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## Senate

(Legislative day of Tuesday, September 29, 1998)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by the Reverend Allen P. Novotny of the Society of Jesus, Gonzaga College High School, Washington, D.C.

We are pleased to have you with us.

### PRAYER

The guest Chaplain, Father Allen P. Novotny, S.J., offered the following prayer:

Almighty God, we acknowledge at the beginning of these deliberations that all power in our world is from You. May Your power become a reality in our lives and in our Nation: the power of You, our God—the power of truth, the power of justice, the power of holiness, the power of love.

May this power fire the hearts of the women and men of this Senate. May this power reach out through their hands to build up our Nation, to overcome all obstacles, to cross all distances, to give life and hope and care and dignity to each other and to all our people.

In a spirit of humility, may they accept the gift of this power and the responsibility it enjoins on them. May they commit themselves to the hard work of freedom and justice—the work of You, our God, which leads to understanding. Amen.

### RECOGNIZING THE SENATE'S GUEST CHAPLAIN

Mr. HATCH. Mr. President, I am pleased to introduce to my colleagues Reverend Allen Novotny. He is our guest Chaplain today and I hope some of you will take the time to introduce yourself. Fr. Novotny is the President of Gonzaga College High School, a Jesuit high school for boys located only a few blocks away from the Capitol.

In 1821, the Jesuits founded Gonzaga which operates in the tradition of teaching and learning established by the founder of the Jesuits, Ignatius of Loyola. Throughout our nation's history—through the Civil War, the Great Depression, the World Wars, and the civil rights movement, Gonzaga has maintained its commitment to teaching and learning in the heart of Washington's inner-city, on a street it shares with leaders of business and government, on a block where it ministers to and comforts the least fortunate of society.

It is both ironic and appropriate that Gonzaga be situated just a few blocks from our nation's Capitol Building. Gonzaga, like so much of the United States, is a melting pot. Gonzaga combines the largest minority population of any Jesuit High School in the United States with one of the lowest tuitions in the Washington area. Gonzaga is a realized mission of social and economic diversity that offers all who attend the school a glimpse of the full life spectrum. Gonzaga combines service to the community—taking the form of service projects both in the U.S. and abroad, student-assisted tutoring for underprivileged children, and an on-campus, student-assisted McKenna Center & Food Wagon homeless shelter—with top academics and athletics. Gonzaga is, in other words, a complete educational experience.

I hope my colleagues will take the time to learn more about Gonzaga's special character. Gonzaga has served the Washington community well and, under the steady leadership of Fr. Novotny, I believe it will continue to do so.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. GORTON. Mr. President, this morning the Senate will immediately resume consideration of the Department of Defense authorization conference report. There are 3 hours remaining for debate, with a vote occurring on adoption of the conference report at 12 noon. Following that vote, the Senate may begin consideration of S. 442, the Internet bill, under the consent agreement reached last night. The Senate may also begin consideration of the Cold Bay-King Cove legislation under a 6-hour time agreement, or any other legislative or executive items cleared for action. Therefore, Members should expect rollcall votes throughout Thursday's session as the Senate continues to consider important legislation prior to sine die adjournment. I thank my colleagues for their attention.

### STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999—CONFERENCE REPORT

The PRESIDENT pro tempore. The clerk will report the conference report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 3616 to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

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

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



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The legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND. Mr. President, today the Senate considers the conference report to accompany the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. I want to thank all the members of the conference committee for their hard work and cooperation. To give the Members of the Senate some insight into the complexity and magnitude of the work involved in the conference process, we had to reconcile nearly 1,000 funding differences and craft compromises for over 570 legislative issues in disagreement between the House and Senate bills. The conferees succeeded in settling the many difficult issues in this complex process only by putting the national interest above all others. I particularly want to thank Senator LEVIN, the ranking member of our committee, for his continued leadership and support.

I also want to acknowledge the contributions of Senator COATS, Senator KEMPTHORNE, and Senator GLENN. This is their last defense authorization bill. On behalf of the committee and the Senate, I wish to thank them again for their dedication to the national security of our country and their support for the young men and women who serve in our armed services. We will miss their valuable counsel next year.

Mr. President, I also want to acknowledge the contribution of the staff of the Senate Armed Services Committee in bringing our conference process to closure. We on the committee are very proud of our staff. They are a model of bipartisan competence and everyone in this body is indebted to them for their dedication to excellence. I ask unanimous consent that a list of the members of the staff be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, I also wish to recognize the members and staff of the Senate Defense Appropriations Subcommittee. We have worked more closely together this year than ever before. I want to express on behalf of the Armed Services Committee our appreciation to Chairman STEVENS and to the members and staff of the Defense Subcommittee for their cooperation and support.

Working together, we have produced a bill which keeps the Department of Defense on a steady course and is consistent with the balanced budget agreement. It is a sound bipartisan approach to some very difficult policy issues. This is reflected in the fact that for the first time in memory, all of the conferees in both committees have signed the conference report. This bill sends a

strong signal to our men and women in uniform and their families that we are fully committed to supporting them as they perform their dangerous missions around the world.

The conference report addresses three challenges to maintaining a strong national defense in the 21st century: the training and readiness of our military forces, the modernization of weapon systems and other defense equipment, and the preservation of quality of life programs for our military personnel and their families. The conference report, for example, authorizes funding of increases to a number of readiness accounts totaling nearly \$1 billion above the administration request.

We have also authorized the construction of six new ships, increased the procurement of new tactical aircraft, and provided an increase of approximately \$90 million for advanced space systems and technologies as well as an increase of about \$132 million for strategic force upgrades.

In the conference, we have authorized a 3.6-percent pay raise and a comprehensive series of accession and retention bonuses and special pay to reduce the financial sacrifices involved with military service. In order to enhance the quality of life for our service personnel and their families, we have authorized increases totaling \$666 million above the request for military construction and family housing.

The conferees have also crafted a number of management initiatives to ensure that limited budgets are managed more efficiently and that the burdens of service for our men and women in uniform are kept to a reasonable level. The bill includes provisions to ensure that commercial sole-source spare parts are procured in a cost-effective manner. The conference report authorizes a series of initiatives to test new health care benefits for Medicare-eligible military retirees. The bill also requires the Department of Defense to address the Year 2000 information technology issues in a more comprehensive fashion.

Mr. President, this conference report is a sound and balanced approach to meeting our national security needs with constrained resources. It is my hope that the Senate will vote to adopt the report overwhelmingly.

This is the 40th defense authorization conference report on which I have worked since joining the Armed Services Committee in 1959. It is the fourth and last as chairman of the committee as I have announced my intention to step down as chairman at the end of this year while retaining my seat on the committee. I regard my work on the committee to ensure a strong national defense as among the most important accomplishments of my public service. My tenure as chairman over the last 4 years has been the culmination of that service. Words cannot express the pride and appreciation I feel for the honor my colleagues have be-

stowed by designating this authorization bill as the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

Looking back over the national security issues that have challenged the United States over the past 40 years and turning forward to the 21st century, I am very concerned about maintaining our ability to meet foreign policy ambitions with declining defense resources. If we do not change course soon, present and projected defense investment levels will expose the people of the United States to unacceptable levels of risk. We will have abdicated our fundamental responsibility to provide for a strong common defense.

We are in the midst of a period of unprecedented commitment of U.S. military forces in peacetime. The United States is using military forces to respond to a growing spectrum of international aggression, ethnic unrest, and domestic conflict. The operational tempo of each of our services is at an all time high as we respond in a sustained manner to crises in Africa, the Persian Gulf, and the Balkans. As we struggle with supporting these operational deployments, the backlog of modernization and real property upgrades continues to climb. Moreover, the imperative of maintaining our defense technological superiority over the next 10 to 15 years will soon generate a further requirement for substantial new investment.

Yet our defense spending is declining. The authorization for new budget authority in this conference report is \$270.5 billion, which is \$2.6 billion below the inflation-adjusted level for fiscal year 1998. We are currently spending barely more than 3 percent of our gross domestic product on defense. This level is consistent with defense spending during the Depression-ridden 1930's. That level is projected to decline even further to 2.6 percent by 2002. We cannot hope to meet increasing foreign policy commitments with such declining resources.

We are already seeing the effects of this mismatch of resources and commitments. The Chiefs of the military services indicate that they have now hit rock bottom in readiness and modernization. We are seeing increasing spare parts shortages, increased cannibalization, declining unit operational readiness rates, cross-decking of critical weapons, equipment and personnel. Personnel retention rates—especially for skilled personnel such as pilots—are in a steep decline.

These trends have been evident for the last several years. The leadership in the military services, distinguished observers in the defense community, such as former Secretary of Defense Schlesinger, and even the political leaders in the Department of Defense have been sounding warnings of increasing peril for our national security. Now even the President has been forced by the mounting evidence to recognize

the impact of underfunded administration requests and to call for an immediate increase in defense spending. In a letter to me last week, the President called for a series of steps to redress defense underfunding, including an increase of \$1 billion in fiscal year 1999 and a process for revising the programmed spending in the future years defense plan. I commend the President for this proposal and look forward to working with the administration to make it a reality. I ask that the full text of the President's letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. THURMOND. The extent of current and future readiness problems were laid out in stark detail Tuesday morning by the Joint Chiefs of Staff at a hearing before the Senate Armed Services Committee. The service Chiefs all testified in the manner in which our current readiness is fraying and the long-term health of the Total Force is in jeopardy. While additional funding in fiscal year 1999 will help address the most pressing short-term concerns, it is imperative that we provide significant continuing increases in funds for modernization above that for additional pay and benefits. The Marine Corps estimates a shortfall of \$1.8 billion per year in modernization over the Future Years Defense Program under the current administration projections. The Army estimates an annual \$3 to \$5 billion per year shortfall during the same period. We must embark on a course of sustained increases in defense investment over the next several years.

Mr. President, at the beginning of this Congress, I called for developing a clearer strategic context within which to design an effective, affordable national defense to meet our foreign policy commitments. The need for this clarity has never been greater. With the belated recognition by the President of the need for increased defense resources, we have an opportunity to free the determination of U.S. strategy from being a by-product of the budget process. As I said in February 1997, let us seize the day. We must work in a cooperative, bipartisan fashion to avert a certain military decline. The first step in that process is the rapid and overwhelming approval of this conference report.

#### EXHIBIT 1

##### STAFF OF THE ARMED SERVICES COMMITTEE

Charlie Abell, John Barnes, June Borawski, Philip Bridwell, Les Brownlee, Stuart Cain, Monica Chavez, Chris Cowart, Dan Cox, Madelyn Creedon, Rick DeBobs, Marie Fabrizio Creckinson, Katy Donovan, and Shawn Edwards.

Jon Etherton, Pamela Farrell, Richard Fieldhouse, Maria Finley, Jan Gordon, Creighton Greene, Gary Hall, Larry Hoag, Melinda Koutsoumpas, Larry Lanzillotta, George Lauffer, Henry Leventis, Peter Levine, and Paul Longworth.

David Lyles, Steve Madey, Mike McCord, Reaves McLeod, John Miller, Ann

Mittermeyer, Bert Mizusawa, Cindy Pearson, Sharen Reaves, Cord Sterling, Scott Stucky, Eric Thoenmes, Roslyne Turner, and Banks Willis.

#### EXHIBIT 2

THE WHITE HOUSE,  
Washington, September 22, 1998.

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

DEAR MR. CHAIRMAN: Preserving our military's readiness has been the top priority of my national security program. Since I first took office, increasingly greater shares of our Defense budget have been allocated to ensuring that our armed forces are ready to respond and have the tools to accomplish their mission. Although we have done much to support readiness, more needs to be done.

This year alone, important steps have been taken to protect military readiness. For FY 1998, we worked with the Congress to secure both an additional \$1 billion in military readiness funds through a budget reprogramming and a \$1.85 billion emergency funding package to cover the costs of unanticipated operations in Bosnia and Iraq. For FY 1999, my Administration proposed a Defense budget request that increased funding for personnel and operations programs over the 1998 appropriated levels and a \$1.9 billion emergency budget amendment to fund the ongoing peacekeeping operations in Bosnia. Passage of this emergency funding is critical to avoid a readiness crisis in the fiscal year that begins on October 1. I strongly urge the Congress to approve these requests.

We also have done a lot on our own to address the burden on our men and women who have been deployed at higher than anticipated rates. We established standards for deploying units and intensively manage the force to minimize the possibility that units exceed these standards. We cut Air Force temporary duty assignments in half. And we are cutting back, by 25 percent over the course of five years, the total number of exercise days. Additionally, we reduced or replaced some overseas deployments with units on stand-by in the United States.

My Administration has sought ways to get a greater readiness return from each dollar spent implementing better management practices, cutting overhead, and reducing base infrastructure. Working together, we can identify methods for eliminating wasteful spending. I need your help in addressing these objectives if we are to ensure that our men and women in uniform receive the best training and equipment possible in the most cost effective manner. They deserve no less.

I recently met with Secretary Cohen and the Commanders-in-Chief of our U.S.-based and overseas forces to receive a status report of the units under their command. As always, the dedication of our civilian and military leaders to the troops' well being was clearly evident in their reports. I was particularly satisfied to hear that our forces are capable of carrying out our national military strategy and meeting America's defense commitments around the globe. They are, in the words of the Chiefs, the best-trained and best-equipped forces in the world.

Notwithstanding this assessment of our overall posture, the Secretary and the Chiefs identified several concerns that must be addressed to sustain high military readiness levels. To address our readiness needs, I believe several steps are in order:

1. We must act now to provide additional resources in FY 1999 for operations and personnel programs important to military readiness. This includes resources to minimize shortfalls in certain critical spare parts, Navy manpower, and Army unit training activities. I have asked key officials of my Ad-

ministration to work together over the coming days to develop a fully offset \$1 billion funding package for these readiness programs.

2. I have instructed the Office of Management and Budget and the National Security Council to establish with Secretary Cohen and General Shelton a separate process within the context of the FY 2000 joint budget review that will examine the longer-term military readiness issues raised at my meeting with the CINCs. Meeting this challenge will require a multi-year plan with the necessary resources to preserve military readiness, support our troops, and modernize the equipment needed for the next century. I anticipate this examination will result in a series of budget and policy proposals for the FY 2000 Defense budget and the Future Years Defense Program. Our challenge is to strike a balance between providing sufficient resources for military readiness while maintaining fiscal discipline and appropriate funding levels for other investments necessary to sustain a growing economy.

The security of the nation depends on our military forces' ability to quickly, effectively, and successfully prosecute their mission. Ensuring that these forces are trained and ready is a priority upon which we all can agree.

Sincerely,

BILL CLINTON.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. First, Mr. President, it is a pleasure for me to join with the chairman of the Armed Services Committee in bringing to the floor the Strom Thurmond National Defense Authorization Act for fiscal year 1999. It is truly a fitting honor for our chairman that this conference report which is named in his honor has been signed by not only all the Senate conferees on both sides of the aisle, but also by all conferees from the House National Security Committee on both sides of the aisle.

I am sure that I speak for all of our colleagues in saying just how much we appreciate the leadership that Senator THURMOND has provided on this bill, the fair and even-handed manner in which he has managed the committee not just on this bill, but as long as he has been a chairman of this committee, as well as how much we appreciate the lifelong dedication that he has brought to the national defense. We look forward to many, many more years of working with him. He has expressed his appreciation for having the bill named after him. I just want to tell him that it is my very strong personal feeling that it has been a pleasure for me to work with him to bring forward measures such as this that are so critical to the national defense. We will miss him as chairman, but we will not miss him as a member of the committee, because he will continue to be an active member of the committee.

Mr. President, this is also the last defense authorization act for several of our colleagues on the committee, as Senator THURMOND has noted. Senator GLENN, Senator COATS and Senator KEMPTHORNE will all be leaving us at the end of this year. All three have

made great contributions to the work of the committee and to the national security of our country. They will be greatly missed, and I know many of us will have more to say about that during the next few days.

The conference report that we bring to the Senate today is the product of more than 6 months of work, including a full 2 months in conference with the House. Overall, we have reached a bipartisan conference report that advances the security of our country in the best interests of the men and women in uniform. I am particularly pleased that on a series of issues that were important to the Department of Defense and the Department of Energy and to the administration, we have been able to eliminate or modify positions that would have led to a veto.

First, we eliminated a series of House provisions that would have barred any exports of satellite or related technology for launch in China, and also the provision which we eliminated also would have prohibited participation in launch failure investigations. So we have eliminated a number of provisions. However, the conference report does provide that the licensing of applications to launch satellites in China will be returned to the State Department. However, that return will be delayed until March 15, 1999. In the interim, there is a requirement for the Secretary of State to plan for a more timely and orderly licensing process.

The only effective difference since January of 1996 between the licensing being done by State or Commerce has been the long delays that exist in the State Department's processing of license applications. The delay in the effective date of the transfer from Commerce to State will give the administration time to take steps to speed up the State Department's licensing process and provide the new Congress with an opportunity to review the transfer in a less politically heated atmosphere after the elections.

It is critical for American security that American satellites continue to be launched in large numbers, both because, as Senator BOB KERREY has pointed out, most of our intelligence information comes from open sources, such as satellites, and because the satellite transmission of programming is critically important to forcing open closed societies whose dictatorships threaten American interests. The compromise embodied in the bill before us should protect our national security interests by helping to ensure that American satellites will continue to be launched in appropriate numbers and in a timely and secure manner.

Second, we have eliminated a House provision that would have prohibited the Secretary of Energy from even considering the less costly of the two options for renewed tritium production. It would have achieved this result by prohibiting the production of tritium in a commercial facility, even though tritium is widely used in commercial

products and is not a special nuclear material like uranium or plutonium.

The provision in the bill will provide a level playing field for the selection of an option for future tritium production by delaying the implementation of the decision made by the Secretary of Energy to select either option until October 1, 1999, the beginning of the next fiscal year. This approach will provide Congress an opportunity to review the Secretary's decision—whatever it may be—before it is implemented. It will have no adverse impact on our national security because we will not need a new source of tritium for several years. The Secretary's decision could not be implemented in any case until funding is approved by Congress, and Secretary Richardson has indicated that delaying implementation of his decision until October 1 of next year will have "minimal impact" on future tritium production.

Third, we eliminated a House provision that would have prohibited gender-integrated training at the basic training level in all three military services. This prohibition was opposed by the uniformed military, opposed by a majority of the Senate, and it would have led to a veto by the President. The bill does contain provisions that, (a), direct the Secretaries of the military departments to provide for separate and secure housing for male and female recruits with sleeping areas separated by permanent walls and served by separate entrances; and, (b), prohibit afterhours access to sleeping areas by unescorted members of the opposite gender. These provisions are consistent with, and would in fact codify, the current policies of the Department of Defense.

Fourth, a Senate provision was dropped that would have made it harder for the Secretary of Defense to downsize and close unneeded military facilities. I recognize that many Members on both sides of the aisle supported this provision. However, the provision was strongly opposed by the civilian and uniformed leadership of the Department of Defense and would have led to a veto. I am personally hopeful that in the next session of Congress we will at least authorize one additional round of base closings.

Mr. President, I am also pleased with the outcome on several issues that have been important to the Department of Defense, including the adoption of a Senate provision authorizing Bosnia funding on an emergency basis; the decision to fund cooperative threat reduction programs at a level close to the one proposed by the administration; and, most importantly, the decision to fund a 3.6-percent pay raise for our men and women in uniform. Nothing is more important to our national security than their well-being and high morale.

Mr. President, this conference report is the product of hard-fought compromise, and I cannot say, of course, that I support every provision in it.

I would have preferred that we not fund seven C-130s and one F-16 that the Department of Defense says it doesn't want and doesn't need.

I would have preferred that we not cut into the readiness of our Armed Forces by reducing the Department's operations and maintenance accounts below the administration's budget request.

I would have preferred that we not include a House provision that unfairly singles out a single facility by prohibiting the China Ocean Shipping Company from leasing a facility at the Long Beach Shipyard that was closed in the last base closure round.

I would have preferred that we not reach outside of our jurisdiction to resolve a complicated tax dispute between two States.

On balance, I think we have succeeded in reaching a fair resolution on the issues in the conference. I am convinced that we have a very solid compromise of the major issues, and I hope the President will sign the bill.

Again, I will conclude by thanking our chairman, Senator THURMOND, for the open and the bipartisan manner in which he conducted the conference on this bill. Senator THURMOND and his staff have made every effort to include the minority at every stage of the deliberations. I also thank the chairman and ranking minority member of the House National Security Committee, Congressman SPENCE and Congressman SKELTON, for their cooperation in bringing the conference to a successful conclusion.

Of course, none of this could have been accomplished without our staffs. I want to express the appreciation we all feel on the committee to the staffs of the Armed Services Committee—both the majority and minority staffs—for the extraordinary effort they put into this bill and this conference. It was a long, long conference. It just simply would not have been possible to achieve the result we did without the outstanding work of David Lyles, Les Brownlee, and their dedicated supporting cast. I also extend my thanks to the staff of the House National Security Committee and the House and Senate legislative counsels for their help in preparing this large bill.

Mr. President, it is a good conference report. It strengthens our national security. I know our colleagues will be pleased to join me in supporting the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

Mr. THURMOND addressed the Chair. The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I wish to express my appreciation to Senator LEVIN for the kind words he said about me. He has done a fine job. We could not have done this work without him.

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. THURMOND. 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. THURMOND. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally to both sides.

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

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

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

Mr. FORD. Mr. President, I believe I have 90 minutes.

The PRESIDING OFFICER. That is correct.

Mr. FORD. Mr. President, I regret that I am here this morning making my remarks, because in this piece of legislation we have preempted the States and their ability to tax. Under the Buck Act, it gave that responsibility to the States. But in here we are preempting the States.

The Presiding Officer understands the problem between Oregon and Washington. But Oregon has passed a law that exempts residents of Washington. So, therefore, the States have worked out their problem. Here, the Federal Government, Big Brother, has to tell the States what they can do. I think it is highly unfair. I think it is unprecedented where the Armed Services Committee has gone around the Finance Committee.

Senators can't come to this floor and say that the chairman of the Finance Committee says this section is all right. It has to go before the Finance Committee. The Finance Committee is the committee of jurisdiction here—the Armed Services Committee.

The occupant of the Chair is one of the finest jurists in the Senate, having been, I believe, Attorney General of his State.

The law says:

No person shall be relieved from his liability for any income tax levied by any State, or by any duly constitutional taxing authority therein having jurisdiction to levy such a tax by reason of his residing within a Federal area, or receiving income from transactions occurring or services performed in such areas, and such State, or taxing authority, shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

That is the Buck Act.

The Armed Services Committee has altered or broken that statutory provision. They preempted the States. They went around the Finance Committee. Now they are altering the Buck Act.

As I said, Mr. President, this is regrettable, for me to think that my colleagues would have such a sweetheart deal that when the State of Kentucky and the State of Tennessee were in the process of negotiation and working out their problems, they were told it would be worked out in Washington and not to worry about it; therefore, the negotiations were cut off, and the sweetheart deal was started.

I want to call the attention of my colleagues to the provision in the defense authorization bill which I consider to be one of the most misplaced, misguided, and unfair proposals I have seen in my 24 years in the Senate. I am referring to a tax proposal in this defense authorization bill which preempts the State of Kentucky from administering its own tax laws.

Let me repeat that.

I am referring to a tax provision in the defense authorization bill. We are now establishing, Mr. President, the precedent that defense authorization bills can become vehicles for State tax provisions.

The Finance Committee has jurisdiction over tax issues in the Senate. But the Finance Committee did not report this legislation. The Finance Committee did not report any other legislation with this tax proposal contained in this defense authorization bill. It is not even a Federal tax issue. This is not a Federal tax issue. This is a tax provision in this bill which dictates to States how they administer State income tax laws.

The Republican Party has always been States rights. That is one of their long suits. I have heard in campaigns all my life, "States rights." And now in this bill you are preempting States rights. We are preempting my State, the Commonwealth of Kentucky, from deciding for itself how to administer its own income tax laws on work performed within the State of Kentucky by private sector employees. It is an outrage that my colleagues who are conferees from the other side of the aisle agreed to include this provision in the final bill.

Mr. President, Fort Campbell is a military facility which straddles the Kentucky-Tennessee border. It is located partially in Trigg County and Christian County in my State and partially in Tennessee. There are Federal employees working at Fort Campbell who reside in both Kentucky and Tennessee, and there are private sector employees working at Fort Campbell, some on a full-time basis, some on a contractual or part-time basis.

How would you like to be sitting at the table having lunch, and the worker across the table from you, working for the same company, doing the same job as you, pays no tax, but you have to pay yours?

For Kentucky employees, there is no exemption from the sales tax in Tennessee. That will be the next bill that will be in the Chamber, and I am going to encourage my colleagues to do that

so all you have to do is show your driver's license and where your residence is and you are exempt from Tennessee sales tax, which is one of the highest in the Nation.

According to groups such as the Federation of Tax Administrators, which is an organization comprised of the top revenue officials from all 50 States and the District of Columbia, it is a fundamental principle of taxation that workers are taxed where the work is performed. Workers are taxed where the work is performed. That is the basic rule. There are exceptions to the rule, of course, but the exceptions come from agreements negotiated between States—negotiated between States. States can agree to a variety of ways to treat income tax earned within one State's borders by out-of-State residents—States rights. And we recognized that a long time ago even in the Buck Act.

But this is for the States to decide. Congress should keep its nose out of their business. But not this Congress, not this majority, and not this defense authorization bill. Do I want to be against the Strom Thurmond defense authorization bill? Of course, I do not. I do not want to be against the Wendell H. Ford aviation bill either. But what is in this bill is not right.

That is my responsibility as a Senator, and I am surprised that my colleague on the other side, who is a major player with the Republican Party, did not defend his constituents rather than his party. We are losing \$4 million a year. Not even the Congressman from the First District raised a peep about it. Who are you supposed to be representing up here in this body or in the other body? You are supposed to be representing your State and your constituency.

A dispute arose when some Tennessee workers objected to paying income taxes on work performed within the borders of Kentucky. Legislation was introduced in the House to impose a Federal solution on the States. Hearings were held. The House Judiciary Committee held a hearing on April 17th of last year on this issue. The Senate Governmental Affairs Committee held hearings on October 24 of last year. To my knowledge, the Senate Armed Services Committee held no hearings. The Senate Armed Services Committee held no hearings on this issue during either session of this Congress. The reason is obvious. Because the Armed Services Committee has absolutely no jurisdiction over this issue—none. The conferees for this defense authorization bill have no business attaching language which preempts State tax laws as part of this defense authorization bill. It has no place in this piece of legislation.

Let's go back now to the House hearing of last April. What kind of testimony did that committee hear? It heard that the Kentucky tax structure met all appropriate constitutional standards for fairness and non-discrimination. The committee was

told that the ability of States to define their own tax structure within the bounds of the Constitution was "one of the core elements of sovereignty preserved to the States under the Constitution."

That committee was told that if Congress jumped in and preempted State laws in this case, "It will by definition create a preferred class of taxpayers that benefits at the expense of all other taxpayers. Currently, all workers, public and private, in Kentucky are subject to the same rules. This should not be disrupted by the Congress without a strong policy rationale."

The House committee was also told that the proposal to grant special status to Tennessee residents violated the spirit of the Unfunded Mandate Act of 1995. I wonder how many colleagues on the other side in 1995 voted for the unfunded mandate bill. Are you going to fund this unfunded mandate? No. It breaks that law. You are taking away by mandate funds that belong to my State. It is under the unfunded mandate law of 1995.

Do you think this bill is not going to go to court? You can bet your sweet bippy that once the President signs it, if he does, this portion of the bill will be in court. It is wrong. It is wrong from the start; it is wrong from the middle; it is wrong from the end.

The House committee was also told that if Congress believes that the impact of Federal workers employed on installations crossing the borders of two States should be offset, it should provide the funding necessary to offset the cost imposed on the States affected and not just preempt legitimate taxing authorities. This is what the committee was told, but the committee didn't pay any attention to that—it is our way or nothing. What Kentucky is getting is nothing. I am not going to allow this bill to go forward without having an opportunity, which I am doing now, to express to my colleagues my outrage and what their outrage should be. Pretty soon, I will tell you, 240 installations that are subject to the same law—subject to the same law, 240 in this country—will want the same. So what are you going to look forward to next year? Are you going to preempt all these States? Be fair. Be fair.

So, let me repeat one section of that sentence that the committee in the House was told:

... if Congress feels the impact of federal workers employed on installations crossing the border of two states . . . should be offset, it should provide the funding necessary to offset the costs imposed on the states affected and not just preempt legitimate taxing authority.

Mr. President, the Senate Governmental Affairs Committee heard similar testimony during its hearing last August. The Senate Armed Services Committee, however, heard no such testimony because it held no such hearings and has no jurisdiction over this issue. Nevertheless, without any floor debate, a provision was snuck

into the House version of the defense authorization bill on the House floor. Where was my Congressman from the First District when that happened to his employees and to his State? I do not know where my House colleagues from Kentucky were on this issue when this issue arose. Maybe they did not notice. Maybe they were just asleep at the switch. But either way, not a finger was lifted by my colleagues on the other side of the aisle to stop it.

Let me explain to my colleagues why this provision is so offensive. The provision preempts the State of Kentucky from applying its own tax laws to Federal workers at Fort Campbell. But it does not stop there, it is broader. It also exempts private sector employees, such as contractors, who perform work at Fort Campbell. Private contractors are exempt. This goes well beyond any precedent which exists anywhere else in Federal law.

What it means is that when two contractors bid on work to be performed on the Kentucky side of Fort Campbell, a Tennessee contractor is going to have a built-in advantage over a Kentucky contractor because of the special exemption written into this defense authorization bill. Can you imagine what other Senators would be doing this morning if this had happened to them? Maybe, with this precedent, it will. Why don't we try to prevent it?

The House language is overly broad and, in my opinion, extremely unfair. No such language is included in the Senate version of the bill. However, I was very concerned about the attempt to sneak this in. I informed my colleagues on the committee of my strong concerns with this tax proposal on June 25th, when the bill was debated on the floor.

I should say at this point that the ranking member of the committee, the Senator from Michigan, acknowledged that tax issues had no place in a defense authorization bill, he shared my concern about the broad and misguided precedent set by this proposal to preempt State tax laws, and he fought to keep it out of the final bill. However, apparently among my colleagues on the other side of the aisle, this was a done deal. I do not believe the issue was even a matter of serious discussion by the Republican conferees. So here we are on the Senate floor with a sweetheart deal being cut on a tax provision which preempts State law. I thought I had seen it all.

Mr. President, this tax provision raises serious constitutional questions. This provision raises serious constitutional questions. Back in June I inserted in the RECORD a legal memorandum from the Office of the Attorney General of Kentucky which raised serious constitutional questions about this tax preemption proposal. I am sure the issue of whether to challenge the constitutionality of this tax preemption proposal will be studied carefully, should this bill become law—and it will be.

Let me also inform my colleagues that revenue officials in my State have had contact with those in the State of Tennessee. This is the right way to solve this problem. The States of Washington and Oregon did. But once the word was out that Congress will attempt to impose a Federal solution regarding this matter, the discussions between the two States became a moot point. Why should they spend the time and resources necessary to reach a compromise agreement when Congress was considering preempting State law and imposing a solution which favors just one side? What incentive was there to negotiate? Big Brother in Washington was acting to impose a solution on a matter which is normally left to the States to work out on their own.

Mr. President, a sweetheart deal cut by the Republican conferees is going to cost my State about \$4 million per year. Let there be no mistake about my Governor's opposition to this tax preemption provision. Let me read from his letter of June 25, 1998, from Governor Paul Patton of Kentucky.

I am writing to express Kentucky's opposition to the Thompson amendment currently under consideration by the United States Senate. The issue addressed by this legislation is the tax imposed by the Commonwealth on income earned within Kentucky by non-resident federal workers.

He went on to lay out why.

We are attempting to resolve this issue through a joint effort with Tennessee Governor Sundquist's office. This matter is one to be settled at the State level, and not an issue for Congress to resolve.

\* \* \* \* \*

In closing, I would like to reiterate the Kentucky taxation of non-residents working in Kentucky is fair in concept and in practice. To exempt all non-residents or a special group of non-residents who work in Kentucky would be unfair. If I may provide you with any other information on this issue, please feel free to contact me.

Mr. President, I ask unanimous consent the letter from the Governor of Kentucky be printed in the RECORD.

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

COMMONWEALTH OF KENTUCKY,  
OFFICE OF THE GOVERNOR,  
Frankfurt, KY, June 25, 1998.

Hon. WENDELL FORD,  
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I am writing to express Kentucky's opposition to the Thompson amendment currently under consideration by the United States Senate. The issue addressed by this legislation is the tax imposed by the Commonwealth on income earned within Kentucky by non-resident federal workers.

The protest by federal workers employed at the Fort Campbell military base against the imposition of the Kentucky income tax has centered on their contention that the tax is unfair to them. All income in question is taxed the same whether earned by a resident or non-resident of Kentucky. Only the income earned within the Commonwealth of Kentucky is taxed. It would be unfair to tax the income of residents but not the income of non-residents doing the same job in the same place. Indeed, if this were the case, it would make sense for Kentucky residents

working on the Fort Campbell base to move to Tennessee to avoid the Kentucky income tax.

On June 23, 1998, Kentucky's Attorney General sent to me a memorandum which offers a compelling and reasonable argument against the constitutionality of the Thompson amendment under the Commerce Clause. A consequence of this amendment would be its detrimental impact on the Kentucky communities which surround Fort Campbell. The legislation would exceed Congressional authority and would likely be proven as unconstitutional. Congress granted the states the power to tax income, and on several occasions, courts have held that states can assess an income tax to nonresidents who earn their income in that state. Congress can reduce the states' power of taxation, but only through an amendment within the confines of the Commerce Clause.

We are attempting to resolve this issue through a joint effort with Tennessee Governor Sundquist's office. This matter is one to be settled at the state level, and not an issue for Congress to resolve. The impacts of the Thompson amendment would far surpass Fort Campbell. These impacts would extend to the employees of every federal institution within close proximity with state borders.

In closing, I would like to reiterate that Kentucky's taxation of non-residents working in Kentucky is fair in concept and in practice. To exempt all non-residents or a special group of non-residents who work in Kentucky would be unfair. If I may provide you with any other information on this issue, please feel free to contact me.

Sincerely,

PAUL E. PATTON,  
Governor.

Mr. FORD. The State preemption provision in this bill is also strongly opposed by the Federation of Tax Administrators. Let me read from a June 24, 1998 letter from Mr. Harley T. Duncan, the executive director of the Federation of Tax Administrators:

I am writing concerning amendments to the defense appropriations bills (S. 2057) which would preempt Oregon, Kentucky and Nebraska from applying their income tax to certain federal employees (and in some cases, contractors) who work in those states, but reside in bordering states with no income taxes. . . .

These amendments have been separately considered earlier in the 105th Congress as H.R. 1953. The Federation of Tax Administrators is an association of the principal tax administration agencies in the 50 States, the District of Columbia, and New York City. The Federation has adopted a policy which urges that the Senate reject H.R. 1953 and any similar language which may be offered as an amendment to other bills.

We ask the Senate to recognize that, throughout the history of income taxation, both federal and state, workers are taxed by the jurisdiction where the work is performed. This system represents the keystone of taxation. State lawmakers make exceptions to this system to address individual circumstances where strict adherence to the principle leads to undesirable results. In particular, in those instances where sound fiscal and government policy permit, a State may enter into a reciprocal agreement with a bordering State to permit taxpayers to file a single return in the state of residency. Kentucky is at the forefront of such policy refinements.

They are complimenting my State for being in the forefront of these policy refinements.

—it has a reciprocal agreement with every border state that has a broad-based individual income tax.

The U.S. Constitution imposes substantive constraints on the manner in which such states may structure their tax systems. These constraints ensure that the tax imposed meets fundamental tests of fairness in dealing with all citizens. The Constitution further ensures that state taxes do not impose undue burdens on interstate commerce or the federal government. The taxes imposed by these states meet these requirements and should not be preempted. There is no question that states have the legal authority to tax the income of nonresidents working in Oregon, Kentucky or Nebraska.

It goes on, Mr. President:

Further, the language exempts from taxation wages paid to Federal workers . . . but it exempts from tax income paid to all individuals who work in Fort Campbell in Kentucky.

A special group is set out here.

This encompasses not only contract employees who work directly for the military . . . but also includes employees of private companies who run businesses or perform services on the bases, including such businesses as restaurants and road maintenance firms. These are clearly private business people, not federal workers.

But they are exempt. They are exempt under this particular bill.

Finally, and most importantly, if change is necessary, it is within the power of the states involved to do so. This is an issue for state lawmakers, not federal lawmakers. Lawmakers in Kentucky and Tennessee are seeking an equitable solution that would not impose an unfair burden on either state. . . .

The Senate is faced with an opportunity to demonstrate good faith to the principles contained in the Unfunded Mandates Act of 1995.

And we are not doing that.

If Congress feels that the impact of federal workers employed on installations crossing the borders of two states—one of which imposes an income tax and another which does not—should be offset, it should provide the funding necessary to offset the costs imposed on the states affected.

This is signed Harley T. Duncan, executive director, Federation of Tax Administrators.

Mr. President, I ask unanimous consent that the letter from Mr. Duncan be printed in the RECORD.

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

FEDERATION OF TAX ADMINISTRATORS,  
Washington, DC, June 24, 1998.

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

DEAR SENATOR FORD: I am writing concerning amendments to the defense appropriations bills (S. 2057) which would preempt Oregon, Kentucky and Nebraska from applying their income taxes to certain federal employees (and in some cases contractors) who work in those states, but reside in bordering states with no income taxes (Washington, Tennessee and South Dakota).

These amendments have been separately considered earlier in the 105th Congress as H.R. 1953. The Federation of Tax Administrators is an association of the principal tax administration agencies in the 50 states, the District of Columbia and New York City. The Federation has adopted a policy which urges that the Senate reject H.R. 1953 and any

similar language which may be offered as an amendment to other bills.

We ask the Senate to recognize that, throughout the history of income taxation, both federal and state, workers are taxed by the jurisdiction where the work is performed. This system represents the keystone of taxation. State lawmakers make exceptions to this system to address individual circumstances where strict adherence to the principle leads to undesirable results. In particular, in those instances where sound fiscal and government policy permit, a state may enter into a reciprocal agreement with a bordering state to permit taxpayers to file a single return in the state of residency. Kentucky is at the forefront of such policy refinements—it has a reciprocal agreement with every border state that has a broad-based individual income tax. (The agreements do not function with non-income-tax states such as Tennessee, and thus they are not applicable in this case.)

The U.S. Constitution imposes substantive constraints on the manner in which states may structure their tax systems. These constraints ensure that the tax imposed meets fundamental tests of fairness in dealing with all citizens. The Constitution further ensures that state taxes do not impose undue burdens on interstate commerce or the federal government. The taxes imposed by these states meet these requirements and should not be preempted. There is no question that states have the legal authority to tax the income of nonresidents working in Oregon, Kentucky or Nebraska.

What this amendment would do is carve out a special tax benefit for workers who choose to live (or move) out of state that would not be available to any other employees working at the same location. Further, the language exempts from taxation wages paid to federal workers in Oregon and Nebraska—but it exempts from tax income paid to all individuals who work in Fort Campbell in Kentucky. This encompasses not only contract employees who work directly for the military (for instance, school teachers), but also includes the employees of private companies who run businesses or perform services on the base, including such businesses as restaurants and road maintenance firms. These are clearly private businesspeople, not federal workers. If Kentucky is to be exempted from taxing individuals who work for the federal government, we particularly urge the Senate to adopt language that more precisely defines the matter. (More precise definitions have been offered by the Pentagon.)

Finally, and most importantly, if change is necessary, it is within the power of the states involved to do so. This is an issue for state lawmakers, not federal lawmakers. Lawmakers in Kentucky and Tennessee are seeking an equitable solution that would not impose an unfair burden on either state. Oregon has already passed a law that exempts from taxation those federal employees who work on the dam in Oregon. (We would emphasize that to continue to include Oregon in this bill is unnecessary and an insult to the elected officials of that state.)

The ability to define their tax systems within the bounds of the Constitution is one of the core elements of sovereignty preserved to the states under the Constitution. A central feature of this sovereignty is the ability to tax economic activity and income earned within the borders of the state, and it is vital to the continued strong role of the states in the federal system. State taxing authority should be preempted by the federal government only where there is a compelling policy rationale. There is no such rationale present here.

The Senate is faced with an opportunity to demonstrate good faith to the principles contained in The Unfunded Mandates Act of

1995. If Congress feels that the impact of federal workers on installations crossing the borders of two states—one of which imposes an income tax and the other of which does not—should be offset, it should provide the funding necessary to offset the costs imposed on the states affected.

Sincerely,

HARLEY T. DUNCAN,  
*Executive Director.*

Mr. FORD. Mr. President, the National Conference of State Legislatures also strongly oppose the State tax preemption provided in the defense authorization bill. Let me read from an August 7, 1998, letter to the conferees. This was written to the chairman of the Senate Armed Services Committee, the Senator from South Carolina, Senator THURMOND. "Federal preemption of legitimate State taxing authority." The National Conference of State Legislatures wrote to the chairman and said this is wrong:

On behalf of the National Conference of State Legislatures, I am writing in opposition to Section 1045 of the House version of the National Defense Authorization bill (H.R. 3616). NCSL opposes federal action that preempts the states' constitutional authority to tax income earned within their borders . . . We urge you to preserve the States' sovereignty—

Preserve the States' sovereignty.

I ask unanimous consent that the letter from the National Conference of State Legislatures be printed in the RECORD.

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

NATIONAL CONFERENCE  
OF STATE LEGISLATURES,  
*Washington, DC, August 7, 1998.*

Re Federal preemption of legitimate State taxing authority.

Hon. STROM THURMOND,  
*Chairman, Senate Armed Services Committee,  
U.S. Senate, Senate Russell Office Building,  
Washington, DC.*

DEAR SENATOR THURMOND: On behalf of the National Conference of State Legislatures, I am writing in opposition to Section 1045 of the House version of the National Defense Authorization bill (HR 3616). NCSL opposes federal action that preempts the states' constitutional authority to tax income earned within their borders. Such federal legislation leads to inequitable, unfair and unlevel state tax policies and establishes a precedent for increased restrictions on source taxation.

Section 1045 of the House bill would preempt state taxation of federal workers in three locations. NCSL believes that the states in question should be allowed to determine how to tax workers who reside in one state and work in another, free from federal intrusion.

We urge you to preserve the states' sovereignty right to define their own tax systems by removing Section 1045 from the conference report on the bill. Finally, should the conferees include the provision in the final bill, we urge you to find an offset for the cost. Burdening the states with an unfunded mandate violates the Unfunded Mandates Reform Act of 1994. The cost associated with the loss of states tax revenue, due to change in federal policy, should be borne exclusively by the federal government.

We look forward to working with you on this issue. Should you have additional ques-

tions, please contact our committee staff, Gerri Madrid, at (202) 624-8670.

Sincerely,

TOM JOHNSON,  
*Chair, Federal Budget  
and Taxation Com-  
mittee, Ohio House  
of Representatives.*

Mr. FORD. Mr. President, apparently all of these requests to the Republican conferees to keep this State preemption provision out of the defense bill fell on deaf ears. The conferees either did not listen or did not care. One way or another, this was a done deal, a sweetheart deal, a special tax provision which favors one set of workers over another for the same work performed, at the same location, despite State law.

We are sitting at the same table. We are both working for the same employer. We are both doing the same job. We are both drawing the same pay, but you do not pay any taxes because you are a resident of Tennessee. I am a resident of Kentucky, and I pay my taxes.

Mr. President, all of the requests to the Republican conferees to keep this State tax provision out of the defense bill fell on deaf ears. I wanted to repeat that. It is a special tax provision which favors one set of workers over another. It also gives the employers, or the companies, an advantage when they bid, because they don't have to pay the tax under this.

As I said earlier, the next bill ought to be exempting Kentucky residents from the sales tax in Tennessee. Just show your driver's license and your address and place of employment, and you don't pay the taxes, one of the highest sales tax States in the Nation because their income comes from the sales tax.

I hope my colleagues understand the precedent that is being set here. We are preempting State law—preempting State law—and establishing a special tax status for a group of not just Federal employees, but private sector workers who perform their work entirely within one State's borders. It is a very broad precedent. There is no stated policy rationale for this special preemption and special tax status we are granting. It is a precedent that will haunt my colleagues.

I want my colleagues to understand how many other Federal facilities are in similar situations. When the workers at these facilities, not just the Federal workers, but the private sector workers as well, when these workers find out about the sweetheart deal at Fort Campbell, they are going to be asking their Senators, "Why can't we get a good deal as well?"

I have asked the Federal Tax Administrators just how many other Federal facilities are similarly situated. We have a preliminary list, but it is only preliminary. It probably does not include everything. The partial list we have shows there are 240 Federal facilities around the country that are on or near the borders of two or more States with significantly different income tax structures.

We talk about how hard it was to work out this bill, how many issues came before the committee. In the future, if this is the precedent that is being set, the Armed Services Committee will be in the tax business; they will be in the finance business; they will be preempting State laws and will not be looking after the right thing they should be doing, and that is the defense of this great country of ours.

I want to share this with my colleagues because more than 20 other States are affected. I think about 20 other States. That is 40 Senators—pretty good bunch of Senators. In other words, Senators from at least 20 other States are in jeopardy of having to face this same issue.

What have you done to the future of the military bill, the defense authorization bill? What have you done to it? You have turned it into a finance bill, not a defense bill. And I say to my colleagues, if they are from one of these States, you might be standing up here next year. Once the private sector employees find out about the special tax preemption, they may be lobbying their Senators next year to exempt them from the State tax laws in your State.

Let me read a list, and this is only a partial list: Arkansas has 7 installations. Arizona has 7. California has 50—50 installations similar to the one in Kentucky. Think about that when the two Senators from California will have to say—it goes all the way from military facilities, such as Fort Irwin Naval Weapons Center, Sierra Army Depot, the Grand Mesa National Forest.

Connecticut has 2. Georgia has 1. Maine has 1. Oh, I remember the argument here between Maine and New Hampshire. They are left out of this bill. They are left out of this bill because both of them apparently are on the other side. I was for Maine.

Massachusetts has 1. Mississippi has 8. Mississippi is probably the most vulnerable State of all of them because of their border situation. Can you imagine what would happen if all of these employees went to the two Senators in Mississippi and said, "Right across the line here in Tennessee they receive tax exemptions. What about us? What about us? What's fair for the goose is fair for the gander."

Missouri has 6. Montana has 10. They are not in this bill. Nebraska has 1. New Jersey has 20—New Jersey has 20. New Mexico has 6. New York has only 1. I was surprised at that. But North Carolina has 13—North Carolina has 13. Oregon has 20. Pennsylvania has 1. I heard a lot about the Philadelphia Naval Yard last year.

South Carolina has 1. South Dakota has 3. Tennessee has 3. Utah has 37. Think about that. Utah has 37 installations similar to the situation in this bill.

What about those employees—Federal employees, private sector employees—who were not exempt? Can you

imagine what the two Senators from Utah are going to face when they understand that other States were preempted and created a special tax group?

Vermont has 2. The State of Washington has 37.

What about the Indian reservations? Oh, we get into a good one there—Indian reservations. What about State workers at Indian casinos located on tribal lands? I do not understand. Why, the little leak in the dike here is beginning to take away the whole dike; and it could.

Mr. President, I ask unanimous consent that the list of these locations in the various States be printed in the RECORD.

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

240 FEDERAL FACILITIES POTENTIALLY AFFECTED BY THE PRECEDENT (LOCATED ON OR NEAR STATE BORDERS)

## ARIZONA (7)

Hoover Dam.  
Davis Dam.  
Glen Canyon Dam.  
Parker Dam.  
Imperial Dam.  
Several National Forests.  
Military Installations near Yuma.

## ARKANSAS (9)

Federal prison in Forrest City.  
Corps of Engineers projects at Beaver Lake.

Corps of Engineers projects at Bull Shoals Lake.

Corps of Engineers projects at Norfolk Lake.

Corps of Engineers projects at the Arkansas River.

Fort Chaffee Army base.  
Felsenthal National Wildlife Refuge.  
White River National Refuge.  
VA Hospital in Fayetteville.

## CALIFORNIA (50)

Military Facilities—Fort Irwin, Naval Weapons Center, Sierra Army Depot.

National Forests—Eldorado, Inyo, Klamath, Modoc, Plumas, Rogue River, Shasta-Trinity, Sierra, Siskiyou, Six Rivers, Stanislaus, Tahoe, Toiyabe.

National Parks and Monuments—Clear Lake National Wildlife Refuge, Death Valley National Park, Joshua Tree National Park, Kings Canyon National Park, Lava Beds National Monuments, Lower Klamath National Wildlife Refuge, Modoc National Wildlife Refuge, Mojave National Preserve, Mt. Shasta Recreation Center, Redwood National Park, Tule Lake National Wildlife Refuge, Yosemite National Park.

U.S. Bureau of Reclamation—Boca Dam, Imperial Diversion, Laguana Diversion, Lake Tahoe Dam, Prosser Creek Dam, Senator Wash, Sly Park, Stampede Dam, Colorado Dinosaur National Monument.

Routt National Forest.  
Arapaho National Forest.  
Roosevelt National Forest.  
Rocky Mountain National Park.  
Pawnee National Grassland.  
Comanche National Grassland.  
Great Sand Dunes National Monument.  
Rio Grande National Forest.  
San Juan National Forest.  
Mesa Verde National Park.  
Uncompahgre National Forest.  
Colorado National Monument.  
Grand Mesa National Forest.

## CONNECTICUT (2)

U.S. Naval Submarine Base, Groton.

U.S. Coast Guard Academy, New London.

## GEORGIA

Kings Bay Naval Submarine Base.

## MAINE

Portsmouth Naval Shipyard.

## MASSACHUSETTS

Hanscom Air Force Base.

## MISSISSIPPI (8)

Holly Springs National Forest.  
NASA Test Site, Bay St. Louis.  
Vicksburg National Military Park.  
U.S. Corps of Engineers District Office, Vicksburg.  
Natchez Trace Parkway.  
Meridian Naval Air Station.  
Columbus Air Force Base.  
TVA, Tupelo.

## MISSOURI (6)

Federal Locks and Dams:  
No. 20 near Canton.  
No. 21 near West Quincy.  
No. 22 near Saverton.  
No. 24 near Clarksville.  
No. 25 near West Alton.  
No. 27 near St. Louis.

## MONTANA (10)

Kootenai National Forest.  
Lolo National Forest.  
Bitterroot National Forest.  
Beaverhead National Forest.  
Custer National Forest.  
Bighorn Canyon National Recreation Area.  
Yellowstone National Park.  
Glacier National Park.  
Crow Reservation.  
Blackfeet Reservation.

## NEBRASKA

Gavins Point Dam.

## NEW JERSEY (20)

McGuire Air Force Base.  
Fort Dix Army Installation.  
U.S. Naval Air Station, Lakehurst.  
Pomona Naval Training Airport.  
U.S. Naval Recreation Target Area, Ocean City.  
Ft. Monmouth, Monmouth.  
Ft. Hancock, Sandy Hook.  
U.S. Coast Guard Bases (Cape May, Fort Dix, Highland, Pt. Pleasant, Ocean City).  
Sandy Hook Gateway National Recreation Area.  
Delaware Water Gap National Recreation Area.  
Morristown National Historic Park.  
Killcohook National Wildlife Refuge.  
Red Bank National Battlefield Park.  
Great Swamp National Wildlife Refuge.  
Edwin B. Forsythe National Wildlife Refuge.  
Brigantine National Wildlife Refuge.

## NEW MEXICO (6)

White Sands Missile Range.  
Cannon Air Force Base.  
Carlsbad Caverns National Park.  
Kiowa National Grassland.  
Carson National Forest.  
Santa Fe National Forest.

## NEW YORK

Ellis Island.

## NORTH CAROLINA

Great Smoky Mountains National Park.  
Cherokee Indian Reservation.  
Pisgah National Forest.  
Blue Ridge Parkway.  
Uwharrie National Forest.  
Fort Bragg Military Reservation.  
Pope Air Force Base.  
Camp Butner Federal Prison.  
Sunny Point Army Terminal.  
U.S. Coast Guard Air Station, Elizabeth City.  
Veterans Hospital—Swannanoa.

Veterans Hospital—Oteen.  
Veterans Hospital—Durham.

## OREGON (20)

Bonneville Power Administration.  
U.S. Army Corps of Engineers, North Pacific Division.  
FAA Facilities.  
Portland Air Force Base.  
Kingsley Air Force Base in Klamath Falls.  
U.S. Coast Guard, Captain of the Port.  
Fremont National Forest.  
Winema National Forest.  
Rogue River National Forest.  
Siskiyou National Forest.  
Lower Klamath National Wildlife Refuge.  
Hart Mt. National Wildlife Refuge.  
Wallawa-Whitman National Forest.  
Hells Canyon National Recreation Area.  
Umatilla Army Depot.  
Mt. Hood National Forest.  
Umatilla National Forest.  
Cold Springs National Wildlife Refuge.  
McCay Creek National Wildlife Refuge.  
Warm Springs Indian Reservation.

## PENNSYLVANIA

Philadelphia Naval Yard.

## SOUTH CAROLINA

Savannah River Site.

## SOUTH DAKOTA (3)

Black Hills National Forest.  
Mt. Rushmore.  
Lake Wahee.

## TENNESSEE (3)

Fort Campbell.  
Millington Naval Base.  
Arnold Engineering Research Facility.

## UTAH (37)

Flaming Gorge National Recreation Area.  
Manti La-Sal National Forest.  
Canyonlands National Park.  
Arches National Park.  
Ashley National Forest.  
Dinosaur National Monument.  
Brown's Park National Waterfowl Management Area.  
Bryce Canyon National Park.  
Caribou National Forest.  
Cottonwood Canyon, BLM.  
Dart Canyon Primitive Area.  
Dart Canyon Wilderness Area.  
Desert Range Experimental Station.  
Deseret Test Center, USAF.  
Dixie National Forest.  
Dugway Proving Grounds.  
Escalante Staircase National Monument.  
Glen Canyon Dam.  
Glen Canyon National Park.  
Golden Spike National Historic Site.  
Governor Arch, BLM.  
Grand Gulch Primitive Area.  
High Uintas Wilderness Area.  
Hill Air Force Range.  
Hovenweep National Monument.  
Processing Center, Ogden.  
Jones Hole Federal Hatchery.  
Joshua Tree Forest, BLM.  
Mount Naomi Wilderness Area.  
Mt. Honeyville Wilderness Area.  
Paria Canyon Cliffs Wilderness Area.  
Piute Wilderness Area.  
Rainbow Bridge National Monument.  
Sawtooth National Forest.  
Wasatch National Forest.  
Wendover Range, USAF.  
Zion National Park.

## VERMONT (2)

Green Mountain National Forest.  
Border Patrol Station, Highgate.

## WASHINGTON (37)

Federal Dams on the Columbia River.  
Federal Dams on the Snake River.  
Fairchild Air Force Base.  
Mt. Spokane Air Force Facility.  
U.S. DOT/U.S. Coast Guard Station Ilwaco and Westport.

Veterans Offices/Hospitals—Vancouver and Walla Walla.

U.S. Department of Energy—Hanford Site.  
Indian Reservations—Spokane, Kalispel, Colville, Yakima, Shoalwater.  
National Forests—Gifford Pinchot, Umatilla, Colville, Kaniksu, Pend Oreille, Okanogan.

National Historic Sites—Whitman Mission, Ft. Vancouver.

Mt. St. Helens National Volcanic Monument.

USGS Cascade Volcano Observatory.  
National Wildlife Refuges—Julia Butler Hanson, Willapa, Ridgefield, Conboy Lake, Umatilla, Toppenish, Turnbull, Little Pend Oreille.

Bonneville Power Administration—Vancouver facility.

Bureau of Reclamation Offices and Sites—Franklin County.

FAA Offices—Pasco, Walla Walla, Spokane.

#### OTHER GENERAL CATEGORIES

1. National Forests which straddle State borders.

2. Indian Reservations—What about state workers at Indian casinos located on tribal lands?

3. National Refuges which straddle State borders.

Mr. FORD. Mr. President, I also want to make clear to my colleagues that this special tax preemption provision in the bill is a clear violation of the spirit of the Unfunded Mandates Act. I have said that before, but I want to make it clear. This provision will cost my State \$4 million in lost revenue. What are we doing to offset the loss from the special tax preemption provision in this bill? Nothing. Absolutely nothing. Not a thing.

Mr. President, if this special provision had been offered on the Senate floor, I would have offered a second-degree amendment requiring us to at least study the broad scope of the precedent we were setting here before we acted. I am not sure a great deal of thought has been given to the far-reaching effect of this one little amendment in the defense authorization bill. It was a special political decision, and that special political decision will have ripples that will turn into waves in the future.

Mr. President, had this special provision been offered on the Senate floor, I would have asked for a study. Let's think through this one. We are preempting the States; we are telling the States how they can tax and how they cannot tax. This is not a Federal tax. This is a State tax.

I think my colleagues would have been shocked at how broad this precedent is by applying this sweetheart deal at Federal facilities across the country. They would be embarrassed to find out the extent to which we are meddling in State tax law matters on a defense authorization bill—all to create a special State tax status for a select group of Federal and private sector workers. I think my colleagues would want to know this information.

Mr. President, I ask unanimous consent that a copy of the amendment I would have offered be printed in the RECORD.

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

In lieu of the matter proposed to be inserted, insert the following:

#### SEC. . STUDY ON NON-RESIDENT WAGE EARNERS AT FEDERAL FACILITIES.

(a) The Secretary of the Treasury shall conduct a study which—

(1) identifies all federal facilities located within 50 miles of the border of an adjacent State;

(2) estimates the number of non-resident wage earners employed at such federal facilities; and

(3) compiles and describes all agreements or compacts between States regarding the taxation of non-resident wage earners employed at such facilities.

(b) The Secretary shall transmit the results of such study to the Congress not later than 180 days after the enactment of this Act.

Mr. FORD. Mr. President, the proponents of this special deal suggest that Tennessee employees receive no services from the State of Kentucky and, therefore, should be entitled to their special exemption. Mr. President, this is simply not the case. Let me read from a July 11, 1997, letter from the Kentucky Revenue Cabinet outlining the services the State of Kentucky provides to those workers.

Again, I remind my colleagues that these are Federal and private sector workers who perform their work within the borders of the State of Kentucky.

Roads—Fort Campbell is accessible from both the Kentucky side and the Tennessee side. Most workers enter the base at the gate nearest their work station. This means, for example, that most hospital workers enter on the Tennessee side . . . and most school workers enter on the Kentucky side using Kentucky maintained roads (the school is in Kentucky).

Water and sewer services— . . .  
Electrical service—Most is supplied directly to the base by the Tennessee Valley Authority. One housing area, however, is supplied by the Pennyriple Electric Cooperative, a Kentucky-based electric company.

Cooperative Fire Protection [is there]. . . .  
Schools—The school system on the Fort Campbell base is fully self-contained and federally funded. It is limited [however] to the children of active duty military personnel . . .

Police Protection— . . .  
Unemployment Benefits— . . .

Mr. President, we talk about exempting the Tennessee employees from paying Kentucky tax, but the Federal civilian workers who become unemployed can apply for benefits from the State where they work or the State where they live. If a Tennessee resident working in Kentucky becomes unemployed and applies in Tennessee, a transfer is made from the Kentucky fund to the Tennessee fund to pay that worker's unemployment claim.

What is wrong with that agreement? I don't think anything. The result is that wherever the claim is filed, Kentucky funds pay the claim.

Mr. President, I ask unanimous consent a letter from Alex W. Rose, commissioner, Department of Law, Kentucky Revenue Cabinet, be printed in the RECORD.

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

REVENUE CABINET,  
OFFICE OF GENERAL COUNSEL,  
Frankfort, KY, July 11, 1997.

Re H.R. 1953—Fort Campbell.

Mr. HARLEY DUNCAN,  
Federation of Tax Administrators,  
Washington, DC.

DEAR HARLEY: The Revenue Cabinet has gathered some information on the Fort Campbell issues of whether employees who live in Tennessee and work on the Kentucky side of the Fort Campbell installation receive any benefits from the state of Kentucky.

The question of what services Kentucky provides is quite broad. I will attempt to itemize below what we have investigated and the results.

Roads—Fort Campbell is accessible from both the Kentucky side and the Tennessee side. Most workers enter the base at the gate nearest their work station. This means, for example, that most hospital workers enter on the Tennessee side (the hospital is in Tennessee), and most school workers enter on the Kentucky side using Kentucky maintained roads (the school is in Kentucky).

Water and Sewer Service—Self contained on the base.

Electric Service—Most is supplied directly to the base by the Tennessee Valley Authority. One housing area, however, is supplied by the Pennyriple Electric Cooperative, a Kentucky based electric company.

Cooperative Fire Protection—Local communities in both Kentucky and Tennessee have agreements with Fort Campbell to assist in the event of a major fire or other emergency.

Schools—The school system on the Fort Campbell base is fully self-contained and federally funded. It is limited to the children of active duty military personnel stationed at the military base.

Police Protection—All police protection is self-contained. Responsibility for Fort Campbell and all federal military bases rests with the federal/military police.

Unemployment Benefits—Federal civilian workers who become unemployed can apply for benefits from the state where they work or the state where they live. If a Tennessee resident working in Kentucky becomes unemployed and applies in Tennessee, a transfer is made from the Kentucky fund to the Tennessee fund to pay that worker's unemployment claim. The result is that wherever the claim is filed, Kentucky funds pay the claim.

I hope this information is helpful to you in your efforts concerning H.R. 1953. It is our belief that the civilian employees who work on the Kentucky side of Fort Campbell definitely receive some benefits from the state of Kentucky.

The Kentucky Revenue Cabinet greatly appreciates the work FTA is doing on H.R. 1953. Harley, we can't thank you and your staff enough. If I can be of further assistance, please let me know.

Sincerely,  
ALEX W. ROSE,  
Commissioner, Department of Law,  
Kentucky Revenue Cabinet.

Mr. FORD. Mr. President, had this conference report been on a Senate bill, I would have offered a motion to recommit the bill to conference to strip this special State tax preemption provision from the bill. It is quite unfair, and I think everybody understands that.

They are doing a political favor, because the Senators who represent that

State are from another party. I do not understand why my colleague, who is a member of that party, would allow this to happen to his State. I thought we were here representing our constituents, not our party. I think it is disappointing that both my colleagues here in the Senate and the Congressman from the First District in my State allowed this to happen without at least raising their voice in objection.

However, I understand the option is no longer mine to offer any kind of amendment or any kind of motion to recommit. Since this is a House bill and it has already been approved by the House, thereby dissolving the conference, I understand the rules. I think I know the rules reasonably well here—not quite as well as Senator BYRD or, hopefully, the Parliamentarian, but I have no illusions about what the outcome of that vote might have been. After all, a sweetheart deal is a sweetheart deal.

I did want to draw attention to this provision. It is patently unfair. It has no place in this bill. The committees that put this bill together have no jurisdiction over the issue whatever. I think it is a dark mark on this piece of legislation as it relates to States rights, going outside the jurisdiction of the committee. I think it leaves a black mark and a black cloud over this piece of legislation. This special tax preemption provision is terrible policy. We should not be dictating to States how to administer their own tax laws. We should not be imposing our will on the States in matters that have nothing to do with the Federal law and are traditionally and constitutionally left to the States to resolve.

We hear a lot of rhetoric from the other side of the aisle that is never matched by the actions we see around this place. They say "lower taxes," but fail to say how they will offset them without causing more deficits. They say "less government," without saying where they will cut. They say "no more unfunded mandates," but continue to impose unfunded mandates on the States. And this is, in the strictest interpretation, an unfunded mandate. They say "States rights," but continue to pass special proposals like this one, which preempt State law, even in the areas that have been left to the States for the last 200 years.

Once again, Mr. President, we see that the rhetoric does not match the reality. When my friends on the other side see that expanding the role of Federal law fits their purposes, the rhetoric about States rights goes out the window. When they create a special tax exemption by imposing a \$4 million cost onto another State, the unfunded mandates rhetoric goes out the window.

Mr. President, I am very disappointed we have seen this issue, the preemption of State tax law, legislated this way on a defense authorization bill. It is bitterly opposed by my State

and it ought to be bitterly opposed by every other Senator on this floor.

I say to my colleagues, you have created a broad precedent here that I believe will come back to haunt you. I will not be here on the floor to see it play out but I can see it coming. The next time, it won't be Kentucky that will be hit. It very well may be the State of one of the Members who sat on the conference.

How much time remains?

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator has 40 minutes remaining.

Mr. FORD. I reserve the remainder of my time and I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum and I ask that the time be equally charged.

Mr. FORD. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard.

Mr. FORD. Since I objected, I will use some of my time.

I was hoping that the proposer of this amendment would be here on the floor so we could discuss it a little bit more. I have been here, now, for about 30 minutes—I guess, a little better—trying to discuss my side, and I don't want to lose my time on the basis that the opposition or the proponent is not here. I am more than willing to let the time come off of the time of the managers of the bill but I prefer the time not come off of mine. If the chairman of the committee and the manager of the bill would like to do that, I would have no objection. If he prefers not to do that, I hope he will encourage the Senators from Tennessee to come to the floor.

The only problem I have here before I suggest a quorum is, I would not want to be preempted from taking the quorum off—which I could—and then we would have to go through the process. Would the Senator give me the assurance he would not object if I want to take the quorum off?

Mr. THURMOND. No objection.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, I ask unanimous consent that the time during the quorum be charged equally to the four entities that have time on this bill.

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

Mr. FORD. 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. THOMPSON. 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. THOMPSON. Mr. President, I rise to express my strong support for the conference report we are considering today. This report includes a provision that will provide relief to approximately 2,000 citizens of my State of Tennessee who are being unfairly taxed by the Commonwealth of Kentucky. These people are civilian employees at Fort Campbell who live in Tennessee and work on the Kentucky side of Fort Campbell.

They are being required to pay income tax to Kentucky. But they receive no services from Kentucky.

I understand that it has been stated on the floor this morning that Tennessee is taking unfair advantage of Kentucky, that perhaps we will bankrupt the State or do grievous harm to them—basically a conspiracy among Democrats and Republicans, apparently, Tennesseans and Kentuckians, to perpetrate somewhat of an outrage against the good folks of Kentucky.

I am sorry that we can't debate it based strictly on the merits of the action being taken, because it is a very, very meritorious objective consideration of what we are doing here today. On any objective consideration in terms of sound policy, or in terms of fairness, this provision stands and survives.

We are not taking unfair advantage of the Commonwealth of Kentucky, our good neighbors to the north. What we are doing, as attested to by a vote of 15-to-0 out of the Governmental Affairs Committee, is righting a wrong and correcting an inequity.

The Commonwealth of Kentucky has gotten used to being able to tax Tennesseans—levy income tax on them—without providing any services to them. Weaning from a situation like that I guess perhaps can be somewhat painful, but I don't think it is going to do grievous harm to the Commonwealth of Kentucky, which I understand had a \$306 million surplus last year, and is perhaps beside the point.

But when we are talking about fairness and equity, and some of the other things we are discussing today, and the fact that we are discussing basic principles and so forth, and who looks out for the little guy, we are basically dealing with civilian employees working at Fort Campbell with average incomes of about \$30,000 a year. So these Tennesseans are paying about \$1,800 a year to Kentucky for nothing in return. So let's just put that in a little bit of perspective.

Of course, it is not just the Tennessee-Kentucky situation, it is two other situations where the Federal facility straddles the State border. This provides relief for the State of Washington also. It also provides relief for the State of South Dakota. I don't see the Members of the State of Oregon, which is affected by it, or the State of Nebraska, which is affected by it, to seem to have any problems either with

the constitutionality or the fairness of their situations. The situations are basically the same.

But we have an issue here today with regard to Tennessee and Kentucky. So be it.

As I said, these are civilian Federal employees. They work in Fort Campbell, KY. As it is well known, 80 percent of Fort Campbell is in the State of Tennessee. The mailbox is Kentucky. It is referred to as Fort Campbell, KY. There are several Federal civilian employees who live in Tennessee and who work on the Kentucky side. Some of them have worked on the Tennessee side for a long time and are assigned on the Kentucky side. They have nothing to do with that. It is not within their power, if they want to remain employed. And thereby Tennessee does not have an income tax. Kentucky does. They pay the maximum sales tax and other taxes in Tennessee, plus the income tax of Kentucky. They enter the Federal facilities on the Kentucky side by a Federal route. They do not go on the property of the Commonwealth of Kentucky to enter the place where they are working.

As I said, there are no services provided. I understand there was some reference made to some resident facilities being provided with water or some services. Of course, these people do not avail themselves of that. I can't imagine anything other than a most dire emergency where fire, water, sewer, and police protection, and all of that is provided by the Federal Government. If the problem gets so big, I imagine folks in Tennessee and Kentucky would come in and try to help out. But basically, in terms of basic services—fire, police, sewer, and water—none of those services is provided by the Commonwealth of Kentucky for the benefit of these employees. Basically what they are doing is paying income taxes for nothing received.

As I said, these people are not in the military. There is already an exemption for the military employees. They can only be taxed in their State of residence.

This is a situation where literally some people have been transferred and moved across the street, or even down the hall in their own building, and become subject, just because of that move, to Federal income tax or to income tax from the Commonwealth of Kentucky. When people in that situation—who live in Tennessee, work in Kentucky, only go on Federal property to get to their job, come right back, no services—if those individuals go on unemployment, they can't go to the Commonwealth of Kentucky and get unemployment benefits.

We had a witness before the Governmental Affairs Committee, when this was taken up, who makes \$15,000 a year—\$15,000 a year, and three kids—is a Federal civilian employee, lives in Tennessee, and works on the Kentucky side. When she went on hard times and had to apply for food stamps, she ap-

plied to the State of Kentucky and was turned down.

There was another witness who appeared before our committee who had been in the Air Force for 20 years, grew up in Kentucky, and paid Kentucky taxes for 20 years; then he moved to Tennessee; then he was assigned at Fort Campbell on the Kentucky side while he was living in Tennessee—the typical kind of a situation we are addressing. His daughter applied to the University of Kentucky. He sought instate tuition rates. He was denied that. He was treated as out-of-State for purposes of tuition when his daughter wanted to go to the University of Kentucky.

In other words, he is a Tennessean under some circumstances, when it benefits the Commonwealth, and a Kentuckian in other circumstances, when it benefits the Commonwealth.

As I said, it is not just Tennessee that is involved here. Employees at the Gavin's Point Hydroelectric Dam are in a similar situation. This dam is a Federal facility maintained by the Army Corps of Engineers and it straddles the Missouri River. The Missouri River is the border between South Dakota and Nebraska. The 35 South Dakotans who are employed at the dam are subject to Nebraska income tax on half their wages earned on the dam. Nebraska claims that because half of the Gavin's Point Dam is in the State of Nebraska, half the wages earned by South Dakotans on the dam are subject to Nebraska income tax. But these South Dakotans only travel into Nebraska while they are working on the Federal dam and they receive no benefits from Nebraska for the taxes that they are required to pay. They are ineligible for Nebraska unemployment benefits and accident insurance benefits.

Likewise, Washingtonians employed at the Columbia River hydroelectric dams were subject to tax by the State of Oregon until just recently.

These dams are Federal facilities maintained by the Army Corps of Engineers. They straddle the Columbia River. The Columbia River is the border between Washington and Oregon. One-hundred and forty Washingtonians working on these dams only cross into Oregon when their work takes them across the midpoint of the dams. Oregon had required these employees to keep detailed records regarding the exact amount of the time they spent on the Oregon side of the dam in order to obtain a tax refund from Oregon for time worked on the Washington side of the dam. Oregon also required Washington residents to pay income tax on a prorated amount of their vacation pay based upon the percentage of time during the year worked on the Oregon side of the dam. Because employees at the dam cross back and forth multiple times a day, Oregonians' recordkeeping requirements forced the Federal employees to waste a good portion of their workday documenting their movements across the dam.

The Washington residents working on the Columbia River Dam receive no benefits from the State of Oregon. They are not eligible for instate tuition rates at Oregon schools. They are not eligible for Oregon unemployment compensation benefits. In fact, when a Washingtonian who was laid off from Washington at one of the dams applied for Oregon unemployment compensation, he was denied. But when he later received unemployment benefits from Washington, Oregon tried to tax those benefits.

I recognize that the Oregon State Legislature enacted a bill last year to exempt Washingtonians employed at the Columbia River Dam from Oregon income tax. But it appears that the State was only reacting to the other body's swift movement of H.R. 1953. Oregon is continuing to require Washington residents to file W-2 forms in Oregon. Therefore, Washingtonians fear that Oregon may repeal the recently enacted exemption in the absence of Federal legislation.

Now, there is no question that with the passage of the Buck Act in 1940, States have the authority to tax Federal employees, but over a period of time, after due deliberation by Congress, there have been exceptions that have been made to this. There has been an exception for the military. There has been an exception for Members of Congress. There has been an exception for Amtrak employees, for example, employees who, of course, travel over several States. There was an exemption with regard to the ability to tax pension income from nonresidents. So these have been exemptions, and we can argue and debate the wisdom of each of these exemptions, but it has been long recognized.

There is no question about the constitutionality, incidentally. The witnesses even before our committee who did not think that what we were doing was the best way to go, I don't think raised any questions concerning the constitutionality of what we were doing.

Congress clearly has the right constitutionally to move in this regard. We can debate the merits of each of these exemptions, but there has been no question over the years after due deliberation there have been exemptions carved out on the basis of what is right and on the basis of fairness. This idea that we are opening up Pandora's box and it is going to affect anybody who works near a Federal facility or anything of that nature is certainly a misplaced concern. But that is not something that has been affected here—not employees who are near a border. We are talking about a specific situation where you have a Federal facility straddling two States. One State does not have a State income tax and the other State does. That is a very, very specific and narrow situation with which we are dealing.

It does not affect national parks, for example, where local governments

have much more to do with providing emergency services and things of that nature than the Commonwealth of Kentucky or the other two States affected here, the State of Oregon and the State of Nebraska, provide in these situations.

I agree that Congress should tread carefully when it acts to limit the taxing authorities of States, but these three situations addressed by the conference report are exceptional, and I believe they meet the elevated threshold which has been set by Congress for preempting a State's taxing authority.

At this time I would like to thank my distinguished colleagues who have served as conferees on the Strom Thurmond National Defense Authorization Act for including this important provision in the final bill. I would also like to thank my friends from Tennessee, Congressman BRYANT and Senator FRIST, for their hard work on behalf of these 2,000 Tennesseans. I am pleased they are finally getting the tax relief they deserve. I urge all of my colleagues to support this conference report.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I am delighted that the distinguished Senator from Tennessee would come to the floor to explain his reasons for using the Armed Services legislation in an authorization bill for a tax provision.

One of the things my distinguished friend said is that Kentucky provides no facilities. Well, if a person who is employed at Fort Campbell files for unemployment benefits in Tennessee, guess who pays for it. Guess who pays for it. Kentucky reimburses Tennessee. Isn't that a service?

I heard talk about other States. Let's talk about our States—the roads that enter at the nearest gate. Sure, we have electrical service that is provided. That comes out of Kentucky into Fort Campbell. We have cooperative fire suppression. If they say it is serious, both Tennessee and Kentucky would be there.

Unemployment benefits—I am surprised the Senator would say that we don't pay anything. We reimburse Tennessee for the unemployment. Kentucky pays. He raised the fact that the Governmental Affairs Committee held a hearing on this but the Finance Committee did not. When did the Governmental Affairs Committee take over for the Finance Committee?

The Senator has talked about Oregon quite a bit. I have a copy of a letter to the Senator, written from the director of the Department of Revenue, saying that they settled their own problem, that Oregon passed their bill and the States worked it out. There is no need for them to be included in this legislation. Here is the letter, dated October 21, 1997. The Senator had it almost a

year, but yet they put Oregon and Washington in this legislation and they don't need it. The States have worked it out themselves.

Mr. President, I ask unanimous consent that a letter to Senator THOMPSON from the director of the Oregon Department of Revenue be printed in the RECORD.

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

OREGON DEPARTMENT OF REVENUE,

*Salem, OR, October 21, 1997.*

Hon. FRED THOMPSON,

*U.S. Senate, Chair, Committee on Governmental Affairs, Senate Dirksen, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to alert you to a piece of proposed federal legislation that is scheduled for a hearing this Friday. The proposal, contained in H.R. 1953, would place a federal prohibition upon the state of Oregon that would not allow Oregon to impose an income tax on Washington residents whom are federal employees working on the dams that span the Columbia River.

We were alerted to this problem earlier this year and were successful in obtaining legislation at the state level that exempts these Washington residents from Oregon income tax effective January 1, 1997. A copy of the bill, which has been signed into law by our Governor, is enclosed (See Sections 6 and 7 of Enrolled Senate Bill 998). We have been in contact with the Army Corps of Engineers and have jointly developed procedures that will ensure that the affected workers will not be taxed on this income and will receive a full refund of any amounts withheld prior to the passage of the bill.

I am concerned that the federal government is proceeding with legislation to address a problem that Oregon has already resolved. We take very seriously our responsibility to establish and maintain a tax system that is fair to all citizens regardless of their state of residency. As such, we are generally opposed to external mandates believing that they impinge on Oregon's sovereign right to define its own tax system. Accordingly, any efforts on your part to remove Oregon from this federal mandate would be greatly appreciated.

Thank you for the opportunity to express my concerns about this proposed legislation. Please feel free to contact me if you want to discuss the issue further.

Sincerely,

ELIZABETH HARCHENKO,

*Director.*

Mr. FORD. The Senator says that this only applies to two States really, or very few. But the precedent here is the dangerous thing. We start under the Buck Act, and I am sure the Senator, being a legal expert, is fully familiar with the Buck Act and what it says about the State's ability to tax its own. Now, if he is not familiar with that, I can help him a little bit in trying to explain the Buck Act.

But the two States were in the process of negotiating when they were informed, or at least the Tennessee side was informed, that it would be taken care of here. And it was being taken care of, so the negotiations were called off.

I remember when Tennessee called a special session to prevent Kentucky contractors from doing business in Tennessee. This is a long-term thing. It is just not the first one. I go back into the early 1960s when this occurred.

So, Mr. President, I understand what the Senator is trying to do, but I wonder how he voted on the unfunded mandates bill. You are eliminating \$4 million a year—\$4 million a year—from Kentucky's income. Are Kentuckians excused from the high Tennessee sales tax? Why not? Why wasn't that put in this bill? If you are going to be exempt from our income tax, why don't you exempt Kentuckians, who are identical employees with an identical employer? What about the restaurants and the canteens and the cleaners and such that are going to be exempt under this, the private sector? This is a broad, broad piece of legislation. Broad, broad.

Let me read the Buck Act. Of course, we have the authority, I guess, to do that, but is it right? There are 240 known installations similar to this situation. And Mississippi is one of the most vulnerable States in the country as it relates to this type of legislation.

The Buck Act says:

No person shall be relieved from his liability for any income tax levied by any State, or by any duly constitutional taxing authority therein, having jurisdiction to levy such a tax by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area. And such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

That is the Buck Act.

My colleague lays out exempting military employees. When I served in World War II, we got exempted then. You only paid taxes in the State where you resided. That is nothing new. That is 55 years old, I guess—something near that. It has been here for 55 years.

He talked about Amtrak employees. They are on a train, they are going across the country. Would they pay tax in every State? Of course not. That is common sense, to let them pay tax in the State where they reside.

We have a lot of employees on the Interstate Highway System. They live in one State and they work in several States, as they construct interstate highways through various States. They are exempted. That is common sense.

But, to take an exemption and cost a State \$4 million—what kind of surplus does Tennessee have? He refers to the surplus of Kentucky. What kind of surplus does Tennessee have? That has nothing to do with the principle and the character of this provision under the armed services defense authorization bill.

The Senator can argue all he wants to, but when he talks about in-State and out-of-State college, that individual renounced his Kentucky citizenship and moved to Tennessee. You enjoyed him moving over there. You probably welcomed him with open arms. But then you come in here and say he cannot get exemption in another State? Why didn't he go to Tennessee, if he likes it so much? We have a few universities there that are pretty good. They

get State exemption, residential exemption. He just happened to want to go to a better school. So, you fuss about that. They moved to Tennessee. Anybody else from any other State would not be exempted. Tennessee would not exempt a Kentuckian residing in the State of Kentucky to go to a Tennessee school. That seems to me a pretty thin reason for having this section of the armed services bill.

Mr. President, I go back to the point—I have heard many, many Senators in this body talk about States rights. There is a lot of rhetoric here. There is a difference between talk and action—talk and action. The talk is States rights. The action is taking it away.

This bill is going to pass. There is no question about that. I have no illusions. I have counted votes around here longer than the Senator from Tennessee, and I understand what the vote will be. But you have something in the legislation that is not right, that is not fair, that the States were in the process of trying to work out and to negotiate. Then the word comes from Big Brother: "Don't you worry about it, we'll take care of it. Big Brother is going to preempt the States. Big Brother is going to take care of a few residents in this legislation." There are other States that have already settled. The Senator from Tennessee has the letter setting it out and objecting to what he is trying to do here because they worked it out as a State. You preempt the States.

What would happen if we were preempting Tennessee? Oh, it would be a bear in here. There would be growling and fighting and fuming and fussing over preempting Kentuckians in Tennessee. I hope my colleague from Kentucky, Senator MCCONNELL, will offer an amendment or something next year so Kentuckians who are in the same position will not have to pay the outrageous Tennessee sales tax. Just have a drivers license, show it, so we can be exempt.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I forgot to inquire as to the time situation. I understand we had 30 minutes. May I ask if time was kept on me before, how much time I have remaining on that?

The PRESIDING OFFICER. The Senator from Tennessee controls 14 minutes 30 seconds.

Mr. THOMPSON. Mr. President, just in response on some of the points that my friend from Kentucky made with regard to whether or not the other States need this and whether or not it is worked out permanently to their satisfaction, I think probably the Members of this body who represent those States would be the best witnesses. If the Oregon situation is worked out, then perhaps Senator GORTON and Senator MURRAY will oppose me on this. But I do not think they do. I think the

two Senators from the State of Washington do not feel like it has been worked out.

Just as the situation is with South Dakota. I think the distinguished minority leader of this body supports this provision in the legislation. So, regarding the Tennessee/Kentucky situation, the negotiations that my friend refers to, I think the result was a bit different than what has been alluded to. My understanding was there was one meeting in August and the suggestion was that Tennessee absorb the difference; that we give these Tennessee employees a credit and the State of Tennessee absorb the difference. That was not considered to be fair by the people in Tennessee, so those negotiations broke down.

With regard to the college tuition situation, at issue here is not that this gentleman moved from Kentucky back to Tennessee; that is for sure. The issue is he was working on the Kentucky side and paying Kentucky income taxes and still not getting that benefit from Kentucky. That is the point. I believe, if my colleague will check—I suppose we cannot resolve it here this morning—but I think, if my colleague will check, he will see that when the situation is reversed, my understanding is when Kentuckians work on the Tennessee side, they get Tennessee instate tuition.

I do not want to get into an extended battle between the States here. We enjoy a common border and friendly relationships and all that. But just on the basis of fairness, I believe we are doing a little bit better in that regard, in terms of comity, in terms of out-of-State tuition for workers who work at Fort Campbell. It is just simply based upon the proposition that a person should not have to go across the border, down the hall or down the street or across the street and so forth, when he is assigned new duties, not use any of the Kentucky facilities, and have to pay Kentucky income tax and not get any of the benefits, whether it be college instate tuition or not.

I would also point out to my colleague with regard to Kentucky employees working at Fort Campbell who work on the Tennessee side, as far as "on the post" is concerned, they do not pay Tennessee sales tax. If they go off the post they will pay Tennessee sales tax, but then they are using Tennessee facilities. The point is just simply not well founded any way that you look at it.

With regard to the States rights issue, that is something that, of course, is of concern to all of us. A lot of people strongly believe in federalism and that the proper role of the States should be preserved in the relationship between the State and the Federal Government. I would simply point out that with regard to most of these issues, it has to do with the relationship between the State governments and the Federal Government, and the Federal Government's relationship

with the States and their policies vis a vis the Federal Government.

This has to do with the way a State government is treating the citizens of another State. Ever since we have had the interstate commerce clause in the Constitution, that has been something that has been appropriately addressed by the Congress of the United States.

So I do not want to beat a dead horse here either. I feel, as does my colleague from Kentucky, that we are not going to change very many votes on this debate. But, in closing, I hope our friends in Kentucky do not feel that this is some kind of a power grab, something that is unfair to them, something that we have them over the barrel on.

This is something that is supported by Democrats and Republicans in this body. It is very narrowly tailored. My friend refers to 240 other situations. They are not similar. The only comparable or analogous situations would be those situations where Federal facilities straddle a State border, and there are only three of them, and those are the three that we deal with here.

We are trying to do what we often do in this body, and that is finely tailor a remedy for something that doesn't affect many people. It doesn't affect many people at all. But with regard to those who are affected, it is important for those folks who on average are making \$30,000 a year. It is something we have been trying to work out for 10 years. We have not been able to. I would rather not have to come to the floor of the U.S. Senate and resolve this matter this way, either. After trying all other avenues, we were left with no choice.

Mr. President, I thank my colleagues and extend my good wishes and respect to the senior Senator from the Commonwealth of Kentucky who has fought so long and hard for his State. I never look forward to having to come to the floor and take him on in any circumstance, especially when he is defending or representing and taking the side of the Commonwealth of Kentucky, because I know his heart and soul is in it. I respectfully disagree with him on this. I think it is the right thing to do. I think it is fair to these employees, and I urge its adoption. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from the Commonwealth of Kentucky.

Mr. FORD. Mr. President, I appreciate the Senator's flattery, but in this case, it won't get him anywhere.

Let me correct one thing, if I can. The Senator said we were exempt from sales tax. That is not true. We checked this morning. You pay tax at restaurants, dry cleaners—all that—you pay the sales tax on the base. On the base, you pay it. We called down there this morning. Now, if you want to call again, that is fine. I know where it is. I have been there. They have trooped out the troops for me. They jumped with parachutes and all that. It is obvious my name won't be on any building

down there, however, but that is all right. I don't really worry about that.

What I worry about is what is being done here and the precedent that is being set. They talk about they are all similar. The two other locations are dams. They are dams. They go across a river. They connect the States. That is a very small area. This is 105,000 acres that we are talking about here. This is a different facility, different situation, different problem altogether. One is a hydro; the other one is a dam. I say to my friend, in those two cases he is defending here, it is limited to Federal employees. In the Tennessee-Kentucky problem, it is not. You did not limit it to Federal employees. You went to private sector contractors and their employees. That is the reason the \$4 million is there and there is no unfunded mandate help for my State.

It is quite different. This is as broad as broad can be, with a capital B. It is not only Federal employees. The others are very small—35 employees. They are hydroelectric and dams, both of them. This is 105,000 acres.

We pay sales tax, as Kentucky residents, on the base. You exempt private contractors and their employees, and it costs us plenty. People will say, "FORD, this is fair." Fair to whom? I can bring the document—I don't have it here with me—but tuition was part of the negotiations. I wouldn't negotiate either if it was going to be settled here and you know what is going to happen. But the rights of the minority should be protected. I can't change the vote. Mine is the only one that I can handle, that I can guarantee, but we ought to be protected.

I have seen a lot of debate here in a little over 24 years. The distinguished Senator from South Carolina has seen a lot more. But most of the time, almost without exception, both sides have wanted to protect the minority, and here there is no protection.

Mr. President, as we are being stampered here, I think it is highly unfair, it is uncalled for, and this is very one-sided. We pay the unemployment, reimburse Tennessee, we help with electricity, we help with roads—we do all those things. You act like we don't do anything. But if you have unemployment benefits and Kentucky pays a Tennessee resident and reimburses the State—Kentucky doesn't do anything.

It is very difficult for me to understand when they start talking about precedents set here. That is for active duty military. They pay the tax, if any, in the State in which they are a resident. The Senator brought up Amtrak employees. You can get on a train in New York and wind up in California. Do you pay in each one of the States you go through? Of course not. That is just common sense.

You can have a construction worker who is building interstate highways and can go through several States. You wouldn't expect him to pay tax in every State. So common sense says pay the tax in the State in which he is a resident.

Here it is different. If you are a resident of Tennessee and work in Kentucky, you don't pay any tax. If you are a private sector employee and you are at a Federal facility, you don't pay any tax. The Tennessee contractor who would offer a bid at Fort Campbell has a sweetheart deal because a Kentucky contractor, or any other contractor, will have to pay the taxes, but Tennessee will not.

Big Brother says we are going to settle State taxes, not Federal taxes, State taxes, and put it on the defense authorization bill. It has never been to the Finance Committee, which has jurisdiction. And the testimony that was received in the House was something that I think we should go back to.

The Senate Governmental Affairs Committee held a hearing on October 24th of last year. The House held a hearing on April 17th of last year. To my knowledge, the Senate Armed Services Committee held no hearings on this issue in either session of this Congress. The reason is obvious: because the Armed Services Committee had absolutely no jurisdiction over this issue—none.

The conferees on the defense authorization bill, in my judgment, have no business attaching language which preempts State tax as part of the defense authorization bill.

Let's go back to the House hearing of last April. What kind of testimony did that committee hear? It heard that Kentucky's tax structure met all appropriate constitutional standards for fairness and nondiscrimination. That is the testimony. That committee was told that the ability of States to define their own tax structures within the bounds of the Constitution was "one of the core elements of sovereignty preserved to the States under the Constitution." It may be constitutional, but it is "one of the core elements of sovereignty preserved to the States under the Constitution."

The committee was told that if Congress jumps in and preempts State laws in this case, "it will by definition create a preferred class of taxpayer \* \* \*. Currently all workers—public and private—in Kentucky \* \* \* are subject to the same rules. This should not be disrupted by the Congress without a strong policy [mandate]."

The House committee was also told that the proposal to grant special status to Tennessee residents violated the spirit of the Unfunded Mandates Act of 1995. The committee was told, "if Congress feels that the impact of federal workers employed on installations crossing the borders of two states \* \* \* should be offset, it should provide the funding necessary to offset the costs imposed on the states affected and not just preempt legitimate taxing authority." That is the testimony. That is what the committee was told.

Mr. President, the Senate Governmental Affairs Committee I believe heard similar testimony during the hearing last August. The Senate Armed

Services Committee, however, heard no testimony—the Senate Armed Services Committee, however, heard no such testimony—because it held no such hearing and had no such jurisdiction over this piece of legislation.

Nonetheless, without any floor debate, a provision was snuck into the House version of the defense authorization. So I ask where my Kentucky colleagues were.

Mr. THOMPSON. Will the Senator yield for a moment?

Mr. FORD. Glad to.

Mr. THOMPSON. Mr. President, I yield the remainder of my time to the floor manager, Senator THURMOND.

The PRESIDING OFFICER. The Senator has that right.

Mr. THOMPSON. I thank the Senator.

Mr. FORD. I ask the Chair, how much time do I have left?

The PRESIDING OFFICER. Five minutes 38 seconds.

Mr. FORD. Well, I understand why the Senator from Tennessee does not want to debate this; because he is wrong. I like him. He is a nice fellow, friendly. Oh, you could not ask anybody to be any friendlier than the Senator from Tennessee. And I have always enjoyed his acting. In fact, I have seen some reruns. I have enjoyed watching those a second and third time. I look for him. But that does not mean he is wrong or right all the time. But in this case he is wrong.

And I wish this would not happen because, I say to my colleagues, when we start telling the States how to tax, when we take that authority away from the States, then we have gone a long way in disrupting what the Founding Fathers said this country should be made up of.

So I will not leave this Senate without having made this statement. I understand where the votes are. I understand what is going to happen to this bill. But at some point, I believe, sincerely, that it will be in court. And the constitutionality of this and the preemption of States' ability—not a Federal tax but a State tax—they give a preferred class of taxpayer here. You have two people sitting across the table, having lunch, and both are working for the same company; both do the same job; both make the same money; but the fellow from Tennessee pays no tax; the fellow from Kentucky pays it on a military installation.

There are 240 of these, at least, out there. And as I said, Mississippi is going to be one of the most vulnerable States.

Mr. President, I yield the remainder of my time to Senator LEVIN for his use, and I yield the floor.

The PRESIDING OFFICER. Who yields the time?

Mr. FORD. I suggest the absence of a quorum, and it be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. I yield 5 minutes to the Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair.

Mr. President, I rise in strong support of the fiscal year 1999 Strom Thurmond defense authorization conference report. I congratulate the managers of this bill for their exemplary work. In particular, I would like to express my most sincere gratitude and appreciation to Chairman THURMOND for his service to the Senate and for his service to our country.

Mr. President, I know that this was one of the most contentious conferences in the past decade, particularly because of the U.S. satellite licensing provisions. However, I am pleased that this conference report contains a provision shifting the jurisdiction for U.S. satellite licensing from the Commerce Department back to the State Department, where I believe the national security of this country can best be protected. This action is a step away from the controversial policy that President Clinton established in 1996 and it is a step toward enhanced national security. I hope the President, in signing this bill, will walk forward with us.

In addition, I am very pleased by the addition of several China-related provisions that I spoke in behalf of—sponsored some of those—that I believe will limit the role of the oppressive Chinese regime and United States complicity in their actions.

In particular, this conference report includes a provision requiring the Departments of Defense and Justice, FBI, and the CIA to compile a list of known PLA commercial fronts operating in the United States. This provision also authorizes the President to monitor, to restrict, and to seize, if necessary, the assets of, and ban the operation of, such PLA companies within these United States.

Furthermore, the Senate adopted and included in the conference report a provision authorizing funding for additional customs agents to enforce the existing ban on slave labor products, an ongoing problem. These products are produced in slave-labor conditions in China and are sold to American consumers, unbeknownst to the consumer. These sections call upon the President to strengthen international agreements to improve monitoring of slave-labor imports.

There is yet a further provision that I am heartened the conference has included regarding Radio Free Asia. This provision would fund 24-hour-a-day Radio Free Asia broadcasts throughout China in each of the major dialects. This provision will allow the Voice of Freedom to penetrate through the op-

pressive veil now muting the Chinese people.

I want to make one final observation. Last week, in declaring the success of his country in combating the floods raging throughout China, President Jiang Zemin compared that success to the success of stemming the tide of democracy and praising their crackdown at Tiananmen Square. I think I need say little more, Mr. President, as to the ongoing problems of an oppressive regime in China. I applaud the chairman and the conference for including these very important provisions in the conference report.

I yield the floor.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana, Mr. COATS.

Again, I want to say, since the Senator is leaving this year, he has been one of the ablest men on the Armed Services Committee. The Armed Services Committee and the Senate will greatly miss this individual. Again, I commend him and wish him well in all of his undertakings.

Mr. COATS. Mr. President, I thank the chairman for his kind words. I want to return that compliment, because it has been a distinct privilege and pleasure for me to serve under the able leadership of our chairman, Senator THURMOND. Senator THURMOND is, perhaps, not one of but perhaps the most remarkable individual I have ever known, someone who has committed a lifetime and more of political service to his fellow man and to his Nation, and who has served as a Rock of Gibraltar in support of a strong national defense. Serving on the committee with his leadership has been a great privilege for me, as well as it has been with all my colleagues who serve on the Armed Services Committee.

This committee of the Congress is the least partisan of all the congressional committees. We put the national defense and national security above partisanship. We work together in a team fashion. While we don't always agree across the aisle on every issue, we do find consensus. Our purpose is to protect and support our men and women in uniform, and protect the citizens of the United States by giving them the very best defense that we can purchase for their investment of tax dollars.

This particular bill is to be commended in many ways. It addresses some of the quality of life and readiness and modernization issues that we have been struggling with. As chairman of the Airland Committee, I have had the privilege of overseeing a very considerable amount of spending that goes into modernizing our forces. We haven't been able to do everything that has been asked, but we certainly have taken important steps in trying to make sure that our defense forces are capable of meeting the threat and are unparalleled in terms of their superiority.

As a member of the Personnel Subcommittee, as former chairman of that

committee, I am pleased that we have continued to address some of the important issues of pay and housing that are necessary to maintaining the spirit and moral of the people in our force. But, we have a great deal more to do in this area.

The Joint Chiefs of Staff testified just a couple of days ago about the state of readiness for today and tomorrow. Readiness is a function of quality of life, of training, and of adequate infrastructure. Two of these three areas—the infrastructure, the housing, the equipment, the facilities, the tools which we provide our service members with, and the quality of life—are strained and in many cases inadequate. The pay is too low and military benefits are in question. We are losing good people, too many good people. A great deal needs to be done in this area.

A great deal also needs to be done on the whole infrastructure front, not only in providing necessary facilities, but in terminating that infrastructure which is no longer needed. Too often we have perpetuated that infrastructure that is no longer required, and done so at great expense.

I have also been engaged in the whole question of defense transformation. How can we transform our national defense from a cold-war effort that has been unparalleled in the history of national defense—not only this country, but in this world. How can we transform that into a national security apparatus our defense structure to address the threats of the future, which will be different from the threats of the past. That is a monumental undertaking. I have suggested a number of ways in which this could be done. I have joined with my colleagues on the committee, particularly Senator LIEBERMAN, to define a process by which we can make those decisions, utilizing both inside and outside experts.

We have attempted, through this process, to ask the necessary questions and to make the necessary decisions about how we move forward. In that regard, in the future some very difficult but necessary decisions and tough choices are going to have to be made about how we spend our limited defense resources.

While we all acknowledge and hopefully will provide some additional funds to address the readiness concerns addressed by the Joint Chiefs, we are a long way from successfully allocating the resources we have available to us in the very best way that will give us the national security apparatus we need to address future threats. Tough decisions have to be made because we have the tendency to continue to fund systems that we already have in the force. Decisions are often made, both in the Pentagon and in the Congress, about maintaining what I call "legacy" systems—systems that have had a long shelf life, that are very near and dear to our heart, produced in our district, or systems we have related to over the

years. There is a great tendency to perpetuate these legacy systems and not give sufficient resources and weight to the new systems that are necessary to address the new threats of the future.

My challenge to the Congress, and my challenge to the Department of Defense, is to step up and make the unpopular choices, make the very difficult choices to divest legacy systems and structures which are no longer required, or whose value will depreciate quickly in the future, so that we can free up the resources that we must to address the question of providing the right national security apparatus that embraces the potential for a revolution in military affairs and addresses the threats of the future.

Mr. President, I congratulate the chairman, Senator THURMOND, and the ranking member, Senator LEVIN, for their leadership of a truly bipartisan effort which achieves an effective balance across the quality of life of our servicemembers and their families, the readiness of the force, and the modernization of our systems as we enter the 21st century.

This accomplishment is of particular note because this defense bill adheres to the budget agreement of approximately \$270 billion, a 1.1 percent decline in real terms over last year's defense budget, and it is approximately 35 percent below the cold war heights.

This defense authorization includes numerous provisions that will enhance military quality of life. It includes a 3.6 percent pay raise for military personnel. It also provides an increase of \$660 million in military construction projects, over \$250 million of which will fund barracks, dining facilities, and military housing. And this bill directs three health care demonstrations for our military retirees who are Medicare eligible.

This bill also adds over \$800 million to the key readiness accounts of our active and reserve forces. We are all aware of the stress that current operations such as those in Bosnia or the Persian Gulf have on military readiness. The funds we have added will support infrastructure maintenance, training, and the availability of parts and supplies to sustain readiness levels.

Despite the gains we have made in areas of quality of life and readiness, we are still well short of the \$60 billion procurement goal stated by Secretary of Defense Cohen and his predecessor Secretary Perry which was to have been achieved in fiscal year 1998.

Here we are again proposing a procurement level for fiscal year 1999 that is below \$50 billion. Correspondingly, service modernization accounts remain on the margin—well short of the level required to recapitalize our joint capabilities for the 21st century.

And now I would like to comment on several modernization issues from my perspective as chairman of the Airland Subcommittee.

The Army is moving to consolidate the gains from the Force XXI process

and to investigate smaller, faster, more lethal, and more deployable forces. But the Army's modernization strategy to pursue this transformation is lacking in areas of aviation, armored vehicles, and trucks, and we have provisions addressing these issues.

And I must say that we have made progress in addressing reserve component modernization thanks to the fine work of Senator GLENN, the ranking member of the Airland Subcommittee, to structure a coherent process for the consideration of Guard procurement. First, the budget request included nearly \$1.4 billion in procurement for the guard and reserves—about a 50 percent increase over last year. And this bill provides another several hundred million. Clearly, the Senate's bipartisan efforts are having a positive affect on total force integration.

This bill also supports TACAIR modernization programs of the services and we have taken additional prudent steps to ensure these programs stay on track.

Last year, I spoke at length about my concerns with F-22 cost overruns and demonstrated performance. And I must acknowledge that I have these concerns as a supporter of F-22 development. But based on the testimony of the Air Force and the assessment of the General Accounting Office, there are many who share a deep concern over whether we can maintain support for the F-22, whose costs are approaching \$200 million per aircraft, if the program does not adequately demonstrate performance and cost control.

This bill takes a very important further step to put key oversight provisions in place that fence the contract award for advance procurement of lot II F-22 until:

10 percent of testing is complete (the minimum specified by the Defense Science Board); or, the Secretary of Defense certifies that a lesser amount of flight testing is sufficient, and provides his rationale and analysis for that certification; however, the funds are fenced until the F-22 flies at least 4 percent of flight tests—the amount now planned prior to contract award—have been completed.

This provision holds the Department to its own plan at a minimum and places the emphasis squarely on the demonstrated performance of the F-22 program. No performance, no money.

This bill also contains a provision on a new joint experimentation initiative that is fundamental to defense transformation.

The Congress has been keenly aware of the need to transform our military capabilities to address the potentially very different operational challenges of the future. The National Defense Panel Report argues that these challenges—which include among other things, asymmetric challenges in power projection, information operations, and weapons of mass destruction—may place this Nation's security at far greater risk than we face today.

This provision includes a sense of Congress on the designation of a combatant commander with the mission for developing, preparing, conducting, and assessing a process of joint warfighting experimentation. Secretary Cohen has signed a charter assigning this mission to USACOM in Norfolk. And the provision lays out a set of reporting requirements from this CINC to keep Congress informed of the status of transformation.

The process of joint experimentation is designed to investigate the co-evolution of advances in technology, with changes in the organizational structure of our forces, and the development of new operational concepts. Accordingly, the purpose of joint experimentation is to find those technologies, organizations, and concepts which provide true leap-aheads in joint warfighting capabilities.

And just as important, it is the purpose of joint experimentation to identify those technologies and concepts which are failures. Some will consider the cost of these failures as wasteful. But quite the contrary. The true failure would be continuing to invest in systems before we really know what will or will not work on the battlefields of the 21st century. And given the level of defense budgets, we cannot afford to invest in systems which fail to contribute markedly to our future warfighting capabilities.

Previously in our history we have found ourselves unprepared for threats we faced at the outset of war. Our Nation rallied to eventually overcome these threats, but at a cost—not only in fiscal terms, but in lives.

In the very near future, technology will enable a different range of threats we must be prepared for. The process of joint experimentation supported in this bill will be central to ensuring our Armed Forces are prepared to successfully meet the national security challenges of the 21st century.

This bill makes great strides in improving the quality of life, readiness, and modernization of the force; and in laying the framework for the transformation of defense capabilities for the 21st century.

Yet there is much more work that needs to be done. The Joint Chiefs testified on Tuesday that defense budgets are not adequate to sustain current readiness and to keep our defense forces on firm footing for the future.

But defense budgets will likely not increase to the levels requested and this will leave the Pentagon, the administration, and the Congress with some tough decisions which must be made. And we need to know what these decisions are and when they need to be made. I proposed that another quadrennial defense review and national defense panel be established in the year 2000 to conduct another comprehensive assessment of defense strategy, policy, and programs. I trust that the defense committees will work to include those provisions in next year's bill.

I would like to thank and acknowledge the distinguished service of the chairman of the Senate Armed Services Committee, Senator THURMOND and the distinguished ranking member of the Airland Subcommittee, Senator GLENN for their tremendous stewardship of defense issues in this Defense authorization bill.

We often ask ourselves: "Where have the heroes gone?". Well I know where two of them have been, and that is working side-by-side with many of us deliberating defense issues. I commend them for their service and wish them the best in all future endeavors. In closing, this bill has my full support, and I strongly encourage all Members to support it.

Mr. THURMOND. Mr. President, again, I wish to thank the Senator for his good work on the Armed Services Committee.

Mr. KENNEDY. Mr. President, I support the conference report on the Fiscal Year 1999 Defense authorization bill. The House and Senate conferees have produced a worthwhile defense bill that deserves to be approved.

Before the conference, the House version contained several provisions that the administration had threatened to veto. We worked effectively in our deliberations with the House to resolve these differences and find satisfactory solutions.

Gender integration in basic military training is the first of these important issues. In the Fiscal Year 1998 Defense Authorization Act, Congress established a bipartisan panel to review gender integration in basic military training. That commission has started its work and will report to us next year. The conference compromise on this issue will enable the commission to finish its work, while requiring each of the services to provide separate, safe and secure housing for male and female recruits with the sleeping areas separated by permanent barriers and limited access.

The second of these issues is production of tritium for the nation's strategic arsenal. The Secretary of Energy has already initiated a comprehensive analysis to determine the best way to produce this material. That study will be concluded by December 31, 1998. The conference report includes a provision to withhold funds for the implementation of the Secretary of Energy's recommendation until full and complete congressional review next year.

The conference report provides needed support for our military forces while maintaining a realistic balance between readiness to take care of immediate needs, and investment in new systems for the future. The report also includes a fully funded and well-deserved 3.6 percent pay raise for military personnel.

We also tried to deal with the important and complex issue of military retiree health care. The report includes a provision for the Department of Defense to initiate a comprehensive test

plan to evaluate the best method to provide health care to retired military personnel and their families. The Department of Defense will establish two demonstration plans, which will be evaluated before any future implementation. The first plan will allow selected retirees to enroll in the Federal Employees Health Benefit Plan. The second plan will implement a redesigned pharmacy benefit for Medicare-eligible DOD beneficiaries at two sites. This plan will also provide needed information for reducing out-of-pocket costs for military retirees.

Protecting the safety of our service men and women was also high on our priorities in the conference. The daily operations of our military forces have obvious risks and dangers. All branches of the Armed Forces have made progress in improving safety, but more remains to be done. I commend the Department of Defense for its accelerated installation of needed additional safety systems on military aircraft that carry passengers. The conference report includes additional funding for aircraft safety modifications.

Our troops are at risk from high tech attacks as well. The growing frequency and sophistication of such attacks on the Pentagon's computer networks demonstrate the need for improved protection of critical networks. The conference report recognizes the importance of this effort and supports the Air Force cyber-security program.

In the past 8 years, the Navy-Marine Corps team has responded to over 90 contingencies—almost one per month. As the ranking Democrat on the Seapower Subcommittee of the Armed Services Committee, I am pleased that the conference report provides the support necessary for our naval forces as they modernize to meet the challenges of tomorrow.

The report includes the necessary advance procurement funding for fiscal year 1999 for the Navy's next aircraft carrier, CVN-77. The Navy's procurement schedule for this carrier, revised from its budget submission of last year, will be under the cost cap mandated in last year's Defense Authorization Act. Also, much of the new technology being developed for the next generation aircraft carrier, the CVX, will be included in CVN-77.

The budget request for the 30 Navy F/A-18E/F Super Hornet fighters is included in the report. The Super Hornet combines the outstanding characteristics of earlier F/A-18 models with cutting edge technology in an affordable aircraft with significantly improved performance and endurance.

In addition, the Marine Corps' MV-22 Osprey tilt-rotor aircraft procurement for next year was increased to eight. The Osprey is a vertical take-off and landing aircraft designed to replace the Marine Corps' aging fleet of CH-46 and CH-53 helicopters.

The constructive compromises we reached during the conference on critical issues have produced a comprehen-

sive bill which provides effectively for our national security, and which contains no provisions that would draw a veto.

I also join in commending the distinguished leadership of the chairman of the Senate Armed Services Committee, Senator THURMOND. He has worked effectively with all of us to see that our national security and the needs of our service men and women are met in this legislation. It has been a privilege to work with Senator THURMOND as chairman, and I look forward to continuing our work together on this important issues. It is especially fitting that this bill is named in his honor.

I urge my colleagues to support the Strong Thurmond National Defense Authorization Act for Fiscal Year 1999.

Mr. GLENN. Mr. President, I rise today as we consider the fiscal year 1999 Defense authorization conference to draw the Senate's attention to what appears to be a brewing controversy over the state of our military's readiness. Yesterday, the Committee on Armed Services held a hearing with Joint Chiefs to discuss some readiness issues that recently have been brought to the committee's attention. I believe there are very legitimate concerns regarding recruiting and retention trends, increased Personnel Tempo, as well as pay and benefits comparability, spare parts availability, and growing depot and real property maintenance issues to be examined.

I agree that we must pay very close attention to these issues because we are asking our men and women in uniform to do more today than we ever have during peacetime. We are asking them to do more, not so much with "less," but with fewer and fewer people and that is placing a strain on our military. I believe we must proceed very, very carefully before any further reductions are considered.

I am concerned that our problem may be more basic than these issues I have just mentioned. I have come to this Senate floor many times over the years and have spoken repeatedly in the Armed Services Committee to voice my concerns over the drawdown in our end strength. In my view, I don't believe we should have gone below 1.6 million in our active duty end strength.

I am concerned that with fewer than 1.6 million in end strength our military strategy becomes a bit of a myth, Mr. President. I don't think we can fight two contingencies today with an end strength of 1.4 million. I'm not confident we could repeat Desert Storm and embark on a second contingency if something broke out in Korea.

1.6 million is not a number I pulled from thin air. Rather, it is based on a time-proven formula that requires a force that basically is divided in three. One third of the force is forward deployed and fighting, one third of the force is training for deployment or in transit and one third of the force is maintaining the other two-thirds—

manning the Pentagon, plowing the runways, etc.

In the Persian Gulf, we had about 575,000 Americans deployed. That's one major regional contingency or one major theater war (MTW) as we are now calling them. To repeat Operation Desert Storm, we need an end strength of at least 1.6 million. Today, we appear to be falling below the manning levels necessary to conduct our peacetime operations let alone credibly maintain a combat force capable of carrying out two nearly simultaneous major operations.

Mr. President, let me add at this point that I believe those commitments are important. We have alliance deployments in Japan, Korea, and Europe. We are conducting peacekeeping operations on the Kuwait border and in the Western Sahara. Our so-called "Operations Other Than War" also require American service members to be deployed to the Sinai, to Bosnia, to the Persian Gulf in Kuwait and Saudi Arabia and on the border between Peru and Ecuador. We've had deployments to Rwanda, Angola, Somalia, Haiti and Cambodia to name a few other operations that have all contributed to the services' high OPTEMPO and PERSTEMPO. I support these operations.

We literally have saved millions of lives through our presence in troubled areas of the world and I believe that that is an appropriate use of our military forces. The cold war may be over but the killing has not stopped. The United States has no territorial ambitions but we do need to remain engaged. The constant demands on our personnel around the world, however, are not without consequence. We are asking the men and women in our military services to be deployed for longer periods and more often than we have in the past. They have served well through a difficult and turbulent period.

I understand, and I hope my colleagues understand, the rationale for continued reductions in our end strength. End strength cuts are being made in order to generate cash to pay for modernization programs. I agree that our service members deserve the best and most modern equipment available but I do not agree that reductions should be made simply to generate cash. Even if modernization programs can reduce manpower requirements in the long term, in the near term, we still need people to carry out our important worldwide commitments. The time has come to step back and consider how we are going to achieve our goals. We may need more funding for modernization. In my view, we also need funding for more people.

We also need to impose more discipline before simply raising the topline. We should have given the Department base closure authority so we could get unneeded bases off the books. And we should impose more discipline on ourselves. This year we added about

\$2 billion in items that the Services didn't request in the procurement and research and development accounts. We added over \$600 million in military construction add-ons. It is only in the past few years that the Congress has agreed that when adding military construction projects, those projects should at least be projects that the Defense Department wants. Even meeting that criteria, I am not sure that annually adding hundreds of millions of dollars for military construction projects just to "bring home the bacon" is necessarily the best approach to establishing and funding national security priorities.

I am supporting this conference report because on balance I believe it is a good conference report but I do believe that the Congress needs to focus more carefully on true spending priorities particularly as we are learning that there may be some readiness funding problems.

#### HELPING OUR MILITARY AND SUPPORTING OUR DIPLOMACY

Mr. BIDEN. Mr. President, I support the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. Naming this bill after my good friend STROM THURMOND is a fitting tribute to one of the Senate's greatest defenders of America's military interests. I urge everyone to take a minute to read Section 1, which highlights Senator THURMOND's distinguished record of service and leadership.

As always, finding the right compromises to protect our national security while still living within our budget caps has been hard. Recent events in Iraq and Kosovo, and the attack on our embassies in Tanzania and Kenya are stark reminders of why our diplomatic efforts must be supported by a robust military.

I compliment the Committee on Armed Services, under the leadership of Chairman THURMOND and Senator LEVIN, for its dedicated effort to address some of our nation's critical national security needs. While I do not agree with everything in the conference report, on balance I believe this bill does a great deal of good.

On the personnel front, I know that all of us are pleased with the 3.6 percent pay raise. We know that our patriotic men and women in uniform do not serve in order to make money, but that doesn't change the needs of their families and themselves for adequate recompense. This is a solid step in the right direction.

Along the same lines, I thank the conferees for joining me in supporting an increase in hazardous duty incentive pay for mid- and senior level enlisted aircrew personnel. This necessary increase reflects our commitment to the experienced aircrew personnel without whom our planes could not fly vital missions in Bosnia and Iraq.

I was also pleased to see that this bill recognized the increasingly vital role of our Guard and Reserve personnel in

the new Total Force. As that old Oldsmobile commercial said, "this is not your father's" military. Guard and Reserve personnel are absolutely vital to meeting America's leadership commitments around the world, to protecting communities here at home, and to defending national security. Among other things, this bill authorizes the payment of selective reenlistment bonuses, increased funding for Guard and Reserve training, the restoration of up to 800 military technicians (dual-status), and funds for the Guard's Youth Challenge program and STARBASE program.

The conference report continues Congress's effort to address the strains on our ability to provide high quality health care to our military retirees. Both houses of Congress are agreed that more work needs to be done in this area and the demonstration projects included in this year's bill are part of that process.

In looking at some of the provisions in this bill that address foreign relations issues, I am less sanguine. As I said when the Senate dealt with this bill, I do not support the Sense of Congress provision that endorses NATO missions with ground forces that would not include any American troops. This is a dangerous precedent that encourages the erosion of American leadership in NATO.

This bill also addressed satellite transfers. While we do not want to handicap America's satellite manufacturers and telecommunications firms, the most important consideration must always be to safeguard national security. The changes made in the licensing system appear to make sense, despite their being adopted on the basis of a very incomplete analysis of a complex issue. Transferring licensing authority back to the State Department—the same agency that licensed the controversial Loral satellite launch in February 1996—may help, so long as the State Department is given the resources to do the job right. This conference report permits the Department of State to keep all the fees it collects for registration by the Office of Defense Trade Controls—the office which administers licenses for military exports—a sensible approach that is also contained in the Department of State authorization bill. Now the Commerce, Justice, State appropriations conference must adopt a similar provision; otherwise we will be giving the State Department an unfunded mandate that it will be unable to fulfill. We run the risk of exacerbating the problem of perpetually under funding of our foreign policy tools.

One provision addressing foreign policy that I was very pleased to see retained is the amendment that I authored calling for a report on the peaceful employment of former Soviet experts on weapons of mass destruction. The slightly revised provision is now found at section 1309. Section 1309 requires detailed reporting on the

former Soviet experts who are at risk of recruitment by a rogue state or terrorist group. I am confident that this language will not require the Department of Defense to produce an impossibly detailed analysis. I am pleased to note that the revised provision will permit the Secretary of Defense to inform Congress of ways to increase the number of former Soviet arms experts whom we assist in their transitions into new occupations. That is a vital national security objective, and it will become even more vital in the coming years as Russia's nuclear establishment is substantially downsized and more of their nuclear weapons experts are left to find new ways to earn a living.

In conclusion, Mr. President, the Strom Thurmond National Defense Authorization Act is a comprehensive bill that addresses many of our military needs. As I have said, there are some provisions that concern me. But, overall, I believe this bill provides some of the bricks that make up the foundation of our national security policy. It takes important steps to improve the quality of life for our most critical national security asset—our military personnel. My overall concern continues to be that it should not take terrorist attacks to realize that spending more on our first line of defense—our foreign policy—is an equally vital part of our national security policy.

SEC. 1512

Mr. LEVIN. Mr. President, I wish to enter into a colloquy with the distinguished senior Senator from South Carolina, the Chairman of the Armed Services Committee, after whom this defense authorization bill is named.

Section 1512 of this bill requires the President to certify to Congress 15 days prior to any export to the People's Republic of China of missile equipment or technology, as defined in the Annex to the Missile Technology Control Regime, that such export is not detrimental to the U.S. space launch industry, and that such export will not measurably improve China's missile or space launch capabilities.

The intent of this section is not to prevent the export of commercial communications satellites to the PRC, consistent with U.S. law and national security and foreign policy interests, nor to harm our domestic satellite industry. The purpose of this section is to ensure that exports of such satellites and related technology to China will not harm U.S. security. As long as sufficient export controls are in force and are being enforced, such exports are consistent with our national security.

Furthermore, this certification requirement for exports to China is not intended to prevent the export of commercial technology for emergency repair of civilian equipment, such as navigation systems required for safe flight of passenger aircraft. If a U.S.-made aircraft requires emergency repair or replacement of its navigation system while in China, we would not

want to delay such required repair unreasonably.

I wish to ask the Chairman if he shares this view of Section 1512.

Mr. THURMOND. Mr. President, I agree with the view expressed by my colleague, the Ranking Minority Member of the Armed Services Committee. He has stated correctly the views of the Senate and the House in agreeing to Section 1512 during the conference on the defense bill.

With regard to concerns that the requirement for a 15-day advance certification concerning the export of items listed in the MTCR Annex to the PRC would delay the ability to provide spare parts for in-service civilian commercial aircraft in an emergency while in the PRC, it is not the intent to delay the export of items for emergency repair of in-service civilian commercial aircraft while in the PRC.

This view, however, should not be mistaken as a green light to stockpile technology and spare parts which are on the MTCR Annex above what is necessary to provide emergency service for in-service commercial aircraft.

Mr. LEVIN. I thank the distinguished Chairman of the Armed Services Committee for helping to clarify the intent of this provision.

C-130 TRAGEDY

Mr. WYDEN. Mr. President, in November 1996, there was a tragic accident off the coast of California that claimed the lives of 10 out of 11 airmen, the crew of an Air Force Reserve C-130 aircraft out of Portland. All of these crewmen were from my home state of Oregon.

This was a devastating loss for all of us, but most of all for the families of those airmen who lost their lives. After any tragedy like this, the first question on everyone's minds is "why?" Why were my loved ones taken from me? This is what the families of these airmen wanted to know, but no one would give them a straight answer.

After many, many months of frustration, these families came to me and my colleague from Oregon, Senator SMITH, to get the Air Force to tell us exactly what happened.

As a result of working with these families, with the Air Force, and with the committee staff, and with Senator LEVIN in particular, we were able to craft some language that is now included in the Defense Authorization Conference Report that we are considering today. This language takes a two pronged approach to dealing with the pressing issues the families have raised: improving crash investigations, and eliminating the secrecy in which these investigations are shrouded.

Specifically, the language directs the Defense Department to review the way it conducts aviation accident investigations so that they are conducted in as thorough and objective a manner as possible, including making sure crash investigators receive the best training, and ensuring that the military department coordinate and share information

on fleet safety. The bill also urges the Pentagon to seek the advice of the National Transportation Safety Board in improving investigation procedures, and I intend to make sure their valuable input is part of their review.

Secrecy has long been the hallmark of these investigations and has kept loved ones in the dark about what happened and why. We have worked to reduce the secrecy involved in the investigations of tragedies, and this legislation takes a solid step forward in providing families and the public with better information.

That's why this language also requires the Department of Defense to issue regulations to provide to family members periodic reports on the progress of investigations. I also spoke with Secretary Cohen about this recently, and he has pledged to make a solid effort to make sure families are kept informed of the progress of investigations.

It's important that we eliminate secrecy from these proceedings. The last thing we should do is add to these terrible tragedies by keeping the families in the dark about the status of these investigations. From day to day, from week to week, from month to month, these families had to cope with not only the incredible pain of losing a loved one, but with the incredible frustration of not knowing the status of the investigation into their deaths. This new language seeks to put an end to this type of treatment. We owe it to the men and women who give their lives for their country.

TRITIUM PROVISION

Mr. LOTT. Mr. President, yesterday the Chairman of the Armed Services Committee, Senator THURMOND, along with Senators WARNER, SMITH, and KYL entered into a colloquy on the tritium provision in the pending National Defense Authorization Act Conference Committee Report.

While I was not available to participate in that colloquy, I would like to make a few comments on this subject.

First and foremost, the restoration of tritium production is absolutely critical. Without tritium, our entire nuclear deterrent would be left inoperable. Our nuclear warheads cannot function without replacement tritium. And time is wasting.

For those who do not know, tritium is a radioactive gas that is an essential component of modern nuclear weapons. It decays at a rate of five-and-a-half percent per year, so it has to be continually replaced. We have not produced tritium in this country since 1988, when the reactors at the Savannah River Site in South Carolina were shut down. Since that time the Department of Energy has examined countless options and technologies, but has not yet selected a new source. We cannot afford to delay this program. The potential costs of delay are too great.

The Chairman of the Armed Services Committee, Senator THURMOND, had a difficult Defense Authorization conference with the House this year.

Chairman THURMOND and the other members of the Committee negotiated over 570 legislative provisions and more than 1,000 funding differences with the House. The final result was a strong bipartisan bill. In fact, for the first time in many years, all the members of the conference, both Democrats and Republicans, signed the final conference report.

Tritium was one of the most difficult issues that had to be addressed. The House and Senate bills had wildly differing provisions on this topic. In addition, there was a Presidential veto threat on one of the House tritium provisions. Chairman THURMOND, as always, put all other interests aside and delivered a compromise that put the national security interests of the U.S. ahead of all other interests. I am confident that his provision will keep the tritium program moving forward.

However, there remain some disagreements as to the best method to produce tritium. It's not my place to comment on that today. I will say that under this conference agreement, Energy Secretary Richardson will be required to select his preferred technology in December of this year. I expect him to meet that requirement.

I might also say to Secretary Richardson that the conference report requires him to submit along with the President's fiscal year 2000 budget request, a plan to implement whichever technology he selects in December. I expect him to identify the funding requirements, schedule, and legislation necessary to restore tritium production in time to meet Defense Department requirements. In order to be credible, his implementation plan must include adequate funding in fiscal year 2000 and beyond.

This matter is too important to the national security of the United States to be undermined by deficient budget requests or lack of attention on the part of DOE.

Furthermore, I put my colleagues on notice that I intend to be fully engaged in the debate when this matter comes before the Senate next year. Let me assure all interested parties that I intend to ensure that only one interest will dictate the outcome of that debate—the national security interests of the United States. The safety and security of the American people require all of us to ensure that there are no further unnecessary delays—for any reason.

Mr. BINGAMAN. Mr. President, I'd like to join my colleagues in saluting the chairman of the Armed Services Committee, the distinguished Senator STROM THURMOND, whose leadership, together with the ranking member, Senator LEVIN, has produced the fiscal year 1999 Defense authorization bill which is named in the chairman's honor. Thank you, Mr. Chairman, for your untiring efforts, both for putting together this bill and for your long and distinguished service to our nation. We are a grateful Senate and a grateful nation.

Achieving this year's defense bill has been no easy task. Every defense budget represents the outcome of an annual debate concerning competing national security priorities. Everyone is familiar with the litany of our defense needs: procurement and modernization, quality of life for defense personnel, operations and maintenance, research and development, training, medical care, and so forth. This year is no different.

Much has been said about the lack of funding for procurement and modernization of military equipment. Certainly, by historical standards we are far below cold war levels. But our defense needs have changed and will continue to do so. We need to look carefully at the capabilities and quantities of weapons that we will need in the future—particularly in areas where technology could provide lower cost alternatives of getting the job done.

Nevertheless, in this year's conference report the Congress is taking a step towards meeting those procurement needs. Funding for procurement is up from \$49.1 billion requested by the President to \$49.9 billion authorized by the conference.

The conference also took steps to increase funding for quality of life priorities. Funding for military construction and family housing was increased from \$7.8 billion to about \$8.5 billion.

But those increases come at a cost. In balancing priorities while remaining within the budget agreement cap, this budget pays the bill by reducing funding in other categories. Funding for research and development, operations and maintenance, and Department of Energy defense activities, for example, were funded at lower levels than requested by the Administration.

Are those tradeoffs the correct ones from the point of view of our national security? Or are they the outcome of partisan negotiations to meet parochial needs?

I remain concerned that the teamwork that's needed between the Department of Defense, the Administration, and the Congress to produce a defense budget that meets our real military priorities is flawed. While the Congress took steps to increase procurement funding, many of those purchases do not reflect the priorities stated by the military services themselves. The cost of those purchases were bought by cuts to readiness accounts that must now be repaired through an emergency supplemental agreed to by the President.

Similarly, we risk mortgaging our long term security future by cutting funding for research and development, particularly for basic research. I am pleased, however, that this bill includes a provision that sets successively higher goals for research and development funding during the next decade. I am hopeful that implementation of that provision can enable us to avoid having research and development remain the billpayer for future defense spending increases.

I applaud this bill for its many specific provisions that serve the simultaneous interests of my New Mexico constituents and the nation's security.

The bill contains \$4.3 billion for weapons activities at the Department of Energy National Labs, approximately half of which will support work being done at Los Alamos and Sandia.

That work will support the stockpile stewardship program that will enable us to ensure the safety and reliability of our nuclear weapons stockpile without building new ones and without testing old ones.

I am hopeful that continued funding for the stockpile stewardship program will enable us to move forward in the Senate with ratification of the Comprehensive Test Ban Treaty next year.

The bill also includes essential funding for the Cooperative Threat Reduction and the Initiatives for Proliferation Prevention programs intended to prevent the proliferation of nuclear weapons and materials through cooperative efforts with Russian nuclear laboratories and scientists. Our laboratories in New Mexico are working closely with their Russian colleagues to benefit the security of both nations against the threat of weapons of mass destruction in the hands of terrorists or rogue governments.

The bill also provides essential funding to remedy the disrepair of the nation's finest weapons testing facility, White Sands Missile Range, in southern New Mexico. Without those funds, we won't be able to assure the technologies and military capabilities to have the effective fighting forces we will need for the nation's future defense.

The bill also includes key quality of life improvements for our military personnel at Cannon, Kirtland, and Holloman Air Force bases. Units from those bases have served honorably and effectively in Bosnia and the Persian Gulf. The personnel and their families assigned to those bases appreciate the support they are given in this year's defense bill.

Mr. President, I support this conference report and urge my colleagues to vote in favor.

Mr. MURKOWSKI. Mr. President, let me commend the senior Senator from South Carolina, Senator THURMOND, and Senator LEVIN for having completed work on this important conference report on the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. I particularly want to express my appreciation to Senator THURMOND and Senator WARNER and their staff for working with me and my staff to address the provision that the House of Representatives had attempted to include (section 1216) which would have negatively impacted the export capabilities of U.S. vendors of civilian nuclear power equipment. I am pleased to say that the Senate conferees were able to replace the House language regarding nuclear exports with an acceptable notification requirement in Section 1523.

Mr. President, as some of my colleagues are aware, the House of Representatives had added language that would have changed the reporting requirements for nuclear exports and added a congressional disapproval process. The change in the export law contemplated by the House of Representatives was unwise and unnecessary.

A change in the reporting requirements was unnecessary because the Nuclear Regulatory Commission closely regulates the export activities of U.S. nuclear vendors. The nuclear export licensing process by law requires not only public notice of export license applications as soon as they are received by the N.R.C., but also the opportunity for public intervention with the N.R.C. prior to issuance of a license. Moreover, the N.R.C. is not allowed to issue an export license for any nuclear equipment and technology unless the government of the recipient nation has negotiated, signed and implemented a bilateral agreement for nuclear cooperation with the United States. Such agreements provide the United States with a broad array of inspection rights and control over the fuel cycle. I am unaware of any allegations that, under this regime, the United States has exported any nuclear material or technology which has been diverted for military or proliferation purposes. Since our export control system appears to be working, it is difficult to see why it should be altered or supplemented.

A change in the reporting requirements was unwise because it would negatively impact U.S. exporters of civilian nuclear power equipment without advancing any national security goal. Although the author of the provision made clear that his proposal was designed to add restrictions to trade in civilian nuclear power equipment and technology with China, it would have impacted many other countries, including Brazil, Argentina, South Africa, Kazakhstan, Ukraine and Taiwan who purchase U.S. nuclear goods. I am convinced that, faced with new restrictions, all these countries would be extremely reluctant to deal with U.S. suppliers. Certainly, European and Canadian suppliers would use such new restrictions as part of their commercial armory to argue that, for these countries, dealing with U.S. suppliers is complex, time absorbing, and subject to political whims, while their procedures are simple and straightforward.

Some members may want to block trade with China in civilian nuclear goods and technology. But, my colleagues should recall that President Clinton sent to Congress the certifications necessary to implement the Reagan Administration's 1985 Agreement for U.S.-China Peaceful Nuclear Cooperation on January 27, 1998. The Congress considered those certifications for 30 legislative days, as provided by law. Existing law provided the opponents of the certifications with every opportunity to challenge the Ad-

ministration's determination. However, no attempt was made to pass a resolution of disapproval of those certifications, and consequently, the 1985 Agreement went into effect on March 19, 1998. Any changes made after the fact would be seen as aimed at impeding or delaying such cooperation and, as such, could seriously undercut the non-proliferation assurances China provided as a condition of implementing the nuclear cooperation agreement. Moreover, as a matter of principle, moving the goalposts regarding certification after the fact is unfair.

Mr. President, again, I want to thank the managers for their assistance on this important matter.

Mr. FEINGOLD. Mr. President, I come to the floor today to register my opposition to the fiscal year 1999 Department of Defense Authorization conference report. Sadly, we continue to spend precious military resources on unneeded, unwanted, pork-barrel projects, all at the expense of our military's legitimate needs.

Mr. President, our military needs to be lean and mean, not weighed down with unnecessary, unwanted, expensive pork. We don't need to spend more money, we need to spend money more wisely. Our military leaders have begun to recognize this and some of my colleagues in Congress have recognized it. I hope we can work together toward a more wisely funded military.

I am not alone in my call for more efficient and accountable military spending. Lawrence J. Korb, President Reagan's Assistant Secretary of Defense, recently issued a rebuke of the state of the Pentagon's military spending. He said,

The problem is not lack of money or aging equipment . . . the Pentagon is buying the wrong weapons. The military behaves as if it is still in an arms race with the Soviet Union, buying \$2 billion bombers, \$3 billion submarines and \$5 billion aircraft carriers . . . Russia, China, Iran, Iraq, North Korea—throw in Libya or whoever else you want—all of them together don't spend as much on the military as we do.

Mr. President, I couldn't agree more. There is no Cold War. It's over. We need to move toward a 21st century military force. This conference report fails to adequately modernize our armed forces and move toward that goal.

As my friend from Arizona, Senator MCCAIN, has so eloquently stated year after year, it's unconscionable that we spend billions of dollars on pork-barrel projects that the Pentagon doesn't need and doesn't want.

Mr. President, we can't afford to pretend we're still dealing with the Cold War Soviet threat. Military leaders agree that we need lighter, faster and more agile forces. This strategy does not include wholesale purchase of cumbersome B-2 bombers, new attack submarines, or Cold War-era heavy tanks.

One particular program epitomizes the worst of pork-barrel politics. The C-130 air cargo planes have sapped billions of dollars from vital military pro-

grams even though our military leaders are incessant in their pleas to end the harmful practice of forcing the Pentagon to buy more planes than it needs.

Mr. President, since 1978, the Congress has added a whopping 263 C-130s for which our Department of Defense has not asked. That's right—the taxpayers have paid for 263 C-130s the Pentagon didn't need. If you lined them up wing to wing, that would be six and a half miles of unwanted airplanes, with the taxpayers on the hook for \$22.4 billion. This assault on military planning hamstringing readiness, equipment, and compensation for our soldiers. As we all know, these are the precise areas which the Joint Chiefs of Staff testified this week were at greatest risk. Politicians who want to bring home the bacon at taxpayers' expense should not be second-guessing the judgment of our military leaders in this way.

This conference report follows in the dubious footsteps of its ancestors by authorizing 7 C-130s, while the Pentagon asked for only one. Not only does it take from other procurement money, but DoD must divert operations and maintenance money to look after all these unneeded planes. This is the height of irresponsibility and shortsightedness.

Finally, Mr. President, I would like to congratulate my distinguished colleague from Iowa, Senator GRASSLEY. He held a hearing on Tuesday to discuss accounting fraud at the Pentagon. His continued efforts to rein in obvious and debilitating fraud at the Pentagon need to be applauded. Perhaps the Senator's most important finding is summed by his quote, "If we put adequate controls on the money we have, there should be no need for more defense spending."

That, Mr. President, sums up my point, as well. We don't need to throw good money after bad with pork-barrel spending in our military budget. What we need to do is spend our money more wisely. That is how we will move toward a lean, efficient, and effective military. This conference report does not move toward the new 21st century military force.

I thank the chair and I yield the floor.

Mr. MCCONNELL. Mr. President I rise today to discuss the Defense Authorization bill. I support this bill and believe the Conferees have acted appropriately and supported the vital needs of our national security. However, I strenuously object to one provision that I believe is a grave mistake.

Section 1075 of H.R. 3616 inserts language which would have the effect of changing the tax structure of the Commonwealth of Kentucky. Mr. President, this is a terrible and misguided assault on the rights of Kentucky to levy income tax. I believe this decision sets a dangerous precedent and will harm citizens of my state.

Fort Campbell is a unique military post which straddles the Kentucky-Tennessee state lines. As a result, many residents of Tennessee go to work every day across the border in the Commonwealth of Kentucky. Currently, those who work on the Kentucky side of Fort Campbell are subject to Kentucky's state income tax. Section 1075 takes away Kentucky's ability to legally enforce its state tax on these employees. As a result, Kentucky will lose millions of dollars a year in revenue. I am unable to come up with any justification for the Armed Services committee to impose its will on the Commonwealth of Kentucky in this manner.

Mr. President, for the Armed Services committee to take this action astonishes me. This issue should be debated and resolved by the impacted states. By imposing this solution, the Armed Services committee has effectively foreclosed any opportunity for future negotiations.

My colleague from Kentucky, Senator FORD, has made lengthy remarks on this issue, and I agree with much of what he said. However, I do take offense at the partisan barbs, as they are unwarranted and unproductive. Perhaps the diatribe was cathartic, but cheap shots get us no closer to the solution.

That said Mr. President, like my colleague from Kentucky, I will vote for final passage of this bill. It contains a number of items that I encouraged the committee to adopt, and I thank them for their consideration.

Ms. LANDRIEU. Mr. President, on Monday, the Senate adopted the conference report on H.R. 4103, the Department of Defense Appropriations bill. I wanted to take this opportunity to discuss a relatively small part of this budget which has a huge impact on my state.

Outside of the City of New Orleans, we have one of the few remaining shipyards in the country that still builds ocean-going ships for the Navy. Avondale Shipyards is a key employer in the area. With over 5,000 working men and women, it is the largest private employer in the region. Louisiana has a proud maritime tradition, and has a particular expertise in ship building. As a shipyard of tremendous capacity and infrastructure, and the host of the Maritime Excellence Center, Avondale has played an important part in the development of this industry.

However, Avondale has also maintained a record of labor relations which Judge Evans of the National Labor Relations Board termed "outrageous and pervasive." This is not the image of Louisiana's growing maritime industry that I want projected. I believe that Louisiana should be the world leader in shipbuilding, but I also believe that we cannot attain that status through substandard wages and unsafe working conditions. Many manufacturing sectors in our country have been faced with international competition that

created difficult times. The way these industries rebounded was not to turn back the clock on progress made in working conditions and wages. Instead, our industrial sector did just the opposite: they grew more hi-tech and more specialized; they invested in their workers, and they invested in new technologies. This is the only route to true success and leadership. Louisiana's shipyards will never be able to compete with countries like China and the Philippines on the basis of wages—the key is to concentrate on American strengths: technology, craftsmanship and quality.

That is my goal for Avondale. To help them become a world leader, and transition away from practices which threaten that objective. The seemingly endless dispute between management and labor at Avondale is a huge impediment to the process. I am ready to work with anyone who in good faith seeks to resolve the problem. In this spirit, I have talked to the Navy about Avondale and inquired about the significance of labor relations in Navy contracts. Let me be clear, I did not make these inquiries to block contracts from being awarded to Avondale. It benefits no one to have workers lose their jobs and the state diminish its industrial base in order to make a point. This is especially true when we should have a Fifth Circuit Court of Appeals decision on the union election in the near future.

I voted for the Defense Appropriations bill, because I believe in a strong defense. I also voted for the Defense Appropriations bill because I believe in a strong Avondale. The government provides over eighty percent of Avondale's contracts. The shipyard cannot function without them. I have no intention of jeopardizing Avondale's future. My sole objective is to facilitate my state's future success in the maritime field. Avondale must be part of that success. This long-standing labor dispute should be resolved at the earliest possible time to achieve that end.

Mr. DOMENICI. Mr. President, I rise today to offer strong support for the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. As several of my colleagues in the Senate have also recognized, we owe a great deal of gratitude to Senator THURMOND. As a soldier and as a Senator, he has fought to defend our country and safeguard our national interest.

I thank Senator THURMOND his unceasing commitment and untiring service to this country and its institutions.

Mr. President, this legislation contains many positive things for the state of New Mexico—both in the programs funded and the changes made to enhance research and development efforts.

The most significant contribution made by this legislation to R&D efforts in our state will be realized by eliminating several barriers to cooperation between national laboratories and the

private sector. The partnerships among our federal laboratories, universities, and industry provide important benefits to our nation.

A substantial amount of benefits are attainable in New Mexico, given the unique assets in this state. These partnerships help to create innovative new products and services that drive our economy and improve our quality of life.

I am pleased that this year's conference ruled favorably on so many of the requests for increases that I put forward. Many of these increases will leverage unique assets and capabilities in New Mexico to ensure that our national interests are protected.

The bill authorizes \$4.5 billion for Department of Energy defense activities, much of which is done at Sandia National Laboratories and Los Alamos National Laboratory (LANL), in addition to DOE's Lawrence Livermore facility in California. Approximately \$2.5 billion of this authorization will be spent in New Mexico.

In addition, the Defense Environmental Restoration and Waste Management programs are authorized at \$5.44 billion. Of that, approximately \$415 million will be spent in New Mexico for waste management functions, environmental restoration activities, technology development efforts, nuclear materials and facilities stabilization functions, and a variety of cost-cutting and program support initiatives.

Several other important items for defense efforts in New Mexico that are authorized in the bill.

For example, this year's authorization for the High Energy Laser System Test Facility (HELSTF) at White Sands Missile Range is \$23 million, including \$8 million for solid state laser research. An additional \$10 million is authorized for further research in the Theater High Energy Laser (THEL), an effort jointly funded and supported by Israel.

The Exploratory Development of Advanced Weapons technology at Kirtland's Air Force Research Laboratory is authorized at \$129 million for the coming year.

A total of \$40.2 million is also authorized to support the Advanced Radiation Technology Program at Kirtland's Air Force Research Laboratory (AFRL). The lab is using its expertise in laser technologies to develop a new deep space imaging system, in addition to a special interactions development program.

\$24 million is authorized for Space and Missile Rocket Propulsion Program. The Air Force Laboratory at Kirtland is involved in this program.

The Ballistic Missile Technology Program is authorized at \$16. This funding was not included in the President's request. Kirtland AFRL and White Sands Missile Range are involved in this program.

\$75 million is authorized for the Advanced Spacecraft Technology Program, \$32 million more than the budget

request. These funds will advance space plane development, the Clementine microsatellite program at Kirkland AFRL, and the Satellite Orbital Transfer Vehicle which is worked on at the New Mexico Engineering and Research Institute.

In a related endeavor, a total of \$10 million is authorized for the Scorpius Low-Cost Launch program. This program utilizes assets at New Mexico Tech in Socorro and will be tested at White Sands in the coming months.

The Airborne Laser Program is authorized at \$235 million. The Special Programs Office for this critical Air Force effort in theater missile defense is located at Kirkland, and this program relies heavily on basic research in directed energy and adaptive optics at the AFRL there.

The Air Force Operational Test & Evaluation Center (AFOTEC) at Kirkland is authorized at \$29.5 million. This is \$5 million more than the President's budget request and will support the Initial Operational Test and Evaluation Center's independent operational tests to evaluate weapon systems operational effectiveness and suitability.

The Defense Advanced Research Projects Agency's (DARPA) Flat Panel Display Program is authorized at \$41. This includes an earmark of \$7 million for High Definitions Systems in integrated command and control technology.

The Warfighter Information Network is authorized at \$132.1 million for procurement of weapons communications equipment, including the Echelon Above Corps (EAC) communications program. This authorization level includes a \$35 million increase to continue modernization of the Army's tactical voice and data communication system. Laguna Industries at the Pueblo of Laguna is involved in producing these shelters.

\$21.9 million is authorized for Ground Penetrating Radar Program & Landmine Warfare & Barrier Technology, including a \$2 million increase for a ground radar and vehicle mounted mine detector.

Also, this legislation authorizes military construction for several projects critical to the viability of New Mexico's military installations.

This bill authorizes \$6.8 million for the Nuclear Weapons Integration Facility and \$1.8 million for the Fire Training Facility, as well as \$6.4 million to improve family housing at Kirkland.

Holloman is authorized \$1.3 million for improvements to its War Readiness Materials Warehouse and \$11.1 million to construct a state-of-the-art physical fitness center.

\$3.6 million is authorized for improvements to family housing at White Sands Missile Range, and a \$3.3 million authorization is included to allow New Mexico's National Guard to build the Taos Armory.

An additional \$8 million is authorized to support the Big Crow Program Of-

fice—DoD's only asset for testing high power stand-off jamming capability in electronic warfare scenarios.

These are some of the major programs related to U.S. military capabilities and research and development efforts that reside in the state of New Mexico. I thank Chairman THURMOND and the Senate Armed Services Committee for recognizing and supporting the many contributions to our national security needs that are based in New Mexico.

Unfortunately, however, I cannot pretend that the measures contained in the legislation will ensure U.S. security. I cannot in good conscience purport that this legislation—or any legislation—can solve the current crisis faced by the armed forces.

The strength of the U.S. military cannot simply be measured in numbers of soldiers or the state-of-the-art weapons they possess. The fortitude of this country's military is not only based on advanced weaponry, but rather is also a reflection of the strength of its morale.

Mr. President, the morale of our military is under siege. When retired colonels are heard commenting that in their half a century of hanging around soldiers they have seldom seen the cutting edge of our fighting forces so dull, nor morale lower, there is good reason for concern. Rather than focusing on the hardware issues encapsulated in the term "modernization," I would like today to emphasize the problems with readiness, morale and quality of life. Equipment is secondary to the well-being of the men and women in uniform. The best weapons cannot bring about victory without adequate training in their use and the firm loyalty of the soldier to buttress the military objectives fought for.

We are now in our fourteenth year of decline in defense spending. What can no longer be ignored is that the increase in non-traditional deployments coupled with down-sizing is steadily eroding readiness and morale.

Our reduced force structure is overextended. Overextension is eroding retention rates, quality of life, operational readiness, and, most importantly, morale. Whereas the U.S. military had 22 foreign missions during the 1980s, they have already been involved in 36 foreign missions since 1990.

At the same time, our forces have been down-sized by 35 to 40%. In addition, forward basing has decreased by two-thirds—from 39 major installations to 13. This translates into more forces based in the U.S. while deployments are overseas.

The result? More frequent and longer deployments, due to down-sized forces and up-sized involvement in foreign missions. The OPS TEMPO required under these constraints lead to grueling days even after returning home from prolonged overseas missions.

Some soldiers are currently required to spend up to 150 days away from their families annually. Then, upon return-

ing home, they still have too many additional duties to really spend quality time at home.

Retention rates continue to plummet, especially in the Air Force. This is not happening because we are not offering generous pay bonuses to re-enlist. Last year, 800 pilots refused re-enlistment bonuses of \$60,000. The Air Force is planning to increase these bonuses to \$110,000, but the Air Force is also planning for this problem to get worse.

Why? Although military planners contend that competition with a booming U.S. economy and the private sector is the cause for defection, the reality is more complex and points to the same problems already discussed. Heavy deployment schedules and no down-time between deployments cause stresses on service personnel, especially those with families.

A related issue is that the men and women in our armed forces increasingly believe that their loyalty is a one-way street. In addition to demanding more for less from our soldiers, their quality of life is also eroding.

The United States, the wealthiest and most powerful country in the world, currently has military men and women who require food stamps to provide for their families. The Defense Department says it would be "too expensive" to solve this problem.

Housing for our military families is also inadequate. According to a study from the Defense Science Board, 62 percent of our barracks and 64 percent of our family housing are unsuitable. In the face of this, the President's request for military construction and family housing for 1999 was \$1.1 billion less than Congress provided in 1998.

Some in Washington are saying this is a money problem. It is a money problem, but it is also more than that. It is also a leadership problem, and it is a question of how competently our defenses are being managed.

Our pilots and other specialists are leaving the services in droves not just to get better paying jobs; they are also leaving because they are being worn out; and they are not getting the support they need from their own leadership. They are being worn out by repeated deployments. And they are not always convinced that what they are being asked to do makes sense.

Back home their spouses resent the military for turning their families into single-parent households. And the quality of life offered to these military families can't begin to compensate.

Is it any wonder that with a booming economy and plenty of good jobs available in the private sector that our soldiers are voting with their feet? Is it any surprise that given inadequate housing for the families back home that they rarely see due to deployments abroad for missions they don't understand that our soldiers are frustrated, ill-prepared and low on morale?

Perhaps most disturbing, I am beginning to see too many reports that the

leadership is not addressing the real problems. There seems to be an emerging question of the confidence in our military's senior leadership. There is a growing concern that the top leadership is not willing to make the hard decisions to restrain our military missions to the available human and material resources or to expand those resources to meet the increasing demand.

That brings us back to the question of money. There is simply not enough money in the defense budget as it is currently projected to do everything that needs to be done. There is an effort underway to provide emergency supplemental funding for military readiness. I support that effort. However, this will not solve the bigger problems.

Our military leaders are beginning to agree. In a recent Armed Services Committee Hearing with the Joint Chiefs, U.S. military leaders finally conceded that they do, indeed, have a severe problem. The \$1 billion in supplemental funding will help, but according to the most recent Joint Chiefs' testimony, between \$10 to \$13.5 billion would be necessary in the coming year to meet U.S. defense needs.

One thing is blatantly clear. We must strive to adequately feed, house, and train our most precious military resource—the men and women in our armed forces. To do this will mean more resources for our defense budget and it will mean better management of the resources—human and material—that we already have.

For next year, for the fiscal year 2000 budget, I believe, we need to start the new millennium by at least stopping the ebbing tide and end the 15 year decline.

Each year the Armed Services Committee is given the difficult task of balancing between current and long-term readiness under current budget constraints. In recent years, they have had the impossible task of ensuring that personnel, quality of life, readiness, and modernization programs are adequately supported, while funding levels remain insufficient to achieve that objective.

The Committee recognizes, as do most of us concerned about our national defense, that combat readiness of our armed forces is at risk. The risk is a function of older equipment resulting from inadequate modernization and a force structure too small to meet ongoing demands. Aging equipment and weary soldiers cannot possibly defend this country adequately. Nor can dominance result from this equation.

I am gravely concerned about preparedness, modernization and procurement. However, I am most concerned about the human element of our armed forces. The best equipment and the most rigorous training cannot compensate for too lengthy, too frequent deployments and time away from loved ones.

Mr. President, the solution is clear. We must stop the ebbing tide in our na-

tional defense budget. If we don't the hollowing out of our military forces will continue. Our national security will be at risk during a time of international uncertainty and growing threats. Our soldiers deserve better and U.S. citizens are counting on us.

Mr. THURMOND. How much time do I have remaining?

The PRESIDING OFFICER. Six minutes 10 seconds.

Mr. THURMOND. Mr. President, I want to thank the leadership of the Senate for their cooperation and support in bringing this conference report to the floor for approval of the Senate. The bipartisan support of both the majority and the minority leaders is critical to successful passage of the conference report of such magnitude.

The majority leader, Senator LOTT, a former member of our committee, recognizes the importance of this bill and has always given his full support and assistance in passing a bill of this nature. I thank him for his time and support and all he has done in this respect.

I extend my appreciation to the leadership staff and the floor staff for their assistance which is essential to passing this large, complex bill.

In that connection, Mr. President, I wish to especially commend Les Brownlee, staff director of the Armed Services Committee. He has rendered yeoman service to this committee, and I can't say enough in support of all he has done. George Laufer, the deputy staff director, has also been most faithful and has done an outstanding job. We appreciate that and thank him for what he has done in this connection. I also wish to thank David Lyles on the other side, and those who worked with him, for their fine cooperation and support. They have been most cooperative and have rendered a great service.

Mr. President, we appreciate the work of two House Members. We thank FLOYD SPENCE, who happens to be from my State, for handling the House bill. He is an outstanding gentleman of character and ability, and I thank him for all he has done in cooperating with us on the defense legislation. IKE SKELTON, a Democrat, who works with Congressman SPENCE, has also been cooperative and helpful, and I express my appreciation to him, too.

I yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Washington, suggests the absence of a quorum and, without objection, directs that the time be divided equally between the two sides.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. THURMOND. Mr. President, I yield that to the able Senator from Texas.

Mrs. HUTCHISON. Parliamentary inquiry, Mr. President. Is it possible for me to ask unanimous consent to go into morning business rather than take from Senator THURMOND's time? I wanted to talk about the 40th anniversary of NASA.

The PRESIDING OFFICER. There is an order that a vote occur on the defense authorization bill at noon. The request is in order and will probably be charged against both sides.

Mrs. HUTCHISON. If that is acceptable, I ask unanimous consent to have 5 minutes to speak on the 40th anniversary of NASA.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### THE 40TH ANNIVERSARY OF NASA

Mrs. HUTCHISON. Mr. President, on October 1, 1958, the National Aeronautics and Space Administration (NASA) was created. No other Government agency better represents the hopes and experiences of our Nation during the course of its existence than NASA. To recall why that is so, let's look back to where we were 40 years ago.

In October 1957, the Soviet Union launched Sputnik 1, the world's first artificial satellite. Many have claimed this had a "Pearl Harbor" effect on the American people and galvanized public opinion in favor of an aggressive U.S. space program. Americans believed that the Soviet Union had gained a significant technological advantage over the United States—bomb shelters were built at an even more rapid rate as we turned our attention to the space race.

Then-Senator Lyndon Johnson, from my state of Texas, said that the launch of Sputnik was " \* \* \* a new era of history dawning over the world." He warned a Texas audience that, "The mere fact that the Soviets can put a satellite in the sky \* \* \* does not alter the world balance of power. But it does mean they are in a position to alter the balance of power."

Shortly thereafter, Senator Johnson introduced legislation to create NASA and harnessed the energies, talents, and aspirations of a nation embarking on a bold, new enterprise. The act reflected a remarkable unanimity by the American people and a commitment to science and exploration.

NASA wasted no time in bringing America into the space race. Shortly after it was formed, NASA conducted several exciting programs that launched us ahead of the Soviet Union in our quest to conquer space.

One of the most important initiatives involved human space flight—Mercury's single astronaut program, Project Gemini's operations and Project Apollo to explore the Moon. These names conjure up strong images of fearless astronauts doing the impossible. In 1961, Alan B. Shepard became