 3, lines 15–16, strike "such a facility" and insert "an interim storage facility or a repository".

AMENDMENT NO. 4838

On page 5, line 21, strike "permit" and insert "permits".

AMENDMENT NO. 4839

On page 11, line 12, strike "respository" and insert "repository".

AMENDMENT NO. 4840

On page 11, line 21, strike "for storage".

AMENDMENT NO. 4841

At page 68, beginning on line 2, strike "subsection (d)" and insert "subsections (d) and (e)".

AMENDMENT NO. 4842

On page 14, line 12, after "Secretary," insert "or along such other route designate by the Secretary,".

AMENDMENT NO. 4843

On page 12, line 24, strike "Spent Nuclear Fuel".

AMENDMENT NO. 4844

On page 14, line 12, after "Secretary," insert "or along such other route designated by the Secretary,".

AMENDMENT NO. 4845

Strike all after the enacting clause and insert in lieu thereof the following:

That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.

"TITLE I—OBLIGATIONS

"Sec. 101. Obligations of the Secretary of Energy.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

"Sec. 201. Intermodal transfer.
"Sec. 202. Transportation planning.
"Sec. 203. Transportation requirements.
"Sec. 204. Interim storage.
"Sec. 205. Permanent repository.
"Sec. 206. Land withdrawal.
"Sec. 207. Permanent disposal alternatives.

"TITLE III—LOCAL RELATIONS

"Sec. 301. Financial assistance.
"Sec. 302. On-site representative.
"Sec. 303. Acceptance of benefits.
"Sec. 304. Restrictions on use of funds.
"Sec. 305. Land conveyances.

"TITLE IV—FUNDING AND ORGANIZATION

"Sec. 401. Program funding.
"Sec. 402. Office of Civilian Radioactive Waste Management.
"Sec. 403. Federal contribution.
"Sec. 404. Budget priorities.

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"Sec. 501. Compliance with other laws.
"Sec. 502. Judicial review of agency actions.
"Sec. 503. Licensing of facility expansions and transshipments.
"Sec. 504. Siting a second repository.
"Sec. 505. Financial arrangements for low-level radioactive waste site closure.
"Sec. 506. Nuclear Regulatory Commission training authority.
"Sec. 507. Emplacement schedule.
"Sec. 508. Transfer of title.
"Sec. 509. Decommissioning pilot program.
"Sec. 510. Water rights.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"Sec. 601. Definitions.
"Sec. 602. Nuclear Waste Technical Review Board.
"Sec. 603. Functions.
"Sec. 604. Investigatory powers.
"Sec. 605. Compensation of members.
"Sec. 606. Staff.
"Sec. 607. Support services.
"Sec. 608. Report.
"Sec. 609. Authorization of appropriations.
"Sec. 610. Termination of the board.

"TITLE VII—MANAGEMENT REFORM

"Sec. 701. Management reform initiatives.
"Sec. 702. Reporting.

"SECTION 2. DEFINITIONS.

"For purposes of this Act:

"(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

"(2) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—

"(A) whose reservation is surrounded by or borders an affected unit of local government, or

"(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

"(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

"(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

"(A) Naval reactors development.

"(B) Weapons activities including defense inertial confinement fusion.

"(C) Verification and control technology.

"(D) Defense nuclear materials production.

"(E) Defense nuclear waste and materials byproducts management.

"(F) Defense nuclear materials security and safeguards and security investigations.

"(G) Defense research and development.

"(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

"(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

"(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

"(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

"(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

"(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

"(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

"(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

"(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' means man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

"(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

"(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

"(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

"(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

"(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

"(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

"(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

"(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within area 25 of the Nevada test site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

"(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

"(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

"(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

"(21) METRIC TONS URANIUM.—The term 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

"(22) NUCLEAR WASTE FUND.—The term 'Nuclear Waste Fund' and 'waste fund' means the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302 (c) of the Nuclear Waste Policy Act of 1982.

"(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

"(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

"(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

"(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

"(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

"(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

"(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

"(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

"TITLE I—OBLIGATIONS

"SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

"(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

"(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders for storage at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

"(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

"(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practies.

"(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Spent Nuclear Fuel Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

"(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

"(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

"(2) obligations imposed upon the Federal Government by the United States District

Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91-0054-S-EJL).

"(g) LIABILITY.—Subject to any valid existing right under subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

"SEC. 201. INTERMODAL TRANSFER.

"(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

"(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

"(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way along the 'Chalk Mountain Heavy Haul Route' depicted on the map dated March 13, 1996, and on file with the Secretary, necessary to commence intermodal transfer at Caliente, Nevada.

"(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

"(e) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

"(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

"(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

"(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

"(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

"(h) BENEFITS AGREEMENT.—

"(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with Lincoln County, Nevada, concerning the integrated management system.

"(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Lincoln County, Nevada.

"(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

"(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

"(5) LIMITATION.—Only one agreement may be in effect at any one time.

"(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

"(i) CONTENT OF AGREEMENT.—

"(1) SCHEDULE.—In addition to the benefits to which Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

"BENEFITS SCHEDULE

"(Amounts in millions)

"Event	Payment
"(A) Annual payments prior to first receipt of spent fuel	$2.5
"(B) Annual payments beginning upon first spent fuel receipt	5
"(C) Payment upon closure of the intermodal transfer facility	5

"(2) DEFINITIONS.—For purposes of this section, the term—

"(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

"(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

"(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

"(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

"(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

"(j) INITIAL LAND CONVEYANCES.—

"(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10; Lincoln County, parcel M, industrial park site.

Map 11; Lincoln County, parcel F, mixed use industrial site.

Map 13; Lincoln County, parcel J, mixed use, Alamo Community Expansion Area.

Map 14; Lincoln County, parcel E, mixed use, Pioche Community Expansion Area.

Map 15; Lincoln County, parcel B, landfill expansion site.

"(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"SEC. 202. TRANSPORTATION PLANNING.

"(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities beginning not later than November 30, 1999. As soon as is practicable following enactment of this Act, the Secretary shall analyze each specific reactor facility designated by contract holders in the order of priority established in the emplacement schedule, and develop a logistical plan to assure the Secretary's ability to transport spent nuclear fuel and high-level radioactive waste.

"(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning

shall provide a schedule and process for addressing and implementing as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

"(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

"(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

"(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

"(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the federal, state and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

"(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105. Carmen shall be designated to perform the inspection and testing of trains under the provisions of 49 CFR 215 and 232 at all initial terminals and intermediate inspection points. Members of an operating crew shall be trained to perform the cursory inspection and testing required on cars picked up at outlying points under the provisions of 49 CFR 215 appendix D and 232.

"(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that evidence of satisfaction of the applicable training standard, through certification or other means, be provided to an employer before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

"(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

"(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

"(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

"(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal, transportation, interim storage, and permanent disposal of spent nuclear fuel and high-level radioactive waste.

"(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

"SEC. 204. INTERIM STORAGE.

"(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

"(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

"(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

"(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

"(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

"(i) the preliminary design concept for the critical elements of the repository and waste package,

"(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the respository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act.

"(iii) a plan and cost estimate for the remaining work required to complete a license application, and

"(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept.

"(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19) of this Act shall be deemed to be approved by law for purposes of this section.

"(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

"(c) DESIGN.—

"(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility

and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

"(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

"(d) LICENSING.—

"(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commerce operations no later than November 30, 1999.

"(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

"(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not complete the viability assessment of the Yucca Mountain site by June 30, 1998, or submit the license application for construction of a respository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

"(e) ADDITIONAL AUTHORITY.—

"(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

"(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

"(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated Mar. 1995 (DOE/RW-0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

"(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1996;

"(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

"(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

"(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

"(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction and operation of any facility, and facility use pursuant to paragraph (d)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—

"(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

"(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

"(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

"(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

"(i) the need for the interim storage facility, including any individual component thereof;

"(ii) the time of the initial availability of the interim storage facility;

"(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

"(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

"(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

"(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

"(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

"(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.).

"(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph (e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3) (A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

"(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

"SEC. 205. PERMANENT REPOSITORY.

"(a) REPOSITORY CHARACTERIZATION.—

"(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or

conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

"(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

"(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996. No later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

"(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

"(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

"(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

"(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

"(A) breaching the repository's engineered or geologic barriers; or

"(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

"(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

"(d) REPOSITORY LICENSING STANDARDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the repository and any such standards existing on the date of enactment of the Nuclear Waste Policy Act of 1996 shall not be incorporated in the Commission's licensing regulations. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2). The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

"(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

"(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

"(3) FACTORS.—For purposes of making the finding in paragraph (2)—

"(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

"(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

"(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site; in accordance with subsection (b)(4), shall be sufficient to—

"(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

"(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

"(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

"(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

"(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

"(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

"(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing

in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

"(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

"SEC. 206. LAND WITHDRAWAL.

"(a) WITHDRAWAL AND RESERVATION.—

"(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

"(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

"(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

"(b) LAND DESCRIPTION.—

"(1) BOUNDARIES.—The boundaries depicted on the map entitled 'Interim Storage Facility Site Withdrawal Map,' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

"(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

"(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

"(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

"(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

"(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

"(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

"(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

"(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"SEC. 207. PERMANENT DISPOSAL ALTERNATIVES.

"(a) STUDY.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall report to Congress on alternatives for the permanent disposal of spent nuclear fuel and high-level radioactive waste. The report under this section shall include—

"(1) an assessment of the current state of knowledge of alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of research and development of alternative technologies;

"(3) an analysis of institutional factors associated with alternative technologies, including international aspects of a decision of the United States to proceed with the development of alternative technologies (including nuclear proliferation concerns) as an option for nuclear waste management and disposal;

"(4) a full discussion of environmental and public health and safety aspects of alternative technologies;

"(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to alternative technologies; and

"(6) the recommendations of the Secretary with respect to research, development, and demonstration of the most promising alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste.

"(b) OFFICE OF NUCLEAR WASTE DISPOSAL RESEARCH.—(1) There is hereby established an Office of Nuclear Waste Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

"(2) The Director of the Office of Nuclear Waste Research shall be responsible for carrying out research, development, and demonstration activities on alternative technologies for the treatment and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Act of 1996.

"(3) In carrying out his responsibilities under this Section, the Secretary may make grants to, or enter into contracts with, the Nuclear Waste Research Consortium described in paragraph (4) of this section and other persons.

"(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall establish a university-based Nuclear Waste Disposal Consortium involving leading universities and institutions, national laboratories, the commercial nuclear industry, and other organizations to investigate technical and institutional feasibility of alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste.

"(B) The Nuclear Waste Disposal Consortium shall develop a research plan and budget to achieve the following objectives by 2005:

"(i) identify promising alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste.

"(ii) conduct research and develop conceptual designs for promising alternative technologies, including estimated costs and institutional requirements for continued research and development; and

"(iii) identify and assess potential impacts of promising alternative technologies on the environment.

"(C) In 2000, and again in 2005, the Nuclear Waste Disposal Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2).

"(5) The Director of the Office of Nuclear Waste Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

"TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

"(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

"(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

"(2) to develop a request for impact assistance under subsection (c);

"(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

"(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

"(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

"(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

"(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

"(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

"(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

"(d) OTHER ASSISTANCE.—

"(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

"(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

"(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

"(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

"(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

"The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

"(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

"(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

"(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any government unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

"None of the funding provided under this title may be used—

"(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

"(2) for litigation purposes; and

"(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305 LAND CONVEYANCES.

"(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under paragraph (1) to the County of Nye, Nevada:

Map 1; proposed Pahrump industrial park site.

Map 2; proposed Lathrop Wells (gate 510) industrial park site.

Map 3; Pahrump landfill sites.

Map 4; Amargosa Valley Regional Landfill site.

Map 5; Amargosa Valley Municipal Landfill site.

Map 6; Beatty Landfill/Transfer Station site.

Map 7; Round Mountain Landfill site.

Map 8; Tonopah Landfill site.

Map 9; Gabbs Landfill site.

"(c) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (1) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"(d) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

"(a) CONTRACTS.—

"(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

"(2) ANNUAL FEES.—

"(A) for electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt-hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

"(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

"(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatthour generated and sold.

"(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

"(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

"(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

"(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatthour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose

an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

"(b) ADVANCE CONTRACTING REQUIREMENT.

"(1) IN GENERAL.—

"(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

"(i) such person has entered into a contract under subsection (a) with the Secretary; or

"(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

"(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

"(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

"(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

"(c) NUCLEAR WASTE FUND.—

"(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

"(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

"(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

"(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsection (d) and (e), only for purposes of the integrated management system.

"(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

"(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

"(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

"(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

"(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

"(a) CONTINUATION OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

"(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"SEC. 403. FEDERAL CONTRIBUTION.

"(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

"(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

"(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

"(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors as established under subsection (a).

"(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors requiring management in the integrated management system.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors as established under subsection (a).

SEC. 404. BUDGET PRIORITIES.

"(a) THE SECRETARY.—For purposes of preparing annual requests for appropriations for the integrated management system and allocating funds among competing requirements, the Secretary shall give funding for the licensing, construction, and operation of the interim storage facility under section 204 and development of the transportation capability under sections 201, 202, and 203 the highest priority.

"(b) THE COMMISSION.—For purposes of preparing annual requests for appropriations for the integrated management system and allocating annual appropriations among competing requirements, the Commission shall allocate funds in accordance with the following prioritization:

"(1) The issuance of regulations for and the licensing of an interim storage facility under section 204 and any associated storage and/or transport systems to be used in the integrated management system shall be accorded the highest priority; and

"(2) the licensing of the repository under section 205 shall be accorded the next highest priority.

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

"If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

"(1) complying with such requirement and a requirement of this Act is impossible; or

"(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

"(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

"(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

"(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

"(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

"(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

"(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

"(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

"(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

"(b) ADJUDICATORY HEARING.—

"(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

"(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

"(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

"(2) DETERMINATION.—In making a determination under this subsection, the Commission—

"(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

"(B) shall not consider—

"(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

"(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site; unless

"(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

"(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

"(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

"(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

"(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

"(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

"SEC. 504. SITING A SECOND REPOSITORY.

"(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

"(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

"(a) FINANCIAL ARRANGEMENTS.—

"(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

"(2) BONDING, SURETY OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

"(b) TITLE AND CUSTODY.—

"(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

"(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

"(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

"(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

"(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

"(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with

the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

"SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

"The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

"SEC. 507. EMPLACEMENT SCHEDULE.

"(a) The emplacement schedule shall be implemented in accordance with the following:

"(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

"(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2,000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

"(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in paragraph (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

"(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

"(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

"SEC. 508. TRANSFER OF TITLE.

"(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

"(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.

"SEC. 509. DECOMMISSIONING PILOT PROGRAM.

"(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

"(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

"SEC. 501. WATER RIGHTS.

"(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

"(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

"(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

"For purposes of this title—

"(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) Board.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

"(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

"(b) MEMBERS.—

"(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

"(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

"(3) NATIONAL ACADEMY OF SCIENCES.—

"(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C) NOMINEES.—

"(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

"(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

"The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

"(1) site characterization activities; and

"(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

"SEC. 604. INVESTIGATORY POWERS.

"(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not be required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

"(b) PRODUCTION OF DOCUMENTS.—

"(1) RESPONSE TO INQUIRES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such record, files, papers, data, or information that is generally available to the public as may be necessary to respond to any inquiry of the Board under this title.

"(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) shall be limited to final work products of the secretary, but may include drafts of such products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

"(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

"(a) CLERICAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

"(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

"(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 607. SUPPORT SERVICES.

"(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 608. REPORT.

"The Board shall report not less than two times per year to Congress and the Secretary its findings, conclusions, and recommendations.

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

"SEC. 610. TERMINATION OF THE BOARD.

"The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

"TITLE VII—MANAGEMENT REFORM

"SEC. 701. MANAGEMENT REFORM INITIATIVES.

"(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business. Notwithstanding any other provision of law, the civilian radioactive waste management program is not subject to laws or regulations concerning the civil service as described in this title.

"(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT EMPLOYEES.—

"(1) COMPENSATION.—The Secretary shall, without regard to section 5301 of title 5, United States Code, fix the compensation of the Director and the Deputy Director of Office of Civilian Radioactive Waste Management. The Director shall, without regard to section 5301 of title 5, United States Code, fix the compensation for all other Federal employees assigned to the Office of Civilian Radioactive Waste Management, define their duties, and provide for a system of organization to fix responsibility and promote efficiency. The Deputy Director may be removed at the Director's discretion without regard to any laws, rules, or regulations concerning personnel actions in the Civil Service System or Senior Executive Service. Any other Federal employee assigned to the Office of Civilian Radioactive Waste Management may be removed at the discretion of the Secretary or Director without regard to any laws, rules, or regulations concerning personnel actions in the Civil Service System or Senior Executive Service. The Secretary shall ensure that Federal employees assigned to the Office of Civilian Radioactive Waste Management are appointed, promoted, and assigned on the basis of merit and fitness. Other personnel actions shall be consistent with the principles of fairness and due process specified in title 5 of the United States Code, but without regard to those provisions of said title governing appointments and other personnel actions in the competitive service.

"(2) APPLICATION.—The provisions of paragraph (1) shall not apply to Federal employees who may be, from time to time, temporarily assigned to the Office of Civilian Radioactive Waste Management. The use of temporary assignment of Federal employees to the Office of Civilian Radioactive Waste Management shall not be used in any manner to circumvent the full application of the provisions in paragraph (1).

"(3) TRANSITION.—The Secretary shall transition the Federal employees assigned to the Office of Civilian Radioactive Waste Management to the provisions of this section in an orderly manner allowing for the development of the needed procedures. Under no circumstances shall this transition take longer than 6 months from the date of enactment of this Section.

"(4) RETENTION OF BENEFITS.—Federal employees assigned to the Office of Civilian Radioactive Waste Management and transitioned to the provisions of this section shall retain employment benefits in effect immediately prior to the transition date. Transitioned employees will continue in the Civil Service System's retirement system.

"(c) AUDITS.—

"(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

"(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporation engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1995.

"(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

"(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

"(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

"(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

"(g) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

"(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Management System. Such report shall include—

"(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the emplacement schedule;

"(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligation under this Act and the contracts;

"(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

"(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

"(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annul reports shall be brief and shall notify the Congress of:

"(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

"(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

"(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.".

LEVIN AMENDMENTS NOS. 4846–4847

(Ordered to lie on the table.)

Mr. LEVIN submitted two amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4846

On page 19, at the end of line 19, add the following: "This subsection shall not apply to bar any action seeking declaratory or equitable relief or any other remedy or for a determination of financial liability limited to the total amount of the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, in addition to prospective fee collections and interest, that remain unexpended for storage and disposal activities under the Nuclear Waste Policy Act of 1982 and this Act, in the case of a material failure by the Secretary in meeting the deadlines established by this Act.".

AMENDMENT NO. 4847

On page 13, strike lines 14 through 19.

INHOFE AMENDMENTS NOS. 4848–4849

(Ordered to lie on the table.)

Mr. INHOFE submitted two amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4848

At the appropriate place in the bill insert the following new section:

SEC. . LIMITATION ON PARTICIPATION BY MEMBERS OF CONGRESS IN FEDERAL RETIREMENT SYSTEMS.

(a) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) LIMITATION.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8410 the following:

"§ 8410a. Limitation relating to Members

"(a)(1) This section shall apply with respect to any Member serving as—

"(A) a Member of the House of Representatives after completing 12 years of service as a Member of the House of Representatives; or

"(B) a Senator after completing 12 years of service as a Senator.

"(2) For purposes of this subsection—

"(A) only service performed after the 104th Congress shall be taken into account; and

"(B) service performed while subject to subchapter III of chapter 83 (if any) shall be treated in the same way as if it had been performed while subject to this chapter.

"(b) A Member to whom this section applies remains subject to this chapter, except as follows:

"(1)(A) Deductions under section 8422 shall not be made from any pay for service performed as such a Member.

"(B) Government contributions under section 8423 shall not be made with respect to any such Member.

"(C) Service performed as such a Member shall not be taken into account for purposes of any computation under section 8415.

"(2) Government contributions under section 8432(c) shall not be made with respect to any period of service performed as such a Member.

"(c) Nothing in subsection (b) shall be considered to prevent any period of service from being taken into account for purposes of determining whether any age and service requirements for entitlement to an annuity have been met.

"(d) For purposes of this section, the term 'Member of the House of Representatives' includes a Delegate to the House of Representatives and the Resident Commissioner from Puerto Rico.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8410 the following:

"8410a. Limitation relating to Members.".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) LIMITATION.—Chapter 83 of title 5, United States Code, is amended by inserting after section 8333 the following:

"§ 8333a. Limitation relating to Members

"(a)(1) This section shall apply with respect to any Member serving as—

"(A) a Member of the House of Representatives after completing 12 years of service as a Member of the House of Representatives; or

"(B) a Senator after completing 12 years of service as a Senator.

"(2) For purposes of subsection (a), only service performed after the 104th Congress shall be taken into account.

"(b)(1) A Member to whom this section applies remains subject to this subchapter, except as follows:

"(A) Deductions under the first sentence of section 8334(a) shall not be made from any pay for service performed as such a Member.

"(B) Government contributions under the second sentence of section 8334(a) shall not be made with respect to any such Member.

"(C) Service performed as such a Member shall not be taken into account for purposes of any computation under section 8339, except in the case of a disability annuity.

"(2) Nothing in this subsection shall be considered to prevent any period of service from being taken into account for purposes of determining whether any age and service requirements for entitlement to an annuity have been met.

"(c) Nothing in subsection (b) or (c) of section 8333 shall apply with respect to a Member who, at the time of separation, is a Member to whom this section applies.

"(d) For purposes of this section, the term 'Member of the House of Representatives' includes a delegate to the House of Representatives and the Resident Commissioner from Puerto Rico.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8333 the following:

"8333a. Limitation relating to Members of the House of Representatives.".

AMENDMENT NO. 4849

At the appropriate plea, insert:

SEC. . FINDINGS.

The Congress finds that—

(1) over 10,000,000 people in the world are amputees, and each year more than 250,000 people become amputees;

(2) thousands of citizens of the United States depend on the availability of prosthetic devices in order to function fully in contemporary society;

(3) a sizable number of amputees are unable to afford adequate prosthetic care;

(4) used prosthetic devices could be recycled for reuse by amputees in the United States, but, because of the potential liability of providers of those prosthetic devices, the prosthetic devices are shipped to Third World countries;

(5) making recycled prosthetic devices available to economically disadvantaged amputees would enable those amputees to live more comfortably and function fully;

(6) nonprofit organizations would be uniquely suited to provided recycled prosthetic devices to amputees, if they could be enabled to do so in a cost-efficient manner;

(7) in order to enable nonprofit organizations to provide recycled prosthetic devices to amputees in a cost-efficient manner, immediate action is needed to—

(A) limit the liability of nonprofit organizations in serving as providers of recycled prosthetic devices; and

(B) minimize the cost of litigation against those providers by establishing expeditious procedures to dispose of unwarranted actions.

SEC. . DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf such action is brought, arising from harm allegedly caused directly or indirectly by a recycled prosthetic device.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action arising from harm caused directly or indirectly by a recycled prosthetic device brought on behalf of or through the estate of an individual, such term includes the decedent that is the subject of the action.

(2) HARM.—With respect to harm caused by a recycled prosthetic device, the term "harm" includes any physical injury, illness, disease, or death or damage to property caused by that prosthetic device.

(3) NONPROFIT PROVIDER.—The term "nonprofit provider" means an organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code; and

(B) established for the purpose of providing prosthetic devices to economically disadvantaged individuals.

(4) PRACTITIONER.—The term "practitioner" means a health care professional associated with, employed by, under contract with, or representing a nonprofit provider who—

(A) is required to be licensed, registered or certified under an applicable Federal or State law (including any applicable regulation) to provide health care services; or

(B) is certified to provide health care pursuant to a program of education, training, and examination by an accredited institution, professional board, or professional organization.

(5) PROSTHETIC DEVICE.—The term "prosthetic device" means a mechanical or other apparatus used as an artificial limb for amputees.

(6) RECYCLED PROSTHETIC DEVICE.—The term "recycled prosthetic device" means a previously used prosthetic device that—

(A) has been reconditioned for use by a different amputee;

(B) other than as provided under subparagraph (C), has not been materially altered; and

(C) if altered, has been altered only with respect to the socket, frame, or any additional materials used to attach the prosthetic device to the amputee.

SEC. . APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—Notwithstanding any other provision of law, this Act applies to

any civil action brought by a claimant in a Federal or State court against a nonprofit provider or practitioner for harm allegedly caused by a recycled prosthetic device.

(b) PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law (including any rule of procedure) applicable to the recovery of damages in an action brought against a nonprofit provider or practitioner for harm caused by a recycled prosthetic device.

(2) OTHER ISSUES.—Any issue that is not covered by this Act shall be governed by applicable Federal or State law.

SEC. . LIMITATION OF LIABILITY OF NONPROFIT PROVIDERS AND PRACTITIONERS.

(a) IN GENERAL.—Except as provided in paragraph (2), a nonprofit provider shall not be liable for harm to a claimant caused by a recycled prosthetic device.

(b) EXCEPTION.—A court shall find a nonprofit provider or practitioner liable for harm caused by a recycled prosthetic device only if the claimant establishes that, the nonprofit provider or practitioner engaged in an intentional wrongdoing (as determined under applicable State law) that was the proximate cause of such harm.

SEC. . PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST NONPROFIT PROVIDERS.

In any action that is subject to this Act, a nonprofit provider or practitioner who is a defendant in such action, may, at any time during which a motion to dismiss may be filed under applicable Federal or State law, move to dismiss the action.

PRESSLER AMENDMENTS NOS. 4850–4851

(Ordered to lie on the table.)

Mr. PRESSLER submitted two amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4850

Beginning on page 24, strike line 8 and all that follows through page 25.

AMENDMENT NO. 4851

Beginning on page 24, strike line 8 and all that follows through page 25, line 11, and insert the following:

"(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of sections 20109 and 31105 of title 49 United States Code. Qualified persons shall perform the inspection and testing of trains under the provisions of sections 215 and 232, Code of Federal Regulations, and shall be trained pursuant to the standard required by section 203(g).

"(g) TRAINING STANDARD.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require evidence of satisfaction of the applicable training standard before any individual may be employed in the removal or transportation of spent nuclear fuel and high-level radioactive waste.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

SIMON ANENDMENT NO. 4852

Mr. SIMON proposed an amendment to the bill, S. 1894, supra; as follows:

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 650), is amended under the heading "NATIONAL SECURITY EDUCATION TRUST FUND" by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

"(A) awarding scholarships to undergraduate students who—

"(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

"(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;"; and

(2) in subparagraph (B)—

(A) in clause (i), by inserting "relating to the national security interests of the United States" after "international fields"; and

(B) in clause (ii)—

(i) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(2)(B)"; and

(ii) by striking out "work for an agency or office of the Federal Government or in" and inserting in lieu thereof "work for, and make their language skills available to, an agency or office of the Federal Government or work in".

(c) SERVICE AGREEMENT.—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out ", or of scholarships" and all that follows through "12 months or more," and inserting in lieu thereof "or any scholarship".

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

"(2) will—

"(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

"(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

"(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

"(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.".

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting ", including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities" before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out "Make recommendations" and inserting in lieu thereof "After taking into account the annual analyses of

trends in language, international, and area studies under section 806(b)(1), make recommendations";

(B) in subparagraph (A), by inserting "and countries which are of importance to the national security interests of the United States" after "are studying"; and

(C) in subparagraph (B), by inserting "relating to the national security interests of the United States" after "of this title";

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by inserting after paragraph (4) the following new paragraphs:

"(5) Encourage applications for fellowships under this title from graduate students having an educational background in disciplines relating to science or technology.

"(6) Provide the Secretary on an on-going basis with a list of scholarship recipients and fellowship recipients who are available to work for, or make their language skills available to, an agency or office of the Federal Government having national security responsibilities.".

(f) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall also include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

THE NUCLEAR WASTE POLICY ACT OF 1982 AMENDMENT ACT OF 1996

MURKOWSKI AMENDMENTS NOS. 4853–4882

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted 30 amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4853

On page 2, strike "TITLE II—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT SYSTEM" and insert "TITLE II—INTEGRATED MANAGEMENT SYSTEM"

AMENDMENT NO. 4854

On page 18, line 17, strike "plan" and insert "agreement".

AMENDMENT NO. 4855

On page 20, line 3, strike "date" and insert "dated".

AMENDMENT NO. 4856

On page 20, beginning on line 16, after "descriptions" insert "of".

AMENDMENT NO. 4857

On page 22, line 5, strike "nuclear waste;" and insert "high level radioactive waste,".

AMENDMENT NO. 4858

On page 22, line 22, after "waste for" insert "training for".

AMENDMENT NO. 4859

Beginning on page 24, line 20, strike "(g) TRAINING STANDARD.—" and all that follows through line 23 on page 25, and insert—

"(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. the regulation shall require that evidence of satisfaction of the applicable training standard, through certification or other means, be provided to an employer before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.".

AMENDMENT NO. 4860

On page 38, line 12, strike "(d)(3)(A)" and insert "(e)(3)(A)".

AMENDMENT NO. 4861

On page 39, line 20, strike ". No" and insert ", no".

AMENDMENT NO. 4862

Beginning on page 24, line 20, strike "(g) TRAINING STANDARD.—" and all that follows through line 23 on page 25, and insert—

"(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that evidence of satisfaction of the applicable training standard, through certification or other means, be provided to an employer before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.".

AMENDMENT NO. 4863

At page 27, line 8, strike "by January 31, 1999" and insert "in accordance with subsection (b)".

AMENDMENT NO. 4864

On page 27, line 11, strike "accepting" and insert "storing".

AMENDMENT NO. 4865

On page 28, line 1, strike "size," and insert "size".

AMENDMENT NO. 4866

On page 29, line 21, strike "accepting" and insert "storing".

AMENDMENT NO. 4867

On page 32, line 21, strike "subsection (a)" and insert "this section".

AMENDMENT NO. 4868

On page 34, line 1, after "1996," insert "as set forth in the Secretary's annual capacity report dated March, 1995 (DOE/RW–0457),".

AMENDMENT NO. 4869

On page 55, line after "system" insert "on".

AMENDMENT NO. 4780

On page 57, beginning on line 24, strike "representatives" and insert "representatives".

AMENDMENT NO. 4871

On page 58, line 5 strike "denied" and insert "implied".

AMENDMENT NO. 4872

On page 60, line 22, strike "special conveyances referred to in paragraph (2)" and insert "of special conveyances referred to in subsection (b)".

AMENDMENT NO. 4873

On page 72, beginning on line 1, strike "costs of the management" and all that follows through line 16, and insert the following—

"costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors as established under subsection (a).

"(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors requiring management in the integrated management system.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors as established under subsection (a).".

AMENDMENT NO. 4874

On page 73, beginning on line 2, strike "from the Nuclear Waste Fund" and insert "for the integrated management system".

AMENDMENT NO. 4875

On page 73, beginning on line 9, strike "205 and" and all that follows through "priority." on line 13, and insert—

"204 and any associated storage and/or transport systems to be used in the integrated

management system shall be accorded the highest priority, and

"(2) the licensing of the repository under section 205 shall be accorded the next highest priority.".

AMENDMENT NO. 4876

On page 84, beginning on line 21, strike "(b) If the Secretary" and all that follows through "paragraph (a)," on line 25 and insert—

"(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a)".

AMENDMENT NO. 4877

On page 86, line 3, strike "DOE" and all that follows through "site." on line 4, and insert "the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.".

AMENDMENT NO. 4878

On page 86, line 4, strike the quotation mark following "site.".

AMENDMENT NO. 4879

On page 88, line 22, strike "persons" and insert "person".

AMENDMENT NO. 4880

On page 100, line 2, strike "Waste".

AMENDMENT NO. 4881

Beginning on page 100, line 4, strike "(1) an analysis" and all that follows through line 19, and insert—

"(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the emplacement schedule;

"(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

"(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

"(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.".

AMENDMENT NO. 4882

On page 101, line 8, strike "ensuring" and insert "ensuing".

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

GORTON AMENDMENT NO. 4883

Mr. GORTON proposed an amendment to the bill, S. 1894, supra; as follows:

On page 29, line 20, strike out "Forces." and insert in lieu thereof "Forces: *Provided further*, That of the funds appropriated in this paragraph, $7,500,000 shall be available for 1.5 ship years in the university research fleet under the Oceanographic and Atmospheric Technology program.".

FEINSTEIN AMENDMENT NO. 4884

Mr. INOUYE (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 29, line 20, strike out "Forces." and insert in lieu thereof "Forces: *Provided further*, That of the funds available under this paragraph, $12,000,000 is available for the Pulse Doppler Upgrade modification to the AN/SPS–48E radar system.".

HEFLIN (AND SHELBY) AMENDMENT NO. 4885

Mr. INOUYE (for Mr. HEFLIN, for himself and Mr. SHELBY) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 31, line 6, strike out "1998." and insert in lieu thereof "1998: *Provided*, That of the funds appropriated in this paragraph, $3,000,000 is available for the Operational Field Assessment Program.".

SANTORUM AMENDMENT NO. 4886

Mr. STEVENS (for Mr. SANTORUM) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 30, line 2, before the period at the end insert ": *Provided*, That of the funds appropriated in this heading, $3,000,000 shall be available for acceleration of a program to develop thermally stable jet fuels using chemicals derived from coal".

BENNETT AMENDMENT NO. 4887

Mr. STEVENS (for Mr. BENNETT) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 29, line 20, strike "Forces" and insert in lieu thereof "Forces: *Provided further*, That of the funds available under this heading, $1,000,000 is available for evaluation of a non-developmental Doppler sonar velocity log".

BYRD AMENDMENT NO. 4888

Mr. INOUYE (for Mr. BYRD) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 33, line 2, before the period at the end insert ": *Provided, further*, That of the funds appropriated under this heading, $10,000,000 shall be available for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between the complex of illnesses and symptoms commonly known as "Gulf War syndrome" and the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War".

THE GAMBLING IMPACT STUDY COMMISSION ACT

STEVENS AMENDMENT NO. 4889

Mr. LOTT (for Mr. STEVENS) proposed an amendment to the bill (S. 704) to establish the Gambling Impact Study Commission; as follows:

Beginning on page 16, line 25, strike "as the" and all the follows through "(b)(2)" on page 17, line 2.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

DODD AMENDMENT NO. 4890

Mr. INOUYE (for Mr. DODD) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 29 on line 20 strike the period and insert in lieu thereof: ": Provided further that up to $10 million of funds appropriated in this paragraph may be used to initiate engineering and manufacturing development for the winning airborne mine countermeasure system."

BUMPERS (AND OTHERS) AMENDMENT NO. 4891

Mr. BUMPERS (for himself, Mr. FEINGOLD, and Mr. KOHL) proposed an amendment to the bill, S. 1894, supra; as follows:

On page 22, strike lines 3 through 4, and insert in lieu thereof the following : "$7,005,704,000, to remain available for obligation until September 30, 1999: Provided, that of the funds made available under this heading, no more than $225,000,000 shall be expended or obligated for F/A–18C/D aircraft."

FEINGOLD (AND OTHERS) AMENDMENT NO. 4892

Mr. STEVENS (for Mr. FEINGOLD, for himself, Mr. KOHL, Mr. BUMPERS, Mr. STEVENS, and Mr. INOUYE) proposed an amendment to the bill, S. 1894, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. 8099. (a) Not more than 90 percent of the funds appropriated or otherwise made available by this Act for the procurement of F/A–18E/F aircraft may be obligated or expended for the procurement of such aircraft until 30 days after the Secretary of Defense has submitted to the Congressional defense committees a report on the F/A–18E/F aircraft program which contains the following:

(1) A review of the F/A–18E/F aircraft program.

(2) An analysis and estimate of the production costs of the program for the total number of aircraft realistically expected to be procured at each of four annual production rates as follows:

(a) 18 aircraft.

(b) 24 aircraft.

(c) 36 aircraft.

(d) 48 aircraft.

(3) A comparison of the costs and benefits of the F/A–18E/F program with the costs and benefits of the F/A–18C/D aircraft program talking into account the operational combat effectiveness of the aircraft.

(b) Not later than 30 days after the Secretary of Defense has submitted the report required by subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees an analysis of the report submitted by the Secretary.

LEVIN AMENDMENT NO. 4893

Mr. LEVIN proposed an amendment to the bill, S. 1894, supra; as follows:

On page 26, line 10, strike out "$6,630,370,000" and insert in lieu thereof "$6,582,370,000".

SEC. 8100. None of the funds appropriated under title III of this Act may be obligated or expended for more than six new production F-16 aircraft.

SEC. . The $48,000,000 reduction of funds for F-16 aircraft in excess of six new production aircraft shall be made available for funding for the emergency anti-terrorism program element established in Sec. 8099 of this Act.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Thursday, July 18, 1996, beginning at 9:30 a.m. to conduct a markup and hearing on the following: Committee markup of S. 1264, the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1995; S. 1834, the Indian Environmental General Assistance Program Act of 1992, Reauthorization; S. 1869, the Indian Health Care Improvement Technical Corrections Act of 1996; and the Indian Child Welfare Act Amendments of 1996, to be followed immediately by a hearing on H.R. 2464, Utah Schools and Land Improvement Act, Amendment, and S. 1893, the Torres-Martinez Desert Cahuilla Indians Claims Settlement Act. The markup/hearing will be held in Room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Wednesday, July 24, 1996 at 9:30 a.m. in SR-328A to markup S. 1166, the Food Quality Protection Act.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, July 24, 1996, at 9:30 a.m. to hold a hearing on Public Access to Government Information in the 21st Century, Title 44/GPO.

For further information concerning this hearing, please contact Joy Wilson of the Rules Committee staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 17, 1996, to conduct a hearing on S. 1009, the Financial Instruments Anti-Fraud Act.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, July 17, 1996, session of the Senate for the purpose of conducting a hearing on Federal Aviation Administration safety oversight.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 17, at 10:30 a.m.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, July 17, at 3 p.m. for a hearing on the National Fine Center.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 17, 1996, at 10 a.m. to hold a hearing on the Development of State Criminal Identification Systems.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, July 17, 1996, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 17, 1996, at 9:30 a.m. to hold an open hearing on Intelligence Matters and at 2 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Government Affairs, be permitted to meet during a session of the Senate, Wednesday, July 17, 1996, at 9:30, to hold a hearing on oversight of the implementation of the Information Technology Management Reform Act of 1996.

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

ADDITIONAL STATEMENTS

TRIBUTE TO JOHN CHANCELLOR

• Mr. MOYNIHAN. Mr. President, as the Senate knows, John Chancellor died last Friday at age 68. He was so much a part of our lives for over 40 years as an NBC news commentator and anchor. We are diminished by his death, and yet, as Tom Brokaw suggested, enhanced by the realization of just how great a legacy he leaves. A legacy, Mr. Brokaw stated, that "will always be secure."

He was in some measure Irish; at least he once told me of a grandmother who had taught him to hate Oliver Cromwell. Which he must have done, and in so doing, evidently used up all the hate he had in him. For there was nothing else but love: for the life he lived, and the people he lived it with. Most especially, of course, his wife Barbara and their three children. Yeats once wrote of a man who was blessed and had the power to bless. Such a man was John Chancellor.

He was a friend of 30 years and more. From first to last, one sensed in him a deep confidence that American democracy would prove itself in whatever crisis it faced; just as he would do. He faced many; always with grace and afterward, grand "rollicking" recollections, as Tom Brokaw put it. David Broder captures that quality in his column this morning.

Many of us in print journalism lost a great friend last week in John Chancellor. He hung out with the political reporters who had nowhere near his celebrity because he always thought of himself as a reporter and he wanted to be with people who were more interested in the stories they were covering than in stroking their own reputations. He was modest and funny and generous in his praise. No journalist of his era enjoyed greater trust and affection from his colleagues—or the people he covered. And none deserved it more.

The Senate honors his memory and salutes his legacy.•

KOREA VISA WAIVER PILOT PROGRAM

• Mr. D'AMATO. I am pleased to join as co-sponsor of the Korea Visa Waiver Pilot Program, S. 1616. This bill authorizes the United States to allow tourists from South Korea to enter the United States without a visa. This Korea visa waiver will create a new and easier system for Korean citizens that want to visit the United States. The usual delays that presently accompany a request for a U.S. visa from the U.S. Embassy in Seoul will now be avoided.

The Visa Waiver Pilot Program was first established in 1986 in order to encourage growth in the tourism industry. Since its inception, citizens from certain countries are able to enjoy travel to the United States for short visits without the hassles of waiting for a visa. This legislation will extend this treatment to the Republic of Korea, in addition to the three countries in the Asia-Pacific region.

The bill would allow certain travel agencies in Korea to issue temporary travel permits to tour groups, of stays no longer than 15 days. The visitor must possess a round-trip ticket and certain other requirements are imposed to insure that these visitors return home. These requirements should satisfy the critics who are fearful of the overstayers.

Overseas tourism must be encouraged, for our culture and for our economy. The boost by travelers to the United States will benefit everyone. South Korean travelers will have this positive impact on the travel industry in this country.

When Canada and New Zealand relaxed their visas for South Korean citizens, those nations saw a massive increase in tourism. According to 1994 estimates cited by the American Chamber of Commerce in Korea, Koreans ranked 10th out of all nations in terms of the number of visitors to the United States. This visa-free travel from South Korea will only serve this country's interest.

Korea is important to the United States: Korea has been the 6th largest United States trading partner and has the 11th largest economy in the world. The Chamber of Commerce in Korea expects that demand for travel to the United States by Koreans may increase. This should be encouraged, rather than discouraged, especially when other countries are offering Korean travelers visa-free travel.

I encourage my colleagues to look into the merits of this legislation and support its ultimate passage.•

COMMANDER JOHN J. JASKOT

Mr. JOHNSTON. Mr. President, I rise today on behalf of myself and Senator BREAUX to say thank you to a dedicated public servant whose career serves to remind us that it is honest hard work and devotion to duty that makes this Government work.

Comdr. John J. Jaskot, United States Coast Guard, has served on Capitol Hill since 1992, first as a Coast Guard Congressional Fellow to the Senate Appropriations Subcommittee on Transportation and most recently as the Coast Guard's Liaison Officer to the U.S. Senate. During his tenure on Capitol Hill, Commander Jaskot has proven his unquestionable integrity and steadfast loyalty while demonstrating the tireless commitment to putting forth the effort required to make a difference.

Mr. President, Senator BREAUX and I, and our staffs, have worked extensively with Commander Jaskot in achieving our shared objectives. In cases where those objectives were not mutually shared, it has been Commander Jaskot who has helped bridge the gap between the Senate and the Coast Guard. His untiring work ethic and creativity have helped find solutions to some challenging problems which would otherwise have tarnished the already embattled reputation of the Federal Government.

On issues specific to Louisiana, Commander Jaskot has ensured that a proper dialog has been maintained on tough issues such as the enforcement of the use of the contentious Turtle Excluder Devices [TEDs] by the Gulf Coast shrimping fleet, the placement of aides to navigation on the newly opened Red River Waterway, and the replacement of the dangerous Florida Avenue Bridge. He has made similar efforts on issues of national and international scope such as the implementation of the Oil Pollution Act of 1990, the Haitian and Cuban refuge crises, and maintaining funding to help keep our waterways operating safely.

More importantly, Mr. President, through his hard work, ingenuity, integrity, and genuine good nature, Commander Jaskot has proven that it is people who really make the difference between a government that works for its people and one that fails. We can all learn from his example, that on local, as well as national issues, an individual can make a difference. Commander Jaskot certainly has.

Commander Jaskot is retiring after 20 years of highly decorated public service in the United States Coast Guard. Senator BREAUX and I thank him for his dedication to our country and wish he and his family "fair winds and following seas" in their future endeavors.

SYCAMORES HAVE BEEN FELLED; WE WILL GROW CEDARS INSTEAD

• Mr. MOYNIHAN. Mr. President, the Members of the Senate are familiar with Rabbi Adin Steinsaltz's historic contribution both to the field of Jewish scholarship and to the resurgence of Jewish life in the former Soviet Union. In 1989, Rabbi Steinsaltz founded the Judaic Studies Center and synagogue in the Kunseva section of Moscow, the first such new school in the Soviet Union since the 1917 Bolshevik Revolution. I am privileged to serve on the center's board of advisors and to have hosted Rabbi Steinsaltz on his all-too-infrequent trips to Washington, DC.

It is my unpleasant duty to share with the Senate the disturbing news that a fire of undetermined nature broke out last Friday night, July 12, in Rabbi Steinsaltz's Judaic Studies Center. All 50 students and worshipers in the building at the time were safely evacuated. Except for the Torah scrolls which were saved from the raging flames, the entire building was destroyed, including thousands of books and other equipment.

The center had been a focal point of Russian Jewish life since its establishment. It was the key spiritual center for thousands and the first Jewish institution of learning officially permitted to function during the Glasnost period. During its years of operation, more than 1,000 Russian Jews were enrolled in intensive Judaic studies courses and many thousands more attended seminars and workshops. On Jewish holidays hundreds of Jews flocked there for communal celebrations.

When the fire broke out, the center was hosting a seminar for Jewish communal workers from cities and towns throughout the Commonwealth of Independent States (CIS). Cities such as Chellabinsk, Siberia, Berditchev, Ukraine, and Vitebsk, Belarus, had sent one representative each for an intensive 3-month course in Jewish and communal service studies. Graduates of this program are expected to return to their native cities—far from the major Jewish centers—and apply what they have learned.

Rabbi Steinsaltz, who is best known for his monumental modern commentary on the Talmud, was recently given the title of Duchovny Ravin—an historic title connoting the spiritual leader of Russian Jewry.

In Jerusalem, Rabbi Steinsaltz responded to the news by quoting Isaiah 9:9. "Bricks have fallen—we will rebuild with dressed stone. Sycamores have been felled—we will grow cedars instead."

I know I speak for the entire Senate and for all Americans who cherish religious freedom and scholarship when I add my words of consolation and encouragement to Rabbi Steinsaltz on this occasion.•

MEASURE HELD AT THE DESK—S. 1965

Mr. STEVENS. On behalf of the leader, I ask unanimous consent that S. 1965, introduced earlier today by Senator HATCH, be held at the desk and printed in the RECORD.

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

TO RECOGNIZE AND HONOR FILIPINO WORLD WAR II VETERANS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be immediately discharged from further consideration of Senate Concurrent Resolution 64 and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 64) to recognize and honor the Filipino World War II veterans for their defense of democratic ideals and their important contribution to the outcome of World War II.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. I ask unanimous consent the concurrent resolution be agreed to, the motion to reconsider be laid on the table, and any statements relating to the concurrent resolution appear in the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 64) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 64

Whereas the Commonwealth of the Philippines was strategically located and thus vital to the defense of the United States during World War II;

Whereas the military forces of the Commonwealth of the Philippines were called into the United States Armed Forces during World War II by Executive order and were put under the command of General Douglas MacArthur;

Whereas the participation of the military forces of the Commonwealth of the Philippines in the battles of Bataan and Corregidor and in other smaller skirmishes delayed and disrupted the initial Japanese effort to conquer the Western Pacific;

Whereas that delay and disruption allowed the United States the vital time to prepare the forces which were needed to drive the Japanese from the Western Pacific and to defeat Japan;

Whereas after the recovery of the Philippine Islands from Japan, the United States was able to use the strategically located Commonwealth of the Philippines as a base from which to launch the final efforts to defeat Japan;

Whereas every American deserves to know the important contribution that the military forces of the Commonwealth of the Philippines made to the outcome of World War II; and

Whereas the Filipino World War II veterans deserve recognition and honor for their important contribution to the outcome of World War II: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should issue a proclamation which recognizes and honors the Filipino World War II veterans for their defense of democratic ideals and their important contribution to the outcome of World War II.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INOUYE. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 575 and all nominations placed on the Secretary's desk.

I ask further unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. STEVENS. Reserving the right to object, I might add this confirms the nomination of Charles Clevert, Jr, of Wisconsin, and the nominations placed on the Secretary's desk are in the Public Health Service area.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Charles N. Clevert, Jr., of Wisconsin, to be U.S. District Judge for the Eastern District of Wisconsin vice Terence T. Evans, elevated.

IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Michael M. Gottesman, and ending Willard E. Dause, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 1, 1996.

Public Health Service nominations beginning John M. Balintona, and ending Kimberly S. Stolz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 10, 1996.

NOMINATION OF CHARLES N. CLEVERT, JR., TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN

Mr. FEINGOLD. Mr. President, I rise today to lend my strong support to the nomination of Charles N. Clevert to be United States District Court Judge for the Eastern District of Wisconsin.

I am pleased that the full Senate has joined with me, Senator KOHL and my colleagues on Judiciary Committee in recognizing Charles Clevert's qualifications for the Federal bench. I attended Judge Clevert's confirmation hearing before the Judiciary Committee and the fact that he will be a worthy jurist was clearly evident at that time. His is a career of dedicated and unwavering service, not only to the legal community, but to the people of Wisconsin as well.

Throughout his legal career, Charles Clevert has worked on behalf of the people of Wisconsin in a number of important ways. He has served as a prosecutor both in the Milwaukee County District Attorney's office as well as in the United States Attorney's Office. His career has taken him to courtrooms in both Federal and State courts throughout Wisconsin and he has practiced in both the criminal and civil arenas. For the past nineteen years he has been a United States Bankruptcy Judge. In 1986, Judge Clevert became the Chief Bankruptcy Judge for Wisconsin's Eastern District. Clearly Mr. President, these experiences will serve him well on the Federal bench.

However Mr. President, these accomplishments do not fully recognize the contribution of Charles Clevert to his profession and his community. In addition to being active in various Wisconsin Bar Associations and lecturing at the University of Wisconsin Law School, Judge Clevert has been active in working with young people in my state of Wisconsin for over 20 years.

Judge Clevert takes the time to meet and talk with school children in and around Milwaukee about the importance of education and the role of the courts in our society. He stresses the need to emphasize education, not drugs and alcohol. His simple message of hard work and respect for the law is a positive and important one for the young people of Wisconsin. I was pleased to hear Judge Clevert indicate that it is his intention to continue his activities throughout Milwaukee and the State of Wisconsin following his confirmation to the federal bench.

Mr. President, Charles Clevert's nomination was recommended to President Clinton by a nominating committee that my colleague, Senator KOHL and I have established to help ensure that the citizens of our State receive quality judicial representation. I am pleased that the full Senate has joined with that advisory committee, the President and the Judiciary Committee in recognizing Charles Clevert's qualifications and confirming his nomination to be a United States District Judge for the Eastern District of Wisconsin. I want to wish Judge Clevert, and his family, well in this new and important phase of his career. Although the responsibility that awaits him is great, it is a responsibility that Charles Clevert will no doubt handle with the competence and professionalism that has to date marked his distinguished career.

Mr. KOHL. Mr. President, Charles Clevert has accomplished a number of "firsts" in his life. He was the first member of his family to go to college. He was the first African-American assistant U.S. Attorney in Wisconsin. When he was appointed in 1977, he was the youngest bankruptcy judge in the country.

Today, as he is confirmed by the Senate, he becomes the first African-American Federal district court judge in Wisconsin history. In my opinion, it is critical that our Federal judiciary try to reflect the diversity that is America. But while we are gratified that Judge Clevert will add diversity to our Federal bench, he was nominated for one simple reason: he was the most qualified.

Let me tell you why President Clinton could not have made a better choice to fill the vacancy created when Terry Evans—himself an outstanding judge—was elevated to the Seventh Circuit.

First, Charles Clevert is a jurist of extraordinary intelligence and unquestioned skill. Practicing lawyers consistently rank him among the finest judges in Wisconsin. Attorneys who appear before Judge Clevert repeatedly praise him for his integrity, fairness and demeanor. He received similar high marks from members of the nonpartisan nominating commission—which Senator FEINGOLD and I established with the State bar—who made Judge Clevert one of the finalists for the Eastern District vacancy. The ABA gave him a "well-qualified" rating, the highest grade possible for any nominee.

And don't take my word for it, ask the Milwaukee Journal-Sentinel: it called Judge Clevert's selection a "wise choice" and a "milestone."

Second, Judge Clevert is a person of extraordinary achievement and generosity. He grew up working class in Richmond, where he attended a segregated high school. He went to a small college in West Virginia, and then graduated from Georgetown Law School. He has spent more than 20 years in Wisconsin as a prosecutor and a bankruptcy judge—he is now the Chief Bankruptcy Judge of the Eastern District. Judge Clevert's reputation is exceptional even among his colleagues: several years ago they honored him by appointing him President of the National Conference of Bankruptcy Judges.

Let me also mention that Judge Clevert and his wife Leslie have two lovely children, Chip and Melanie, both of whom are in high school. What little free time Judge Clevert has away from his job and his family he spends working with his church and with charities. For example, he sits on the board of the Anvil Housing Corporation, which provides subsidized housing for senior and handicapped citizens. And he is involved with a group called Men of Tomorrow, an organization that mentors young men between the ages of 11 and 18.

Mr. President, no one can read the story of Judge Clevert's life and not be impressed. It is eloquent testimony to our country's ability to create opportunity for all from a social compact some claim was written for a few.

From any perspective—prosecutor or defense lawyer, corporate litigator or consumer advocate, debtor or creditor—Charles N. Clevert is already a terrific bankruptcy court judge. He is someone who will faithfully apply Supreme Court precedent. He is a pragmatist, not an ideologue. And his career demonstrates a proven record of fairness and toughness.

I congratulate the Senate on a wise decision today, and I am sure that Judge Clevert will be as distinguished on the district court as he has been on the bankruptcy bench.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR THURSDAY, JULY 18, 1996

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Thursday, July 18; that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of our defense appropriations as under the previous order.

PROGRAM

Mr. STEVENS. For the information of all Senators, there is a rollcall vote at 9:30 on or in relation to the Harkin amendment to the defense appropriations bill. There now will be three votes—two votes on amendments and one vote on final passage.

There will be 2 minutes before each vote on amendments.

Following those two votes, there will be 5 minutes for Senator DORGAN and 5 minutes equally divided between the Senator from Hawaii and myself.

We will then go to final passage under the previous unanimous consent agreement that all of the arrangements concerning the transfer to the House bill and the passage of that bill have already been agreed to.

Following the votes, the Senate will begin consideration of the reconciliation bill. Additional votes can be expected throughout the day and into the evening in order to make substantial progress on that bill. There is a statutory limit of 20 hours on the reconciliation bill. However, the leader expresses the hope that we may be able to yield back some of that time and complete action on that bill as early as possible.

Let me ask the Parliamentarian. Do I have to do anything further to assure that we follow the procedure outlined under the previous unanimous-consent agreement for the passage of the House bill?

The PRESIDING OFFICER. No further action is required according to our previous agreement.

Mr. STEVENS. Mr. President, I ask for the yeas and nays on final passage of the bill itself tomorrow.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there are no further amendments, I ask that we stand in adjournment in accordance with the previous order.

There being no objection, the Senate, at 8:15 p.m., adjourned until Thursday, July 18, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 1996:

IN THE ARMY

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392 AND 12203(A):

To be major general

BRIG. GEN. GERALD A. RUDISILL, JR. [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION IN ACCORDANCE WITH SECTION 8067 OF TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

JEFFREY I. ROLLER [redacted]
MICHAEL L. ROSENBERG [redacted]
JAMES A. WASHINGTON [redacted]

To be lieutenant colonel

THOMAS F. BABSON [redacted]
GEORGE V. BLACKWOOD [redacted]
ROBERT D. BRADSHAW [redacted]
WILLIAM P. BUTLER [redacted]
GLENN C. COCKERHAM [redacted]
DAVID E. GEYER [redacted]
HARRY W. KUBERG [redacted]
BRUCE D. SMITH [redacted]
GREGORY J. TOUSSAINT [redacted]

DENTAL CORPS

To be lieutenant colonel

JESSE T. MCVAY [redacted]
WILLIAM F. PIERFORD [redacted]
MARIE Y.A. WILLIAMS [redacted]

MEDICAL CORPS

To be major

RICHARD H. NGUYEN [redacted]

DENTAL CORPS

To be major

RICHARD M. BEDINGHAUS [redacted]
MICHAEL H. BETO [redacted]
PAUL M. ROGERS [redacted]

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, IN GRADES INDICATED, UNDER SECTIONS 8067 AND 12203 OF TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

JOHN C. STONER [redacted]

To be lieutenant colonel

HARRY D. ELSHIRE [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, U.S. AIR FORCE ACADEMY, UNDER SECTION 9333(B) OF TITLE 10, UNITED STATES CODE.

LINE

To be colonel

DAVID B. PORTER [redacted]

IN THE ARMY

THE FOLLOWING-NAMED INDIVIDUAL FOR RESERVE OF THE ARMY APPOINTMENT, WITHOUT CONCURRENT ORDER TO ACTIVE DUTY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 12204(A), 3353, AND 3359:

MEDICAL CORPS

To be lieutenant colonel

DONALD G. HIGGINS [redacted]

IN THE NAVY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

UNRESTRICTED LINE OFFICERS

To be commander

RUFUS S. ABERNETHY III xxx-xx-x...
JOSEPH C. ADAN xxx-xx-x...
JOHN D. ALEXANDER xxx-xx-x...
SCOTT D. ALTMAN xxx-xx-x...
PAUL F. ANDERSON xxx-xx-x...
ROBERT S. ANDERSON xxx-xx-x...
CHRISTOPHER P. ARENDT xxx-xx-x...
WAYNE D. ATWOOD xxx-xx-x...
DAVID T. BAILEY xxx-xx-x...
KELLY B. BARAGAR xxx-xx-x...
ANTHONY P. BARNES xxx-xx-x...
BRIAN E. BARRINGTON xxx-xx-x...
MICHAEL G. BARRINGTON xxx-xx-x...
JOHN P. BARRON xxx-xx-x...
ROLAND W. BATTEN, JR. xxx-xx-x...
WAYNE R. BAUERS, JR. xxx-xx-x...
SCOTT B. BAWDEN xxx-xx-x...
VERNON D. BEACH xxx-xx-x...
FRED T. BECKHAM, JR. xxx-xx-x...
MICHAEL J. BECKNELL xxx-xx-x...
JOHN R. BEGLEY xxx-xx-...
ROBERT A. BELLITTO xxx-xx-x...
CHRISTOPHER R. BERGEY xxx-xx-x...
JONATHAN C. BESS xxx-xx-x...
GREGORY M. BILLY xxx-xx-x...
HAROLD F. BISHOP II xxx-xx-x...
MARTIN J. BODROG xxx-xx-x...
JON R. BOE xxx-xx-x...
DAVID P. BOETTCHER xxx-xx-x...
MCWILLIAM V. BOLLMAN xxx-xx-x...
EDMOND L. BOULLIANNE xxx-xx-...
RANDALL G. BOWDISH xxx-xx-x...
TODD A. BOYERS xxx-xx-...
JAMES D. BRADFORD xxx-xx-x...
KENT D. BRADSHAW xxx-xx-x...
JOHN F. BRANDEAU xxx-xx-x...
JOHN D. BRAZIL xxx-xx-x...
WILLIAM S. BRINKMAN xxx-xx-x...
JOHN B. BROOMFIELD xxx-xx-x...
ROBERT W. BROWN xxx-xx-x...
BARRY L. BRUNER xxx-xx-x...
JOHN E. BRUNS xxx-xx-x...
JOSEPH A. BULGER III xxx-xx-x...
DONALD J. BURGER, JR. xxx-xx-x...
JAMES R. BURKE xxx-xx-x...
WILLIE BURKE, JR. xxx-xx-x...
LAWRENCE D. BURT xxx-xx-x...
BRUCE K. BUTLER xxx-xx-x...
ALFRED D. BYRNE xxx-xx-x...
RORY J. CALHOUN xxx-xx-x...
WILLIAM H. CAMERON xxx-xx-x...
THOMAS A. CAMPION III xxx-xx-x...
JOEL M. CANTRELL xxx-xx-x...
MICHAEL J. CARLIN xxx-xx-x...
THOMAS S. CARLSON xxx-xx-x...
THOMAS F. CARNEY, JR. xxx-xx-x...
TED W. CARTER xxx-xx-x...
DAVID A. CATE xxx-xx-x...
JOSEPH CEREOLA xxx-xx-x...
JOHN M. CHANDLER xxx-xx-x...
JAMES L. CHAPPELL xxx-xx-x...
HENRI L. CHASE xxx-xx-x...
MICHAEL B. CHASE xxx-xx-x...
EDWARD M. CHICOINE xxx-xx-x...
JAMES B. CLARK xxx-xx-x...
JOSEPH M. CLARKSON xxx-xx-x...
JOHN E. CLAY xxx-xx-x...
TERENCE L. CLEVELAND xxx-xx-x...
WILLIAM R. CLOUGHLEY xxx-xx-x...
RANDALL B. COHN xxx-xx-x...
GEORGE A. COLEMAN xxx-xx-x...
WILLIAM L. CONE xxx-xx-x...
THOMAS H. COPEMAN III xxx-xx-x...
KEVEN L. CORCORAN xxx-xx-x...
BRIAN S. COVAL xxx-xx-x...
JAMES A. CRABBE xxx-xx-x...
SCOTT T. CRAIG xxx-xx-x...
CARL W. CRAME xxx-xx-x...
RICHARD T. CREANGE xxx-xx-x...
MICHAEL E. CROSS xxx-xx-x...
PATRICK K. CROTZER xxx-xx-x...
WILLIAM P. CUILIK xxx-xx-x...
RICHARD W. DANIEL xxx-xx-x...
RAYMOND J. DEPTULA xxx-xx-x...
MICHAEL R. DESROSIERS xxx-xx-x...
JOHN Q. DICKMANN, JR. xxx-xx-x...
STEVEN J. DINOBILE xxx-xx-x...
MICHAEL F. DIONIAN xxx-xx-x...
DAVID B. DITTMER xxx-xx-x...
PHILIP K. DOUGHERTY xxx-xx-x...
JAMES P. DRISCOLL xxx-xx-x...
RANDY S. DUHRKOPF xxx-xx-...
STEVEN P. DUNKLE xxx-xx-x...
MICHAEL J. DUPREY xxx-xx-x...
DANIEL C. DUQUETTE xxx-xx-x...
JOSEPH M. FARBO xxx-xx-x...
CHRISTOPHER P. FEDYSCHYN xxx-xx-x...
JOHN E. FIELD II xxx-xx-x...
ROBERT C. FIELD xxx-xx-x...
MICHAEL R. FIERRO xxx-xx-x...
SCOTT R. FINN xxx-xx-x...
DAVID K. FLESNER xxx-xx-x...
FREDERIC P. FLIGHT xxx-xx-x...
KENT V. FLOWERS xxx-xx-x...
JAMES G. FOGGO III xxx-xx-...
DONALD C. FORBES xxx-xx-x...
STUART T. FORSYTH xxx-xx-x...
MICHAEL T. FRANKEN xxx-xx-x...
PETER S. FRANCO xxx-xx-x...
JAY S. GALLAMORE xxx-xx-x...
TIMOTHY J. GALPIN xxx-xx-x...
DAVID G. GAMBLE xxx-xx-x...
CHARLES M. GAOUETTE xxx-xx-x...
MATTHEW J. GARSIDE xxx-xx-x...
MICHAEL A. GARZA xxx-xx-x...
EDWARD W. GEHRKE xxx-xx-x...
CHARLES A. GERRINGER xxx-xx-x...
MICHAEL F. GIANCATARINO xxx-xx-x...
JOHN L. GIFFIN, JR. xxx-xx-x...
JAMES J. GILLCRIST xxx-xx-x...
SHAUN GILLILLAND xxx-xx-x...
MARK S. GINDA xxx-xx-x...
MICHAEL K. GLEASON xxx-xx-x...
RICHARD W. GOODWYN xxx-xx-x...
BRIAN A. GOULDING xxx-xx-x...
JAUN M. GRADO xxx-xx-x...
SCOTT C. GRANT xxx-xx-x...
BENNY G. GREEN xxx-xx-x...
ROBERT E. GREEN xxx-xx-x...
THOMAS A. GREEN xxx-xx-x...
STEPHEN GREENE xxx-xx-x...
ROBERT J. GREGG, JR. xxx-xx-x...
NATHAN M. GRIMES xxx-xx-x...
JOEL T. GRINER, JR. xxx-xx-x...
JEFFREY K. GRUETZMACHER xxx-xx-x...
THEODORE GUILLORY xxx-xx-x...
PETER A. GUMATAOTAO xxx-xx-x...
THOMAS C. GURNEY xxx-xx-x...
WILLIAM B. HAFLICH xxx-xx-x...
LAWRENCE C. HALE xxx-xx-x...
WILLIAM M. HALSEY xxx-xx-x...
MICHAEL D. HAMELL xxx-xx-x...
JAMES W. HAMILL xxx-xx-x...
WILLIAM C. HAMMILL, JR. xxx-xx-x...
EARL K. HAMPTON, JR. xxx-xx-x...
STEPHEN W. HAMPTON xxx-xx-x...
KEVIN J. HANEY xxx-xx-x...
JEFFREY HARBESON xxx-xx-x...
WILLIAM E. HARDY xxx-xx-x...
STEVEN R. HARPER xxx-xx-x...
JOHN H. HART xxx-xx-x...
JOHN R. HATTEN xxx-xx-x...
MICHAEL D. HAWLEY xxx-xx-x...
SAMUEL H. HAWLEY xxx-xx-x...
JAMES D. HEFFERNAN xxx-xx-x...
GERALD L. HEHE xxx-xx-x...
GEORGE B. HENDRICKSON xxx-xx-x...
THOMAS J. HENNING xxx-xx-x...
JEFFREY A. HESTERMAN xxx-xx-x...
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KEVIN J. HOGAN xxx-xx-x...
NEIL W. T. HOGG xxx-xx-x...
DAVID P. HOLT xxx-xx-x...
HAROLD H. HOWARD III xxx-xx-x...
SCOTT J. HOWE xxx-xx-x...
JAMES A. HUBBARD xxx-xx-x...
GERARD P. HUEBER xxx-xx-x...
KEVIN C. HUTCHESON xxx-xx-x...
KERRY D. INGALLS xxx-xx-x...
KURT T. IRGENS xxx-xx-x...
RAYMOND C. IVIE xxx-xx-x...
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DOUGLAS W. JOHNSTON, JR. xxx-xx-x...
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STEPHEN W. JORDON xxx-xx-x...
ERIC J. KASISKE xxx-xx-x...
JON W. KAUFMANN xxx-xx-x...
STEPHEN Z. KELETY xxx-xx-x...
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PATRICK D. KELLER xxx-xx-x...
DAVID J. KERN xxx-xx-x...
CHARLES P. KING xxx-xx-x...
RANDY H. KING xxx-xx-x...
THOMAS S. KING xxx-xx-x...
ROSS L. KIRKPATRICK xxx-xx-x...
MARGARET D. KLEIN, xxx-xx-...
BRADFORD M. KLEMSTINE xxx-xx-x...
ROBERT L. KLOSTERMAN xxx-xx-x...
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GREGORY F. LABUDA xxx-xx-x...
LANNIE R. LAKE xxx-xx-x...
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KIRK S. LIPPOLD xxx-xx-x...
DALE E. LITTLE xxx-xx-x...
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DONALD F. LOGAR xxx-xx-x...
LEONARD A. LOLLAR xxx-xx-x...
PATRICK J. LORGE xxx-xx-x...
SPOTRIZANO D. LUGTU xxx-xx-x...
GREGORY N. LUTTRELL xxx-xx-x...
DANIEL G. LYNCH xxx-xx-x...
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DAVID L. MACPHERSON xxx-xx-x...
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PAUL R. MARTINEZ xxx-xx-x...
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JOHN MCCANDLISH xxx-xx-x...
KEVIN D. MCCARTY xxx-xx-x...
FRANCIS R. MCCULLOCH xxx-xx-x...
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MICHAEL E. MCLAUGHLIN xxx-xx-x...
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ROBERT A. MESLER xxx-xx-x...
DEE L. MEWBOURNE xxx-xx-x...
MARSHALL N. MILLARD xxx-xx-x...
JOHN S. MILLER xxx-xx-x...
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NORMAN B. MOORE xxx-xx-x...
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KENNETH J. NORTON xxx-xx-x...
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O'CONNOR, SEAN E. xxx-xx-x...
MICHAEL R. OLMSTEAD xxx-xx-x...
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GREGORY J. OLSEN xxx-xx-x...
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TILGHMAN D. PAYNE xxx-xx-x...
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SVEND E. PEDERSEN xxx-xx-x...
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RICHARD L. PERRY xxx-xx-x...
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GARY S. REINHART xxx-xx-x...
DAVID RICKER xxx-xx-x...
CRAIG L. RIDDLE xxx-xx-x...
CURTIS A. RIDEOUT xxx-xx-x...
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RICHARD J. SHY xxx-xx-x...
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MARTIN S. SIMON xxx-xx-x...
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PATRICK D. SMITH xxx-xx-x...
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CHRISTOPHER K. SPAIN xxx-xx-x...
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WAYNE P. STAMPER xxx-xx-x...
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LOUIS S. STECKLER xxx-xx-x...
RONALD S. STEED xxx-xx-x...
JAMES C. STEIN xxx-xx-x...
PAUL O. STEVERMER xxx-xx-x...
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FREDERICK M. STRAUGHAN xxx-xx-x...
JAMES O. STUTZ xxx-xx-x...
JAMES R. SULLIVAN xxx-xx-x...
GENE A. SUMMERLIN II xxx-xx-x...
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REID S. TANAKA xxx-xx-x...
JAMES C. TANNER xxx-xx-x...
SCOTT K. TAUBE xxx-xx-x...
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JEFFREY A. TAYLOR xxx-xx-x...
RICHARD L. TERRELL, JR. xxx-xx-x...
ROBERT S. TEUFEL xxx-xx-x...
ALBERT A. THOMAS xxx-xx-x...
GARY H. THOMPSON xxx-xx-x...
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JONATHAN F. TOBIAS xxx-xx-x...
BRIAN R. TOON xxx-xx-x...
KEVIN M. TORCOLINI xxx-xx-x...
EDMUND L. TURNER xxx-xx-x...
DAVID K. TUTTLE xxx-xx-x...
JOSE A. VAZQUEZ xxx-xx-x...
SCOTT D. WADDLE xxx-xx-x...
RICHARD S. WAGNER xxx-xx-x...
MICHAEL A. WALLEY xxx-xx-x...
TERRY L. WASHBURN xxx-xx-x...
GERALD V. WEERS xxx-xx-x...
BRAD M. WEINER xxx-xx-x...
ALAN C. WESTPHAL xxx-xx-x...
CHARLES L. WHEELER xxx-xx-x...
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SCOTT A. WHITE xxx-xx-x...
THOMAS M. WILCOX xxx-xx-x...
CRAIG B. WILLIAMS xxx-xx-x...
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GARY R. WINDHORST xxx-xx-x...
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TERRY J. BENEDICT xxx-xx-x...
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ROOSEVELT, BRAXTON, JR. xxx-xx-x...
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HARRY COCKER, JR. xxx-xx-x...
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DANIEL W. PROCTOR xxx-xx-x...
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HOWARD P. MILLER xxx-xx-x...
CYRUS B. MURPHY xxx-xx-x...
DAVID B. ODENWELDER xxx-xx-x...
WILLIAM PAPPAS xxx-xx-x...
MONTE R. PERAU xxx-xx-x...
HAROLD L. RICKETTS, JR. xxx-xx-x...

JIM O. ROMANO, [redacted]
MICHAEL J. SCHARF [redacted]
HERMAN B. SCHIRMER [redacted]
RICHARD E. THAYER, JR. [redacted]
JAMES A. THOMPSON, JR. [redacted]
WARREN E. TUTHILL, JR. [redacted]
ROBERT E. VANIDERSTINE [redacted]
IRVING, VELEZ [redacted]
JAMES A. WESELIS [redacted]

CONFIRMATIONS

Executive Nominations Confirmed by the Senate July 17, 1996:

THE JUDICIARY

CHARLES N. CLEVERT, JR., OF WISCONSIN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING MICHAEL M. GOTTESMAN, AND ENDING WILLARD E. DAUSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 1, 1996.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING JOHN M. BALINTONA, AND ENDING KIMBERLY S. STOLZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 10, 1996.