amendment of the Senator from Wisconsin and take an amendment from the Senator from Iowa. But we need to find other amendments. And we have had a five-hour delay here, rain delay, that is not the fault of the managers. So we have lost five hours. So they would like to make up some of that time tonight.

If we cannot find any amendments, we need, in fairness, to let our colleagues know. If we cannot find amendments, we need to have our colleagues know whether we can have a roll call, and at what time. So maybe the managers can take a quick check and let the leaders know, so we can advise our forces.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I urge Democratic Senators to come to the floor. We have a whole series of amendments that ought to be debated. This is prime time and a very important opportunity. I hope we will not let it go to waste. There are Senators who have expressed their interest in amending this bill, and they ought to come to the floor to offer these amendments.

I urge Cloakrooms to encourage Senators to come to the floor at their earliest convenience.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me without losing his right to the floor?

Mr. FEINGOLD. I yield to the Senator from West Virginia.

CONGRATULATIONS TO DARIUS JAMES FATEMI, Ph.D.

Mr. BYRD. Mr. President, Plato thanked the gods for having been born a man and for having been born a Greek and for having been born during the age of Sophocles. I thank the benign hand of destiny for allowing me to live to see one of my grandsons become a Ph.D. in physics.

On yesterday, Darius James Fatemi was given his Ph.D. in physics. Seneca is reported to have said that a good mind possesses a kingdom. Disraeli said, upon the education of our youth, the fate of the country depends. Emerson said that the true test of civilization is not the census nor the size of cities nor the crops—no, but the kind of man the country turns out.

You can imagine, those of you who are grandparents, and those of you who may not yet be grandparents, the pride which I share with my wife, Erma, in feeling that we have, indeed, contributed to this great country a new physicist, a doctor of physics.

Darius was named after Darius the Great, who became King of Persia upon the neigh of a horse. Darius James Fatemi did not get his doctorate by the neigh of a horse.

We are grateful that the good Lord has blessed us with wonderful grandchildren, and this is the first Ph.D. in our line. I suppose if we all look back far enough, may I say to the distinguished majority leader and to my colleagues, we would find somewhere in our ancestry a slave—the Greeks, the Persians, the Romans, other peoples of antiquity owned slaves. And so we may have an ancestor who was a slave. At the same time, we may have an ancestor who was a king. But as far as I know, this is the first Ph.D. in my line, and I thank the good Lord for that.

I thank all Senators for listening.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

The Senate continued with the consideration of the bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin holds the floor.

Mr. REID. Mr. President, I ask my friend from Wisconsin to withhold.

Mr. FEINGOLD. I yield without losing my right to the floor.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Debbie Allen, a congressional fellow assigned to my office, be assigned privilege of the floor during pendency of the legislation now before the Senate.

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

The Senator from Wisconsin is recognized.

AMENDMENT NO. 2082

(Purpose: Sense-of-the-Senate resolution regarding Federal spending)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2082.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING FEDERAL SPENDING.

It is the sense of the Senate that in pursuit of a balanced federal budget, Congress should exercise fiscal restraint, particularly in authorizing spending not requested by the Executive and in proposing new programs.

Mr. THURMOND. Mr. President, will the Senator yield for 10 seconds to get some people on the floor?

Mr. FEINGOLD. Yes, I yield.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Jack Kennedy and Floyd DesChamps, who are currently serving fellowship assignments on Senator MCCAIN's staff, be granted the privilege of the floor during the Senate's consideration of S. 1026, the fiscal year 1996 national defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this is a simple sense-of-the-Senate amendment stating that Congress should exercise self-restraint in authorizing and appropriating funds for all Federal spending, including defense spending, especially in cases where the spending has not been requested by the applicable agency in the first place or is not directly related to national security needs.

I will just speak very briefly, because I understand the managers intend to accept this, but I do want to make a brief point about it.

I think every Member of this body is aware of the problem this sense-of-the Senate is intended to address. Congress passed a budget resolution a short time ago that called for increased defense spending over the next few years of more than $58 million. We ought to understand that just because there is room in the budget resolution to spend that extra money, it does not mean that Congress has to or is forced to spend it on projects that are either unnecessary or not directly related to national security interests.

In recent weeks, the reports, Mr. President, have been increasing. Media reports have documented what they have called a business-as-usual attitude in Washington, DC, as many of these so-called reformers have gotten in line not to decrease but to add defense spending for weapons systems that our military people have not even asked for. Why? Because the weapons systems are built in their districts or their home States. That is the simple answer.

Mr. President, I ask unanimous consent that an article from the Monday, July 31, Washington Post, entitled ''Extra Pentagon Funds Benefit Senators' States,'' be printed in the RECORD.

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

[From the Washington Post, July 31, 1995]

EXTRA PENTAGON FUNDS BENEFIT SENATORS' STATES

(By Dana Priest)

While Republicans talk about a revolution in the way government spends taxpayer money, in at least one area, according to a new study, the GOP is now the keeper of a decades-old bipartisan tradition: funneling Defense Department dollars to businesses back home.

Of the $5 billion in weapons spending that the Senate Armed Services Committee added on to President Clinton's budget request, 81 percent would go to states represented by senators who sit on the committee or on the Appropriations defense subcommittee.

This includes $1.4 billion for an amphibious assault ship built by Ingalls Shipbuilding, a huge employer in Sen. Trent Lott's state of Mississippi and partial funding of $650 million for two Aegis destroyers built by Ingalls and Bath Iron Works in Sen. William S. Cohen's state of Maine. Republicans Lott

and Cohen are members of the Senate Armed Services Committee and Cohen chairs its seapower subcommittee, nicknamed the ''shipbuilders subcommittee,'' which decides the fate of most sea-related military equipment.

Defense officials admit they do not need either ship to be ready to fight two wars nearly simultaneously, which is the standard set for all branches of the military by the Joint Chiefs of Staff. But, said a senior defense official, ''If I don't get some of these ships, I'm going to have to keep some older ships in the fleet.''

The ships are just the most expensive examples of congressional add-ons to the $258 billion presidential budget request, which all the Republican chairman of House and Senate defense-related committees believe is too low. The Senate Armed Services Committee added about $7 billion to Clinton's request. The House added nearly $10 billion. The full Senate is to take up the defense spending bill in August.

Of the 44 military construction projects that the Senate Armed Services Committee added to the defense budget, 32 of them—and 73 percent of the $345.8 million in add-ons—went to states represented by senators on one of the two defense committees, according to the same study. The study is a culling of the defense bill programs compiled by the Council for a Livable World, a Washington-based organization that advocates decreased defense spending.

''They have added [these programs] not for national security reasons, but to help members of Congress,'' said Council President John Isaacs. ''It is absolutely business as usual. This is a practice as common among Republicans as Democrats. Changes of parties, changes of ideology don't matter.''

Technically, the Defense Department is supposed to wholeheartedly support the president's budget request. But when the Republican chairmen of the House and Senate defense committees asked the services this year to come up with a wish list if they had more money, not one balked.

That is the one reason, defense officials said, they did not want to be named in this article, or even identified as Army, Navy, Air Force or Marine.

Many items at the top of the services' wish list showed up on the Senate committee's list. Among them: 12 extra F–18 Hornet fighter jets for $564 million, built in the states of Sens. Christopher Bond (R–Mo.) of the Appropriations subcommittee on Defense and Edward M. Kennedy (D–Mass.) of the Armed Services Committee; 20 extra Kiowa Warrior helicopters for the Army, built by companies in states of Armed Services Committee members Kay Bailey Hutchison (R–Tex.) and Dan Coats (R–Ind.). Sen. Phil Gramm (R), the other senator from Texas, is on the Appropriations defense subcommittee.

''To be very honest, yes, Senator Coats certainly is very concerned when there are Indiana companies that have a tie-in—that is a consideration,'' said Coats's press secretary, Tim Goeglein. ''But if Senator Coats feels that is money the Armed Services Committee should not be budgeting, he would not support it.'' A spokeswoman for Cohen's office sent a copy of the committee's bill to explain why Cohen had voted to spend more money than requested. It says the committee believes ''the procurement of basic weapons and items of equipment has been neglected during the decline in defense spending'' and that it would be cheaper to order more now than wait until a time when production costs could be higher.

Kennedy was not the only Democrat who benefited in the committee bill. The committee decided to buy three CH–53 Super Stallion helicopters for the Marines at a cost of $90 million. They are produced by General Electric Co. in Massachusetts and United Technologies Corp. in Democratic committee member Joseph I. Lieberman's state, Connecticut.

Kennedy did not support adding money to the president's request, said a spokesman for the Massachusetts senator, but when he realized Republicans were going to do it anyway, ''he wanted to see the money spent as best as possible.'' He said Kennedy believes the helicopters will help the Marines improve their countermine warfare efforts.

''All politics is local,'' one defense official said. ''If I'm a defense contractor I'm going to do everything I can to locate in a powerful chairman's district because I have immediate access. Jobs are important on the Hill.''

Mr. FEINGOLD. I thank the Chair.

Mr. President, I am not suggesting that we should only fund weapons systems requested by the Pentagon, or that because the Pentagon has asked for something, that Congress should automatically vote to provide them with their wish list.

What I am saying is that when Members of Congress start adding things to the Department of Defense spending list, we ought to give extra special scrutiny to those items that the administration never even requested.

I think we ought to be looking carefully to make sure those additional items, in fact, are related to national security needs, not just a source of jobs back home. There are better ways to provide those jobs than building new weapons that we do not need, are not wanted by the military, and further drain our National Treasury.

Mr. President, my sense of the Senate is simply intended to make a commonsense statement. We do not have to spend it all just because the budget allows it. Let us apply some fiscal discipline and restraint in all budget areas, including the Department of Defense.

I do hope the amendment will be accepted, as has been indicated to me previously. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we will accept the amendment on this side.

Mr. NUNN. Mr. President, the amendment makes sense. I urge our colleagues to accept it on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2082) was agreed to.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2083

(Purpose: To prohibit a waiver of the time-in-grade requirement for a retirement in grade of an officer who is under investigation or is pending disposition of an adverse personnel action for misconduct)

Mr. GRASSLEY. Mr. President, my amendment, I do not think, will be controversial. I hope it has been cleared on both sides. I believe it has. My amendment will modify section 505 of the bill.

Section 505 of the bill streamlines the procedure for retiring our most senior military officers. That means admirals and generals who hold three- or four-star rank. Under current law, the President must nominate the most senior officers for retirement, which involves senatorial confirmation under existing law. If a three-star or four-star officer is not nominated or not confirmed under current law, that individual then, as we all know, reverts to his or her permanent grade, which, obviously, is lower.

For a three-star general, as an example, this could mean retirement with a two-star, or even a one-star grade, I believe. I hope I understand it well. section 505 would eliminate Senate confirmation. That means section 505 of this bill would do away with Senate confirmation of three-star and four-star officers who are retiring.

When Senator HUTCHISON and Senator NUNN, and others, first introduced this measure, it was introduced as S. 635 and introduced on March 28 of this year. At that time, I very much opposed the idea, and I joined Senator BOXER and Senator MURRAY in signing a letter to the committee on May 11 of this year expressing opposition to the bill by Senators HUTCHISON and NUNN. We felt that S. 635 would undermine congressional oversight, that it would undermine civilian control of the military, and would undermine accountability.

Our most senior military officers, we felt—because they are entrusted with tremendous power and responsibility—ought to, in all instances, be proven to do that. So, for that reason, and that reason alone, we feel that they must be held to the very highest possible standards.

Well, section 505 of this bill is not much different from the original S. 635. The language has not changed much, but I can say that we have changed as we viewed the intent of the NUNN-HUTCHISON bill.

Our initial reaction to S. 635 was tempered by several very difficult and controversial retirement nominations last year. Remember Admiral Kelso, Gen. Buster Glosson, General Barry, Admiral Mauz. We thought that we had good reason to question those nominations for retirement. We thought our concerns were justified. We still do.

Well, after the Hutchison-Nunn bill was introduced, I asked the American Law Division of the Congressional Research Service to assess all of the bill's implications. Mr. Bob Burdette, legislative attorney with the division, was kind enough to prepare a very thoughtful and helpful analysis of the proposed changes to the law, as suggested by our colleagues. Mr. Burdette's report helped to lay most of my concerns to rest.

I ask unanimous consent to have that report printed in the RECORD at this point.

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

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, July 20, 1995.

To: Hon. Charles E. Grassley. Attention: Charlie Murphy.

From: American Law Division.

Subject: The Legal Effect of Enacting Section 505 Of S. 1026, 104th Cong., 1st Sess., Respecting Retirements of Commissioned Officers Who Have Served At Grades O–9 and O–10.

This memorandum explains the legal effect of enacting Section 505 of S. 1026, 104th Cong., 1st Sess. (1995). This section of the proposed legislation would make four changes in the provision presently codified at 10 U.S.C. §1370. By way of ''conforming amendments,'' this section would also repeal provisions presently codified at 10 U.S.C. §§3962(a), 5034, and 8962(a).

The proposed legislation would not amend paragraph (1) of subsection (a) of 10 U.S.C. §1370. That is, regardless of whether the proposed legislation is enacted, this paragraph will still specify a general rule that a commissioned officer of the Army, Navy, Air Force, or Marine corps shall, except as provided in paragraph (2) of 10 U.S.C. §1370(a), be retired in the highest grade in which he served on active duty satisfactorily for at least six months.

SECTION 505(A)(1) OF THE BILL

The first change, which would be made by section 505(a)(1) of the bill, is substantive in nature. It would strike out the words ''and below lieutenant general or vice admiral'' which presently appear at 10 U.S.C. §1370(a)(2)(A). With such words excised from subparagraph (A) of §1370(a)(2), that subparagraph would read, as follows:

In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander [...], a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years in the case of retirements effective during the nine-year period beginning on October 1, 1990.

As a consequence of the excision, commissioned officers serving, or who have served, at the grades of O–9 and O–10 would be eligible to retire at such grades only after serving at them for at least either three years or, if authorized by both the Secretary of Defense and the Secretary of the military department concerned, as little as two years in the case of retirements occurring during the specified nine-year window.

Subparagraph (B) of §1370(a)(2) would not be amended by the proposal. Hence, it would still confer none-delegable authority on the President to ''waive subparagraph (A)'' in individual cases involving either extreme hardship or exceptional or unusual circumstances. In other words, a relevant presidential waiver made under the conditions specified could render a particular commissioned officer above the grade of O–4 (albeit now including officers serving, or who have served, at the grades of O–9 and O–10) eligible to retire at the highest grade at which that officer had served without regard to the length of time he had served at that highest grade.

SECTION 505(A)(2) OF THE BILL

The second change, which would be made by section 505(a)(2) of the bill, is likewise substantive in nature. It would strike out the words ''and below lieutenant general or vice admiral'' which presently appear at 10 U.S.C. §1370(d)(2)(B). Subsection (d) of 10 U.S.C. §1370 relates generally to retirements of reserve officers under chapter 1225 of Title 10. Paragraph (1) of 10 U.S.C. §1370(d) specifies that a person entitled to retired pay under chapter 1225 is to be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time. With the relevant words excised from subparagraph (B) of §1370(d)(2) as indicated in the proposed legislation, that subparagraph would read, as follows:

In order to be credited with satisfactory service in an officer grade above major or lieutenant commander [...], a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. A person covered by the preceding sentence who has completed at least six months of satisfactory service in grade and is transferred from an active status or is discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.

As a consequence of the excision, reserve commissioned officers serving, or who have served, at the grades of O–9 and O–10 would be eligible to retire at such grades only after serving at them for at least either three years or, in the specified circumstances, as little as six months.

It might be pointed out that no authority is presently (or, under the proposed legislation, would be) conferred on the President to ''waive subparagraph (A)'' in individual cases involving either extreme hardship or exceptional or unusual circumstances. Thus, eligibility for high-grade retirement presently does (and under the proposed legislation would continue to) differ as between regular and reserve officers.

SECTION 505(b)(1) OF THE BILL

The third change, which would be made by section 505(b)(1) of the bill, is nonsubstantive. It would amend subsection (c) of 10 U.S.C. §1370 by replacing certain words with certain other words. That is, the words ''Upon retirement an officer'' would be stricken out and replaced by the words ''An officer.'' All this amendment does is simply remove excess verbiage.

SECTION 505(b)(2) OF THE BILL

The fourth change, which would be made by section 505(b)(1) of the bill, is substantive in nature. It would amend subsection (c) of 10 U.S.C. §1370 by striking out the words ''may, in the discretion'' and all that follows and replacing them with certain other words. This amendment would alter the thrust of the subsection entirely. At present, subsection (c) is the provision which allows officers serving at grades O–9 and O–10 while on active to duty to be retired at those grades, at the discretion of the President and subject to Senate confirmation. The proposed amendment would change the subsection, as already amended by section 505(b)(1) of the bill, to read, as follows:

''An officer of the Army, Navy, Air Force, or Marine Corps who is serving in or has served in a position of importance and responsibility designated by the President to carry the grade of general or admiral or lieutenant general or vice admiral under section 601 of this title may be retired in the higher grade under subsection (a) only after the Secretary of Defense certifies in writing to the President and the Senate that the officer served on active duty satisfactorily in that grade.''

One obvious effect of this change would be to eliminate the requirement of Senate confirmation for officers retiring at grades O–9 and O–10. Another effect of this change is less obvious.

As noted at the outset of this memorandum, paragraph (1) of subsection (a) of 10 U.S.C. §1370 presently specifies a general rule that a commissioned officer of the Army, Navy, Air Force, or Marine Corps shall be retired in the highest grade in which he served on active duty satisfactorily for at least six months. The language setting out that general rule is preceded by the caveat ''[u]nless entitled to a higher retired grade under some other provision of law.'' The words ''higher grade'' used in this caveat are not used anywhere else in subsection (a). Consequently, when the new language that would be added to subsection (c) of 10 U.S.C. §1370 refers to ''the higher grade under subsection (a),'' it clearly implies that there may be instances in which officers who would not otherwise be entitled to retire at higher grades under the terms of 10 U.S.C. §1370 (e.g., because they have not served long enough at those higher grades) could under some unspecified ''other provision of law'' be entitled to retire at those higher grades so long as the Secretary of Defense ''certified'' served satisfactorily for an unspecified period of time in the grade concerned and supplied such certification to the President and to ''the Senate.'' The transmittal of such a certification to ''the Senate'' is of unknown significance.

ROBERT B. BURDETTE,
Legislative Attorney.

Mr. GRASSLEY. Mr. President, it is very hard to argue with the fairness and the justice embodied in Section 505 of the bill. Under Section 505, the retirement of three-star and four-star officers will be considered under the same standards and under the same procedures as the retirement of one-star and two-star generals. In fact, the retirement of all officers above the rank of major or lieutenant commander will be handled in the same way.

Under the new law, then, assuming this bill is enacted, once these officers have served 3 years in grade, they would be allowed to retire with their highest grade without Senate confirmation. I cannot argue with that, and it seems to me that that is the right way to do it. But in investigating this, I came up with this concern that I hope my colleagues feel is legitimate.

Under the law, the Secretary of Defense and service secretaries will still have broad discretionary authority to waive time in grade requirements. That is a potential loophole, as far as I am concerned. Hence my amendment.

I would like to offer a hypothetical scenario. Say a three-star general, with only a few months in grade, gets caught violating a regulation or law. The IG is called in to investigate. The IG finds that the general has violated the law and lied about it to his investigators. The IG then recommends disciplinary action. The service secretaries reject the IG's recommendation, as is too often the case. The secretaries

choose, instead, to waive time in grade requirements, allowing the officer to retire with full rank, as a three-star general. This would end the controversy, but it would give the officer an unearned promotion.

Mr. President, once we do away with the confirmation of three-star and four-star retirements, this scenario might be more than hypothetical. It might be very real.

My amendment, then, is meant to plug that loophole. Under my amendment, time in grade requirements could not be waived if an officer were under investigation for an alleged misconduct or if adverse personnel action was pending.

Mr. President, this would address the concerns that we have —meaning Senator MURRAY and Senator BOXER and myself—arising out of the controversial retirement nominations we wrestled with last year and, hence, our letter to the Armed Services Committee in May of this year.

Mr. President, with that one minor modification that will be in my amendment, I would support Section 505. We will still have ample opportunity to scrutinize the performance and conduct of our most senior military officers through the regular confirmation process.

All three-star and four-star active duty promotions and assignments will still be subject to Senate confirmation.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2083.

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

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

The amendment is as follows:

On page 159, line 3, before the end quotation marks insert the following: ''The 3-year time-in-grade requirement in paragraph (2)(A) of subsection (a) may not be reduced or waived under such subsection in the case of such an officer while the officer is under investigation for alleged misconduct or while disposition of an adverse personnel action is pending against the officer for alleged misconduct.''.

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

Mrs. MURRAY. Mr. President, I rise in support of the Grassley amendment, which seeks to modify section 505 of this bill. Section 505, which is almost identical to S. 635, would eliminate Senate confirmation of retiring three-star and four-star officers.

Currently, the President nominates senior officers for retirement and they come before the Senate for confirmation. As we all know, in recent years, there has been great cause for Senate involvement in the confirmation of retiring officers. This new section would allow officers who have served 3 years in grade the ability to retire with their highest grade without action by the Senate.

On May 11 of this year, I joined Senators GRASSLEY and BOXER in sending a letter to the Armed Services Committee outlining our concerns with the provisions in S. 635. At a minimum, we asked that public hearings be held before proceeding with this action. Obviously, my concerns with this section have not been alleviated.

Mr. President, I ask unanimous consent that the complete text of the letter sent to the Armed Services Committee be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 11, 1995.

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

DEAR MR. CHAIRMAN: We are writing to express our concern regarding S. 635, legislation recently introduced to eliminate the Senate's role in confirming the retirement nominations of military officers who hold three- and four-star rank and who have served three years or more in grade.

As you know, the law governing the Senate role in approving the retirement nominations of three- and four-star military officers was enacted in 1947 and has been amended several times since. Available information on the legislative history of this issue indicates that the introduction of Senate confirmation of senior military officers in 1947, for promotion or retirement, was principally an issue of separation of powers. One of the goals of the original statute, the Officer Personnel Act of 1947, was to reinforce civilian control over the military and increase Congressional purview over what had once been an exclusive function of the Executive Branch. We believe these principles are as valid today as they were in 1947.

Perhaps even more importantly, Congress' governing power and authority over the Nation's armed forces is clearly set out in Article I, Section 8 of the Constitution. Of additional relevance is Article II, Section 2, which describes the Advice and Consent role of the U.S. Senate with regard to Presidential appointments.

Therefore, we would like to take this opportunity to outline our concerns regarding S. 635 and to respectfully challenge the rationale behind its introduction.

Upon introduction of S. 635, the argument was made that our Nation's highest ranking military officers should be treated like their civilian superiors and other government officials. We believe that civilian comparisons are not relevant to this situation. The military, and indeed the Committee, have often taken the position that civilian rules and laws are not appropriate when applied to the unique role and mission of our Nation's armed forces. It is precisely for these reasons that we have concluded that requiring our highest ranking military officials to come before the Senate for their retirement nominations provides an important safeguard for their civilian leadership and the American taxpayer.

Likewise, we disagree with the argument that standards acceptable in the private sector are relevant to the military. For a variety of reasons, including the involvement of taxpayer funds, public service really bears no comparison to private sector service when it comes to standards of accountability and compensation.

Perhaps most importantly, we are concerned with this issue as it relates to leadership and command accountability in our Nation's armed services. The central issue in considering retirement nominations has been, and remains, that service in our Nation's military, especially at the highest levels, is a privilege and an honor. We continue to believe that the military should be governed by the highest standards, and that command accountability to those standards should in no way be compromised.

An additional argument made in support of S. 635 is that this legislation will ''reduce the administrative work load of the Senate Armed Services Committee and the Department of Defense.'' We are sympathetic with this goal, but we believe that S. 635 fails to provide an effective and prudent response to this problem. We understand that in fiscal year 1993, for example, the Committee was asked to review just six grade 0–10 officers for retirement, and less than twenty at grade 0–9. In total, these retirement nominations represented just a fraction of the total number of nominations reviewed by the Committee—which we have been told numbered in the thousands. According to the Congressional Research Service, the numbers for 1993 are typical of the work load presented in other years by these retirement nominations.

Moreover, we reject the idea that military nominations, be they for promotions or retirements, are nothing more than routine ''administrative workload.'' Reviewing military nominations is one of the Armed Services Committee's most important responsibilities. It is a Constitutional responsibility and an important tool for maintaining civilian control and accountability. It is also a way of keeping the Senate involved in the crucial process of nurturing military leadership.

Since the passage of the Officer Personnel Act of 1947, your Committee has held the view that the top-most military and naval officers in the Nation should be subject to Senate approval. The reason for this is quite simple: the question of who gets the ''top rank'' will in the log-run determine the overall quality of the leadership in the Armed Forces. And having top quality military officers is probably the single most important ingredient of military strength.

Keeping the Senate involved in the promotion and retirement process as the final, independent check will help to ensure that only the best are rewarded with top-level promotions. Most of those promotions go to future leaders, but some are given as rewards at retirement for outstanding service.

Retirement nominations are no less significant than others handled by the Committee. As you know, retired members of the armed forces can be recalled to active duty at any time, voluntarily or involuntarily, and therefore the status conferred on those individuals at the time of retirement carries much more than ceremonial significance.

Finally, last year we were encouraged by the Senate's almost unanimous support of the Moseley-Braun/Murray amendment to the FY 1995 Defense Authorization Act which required that the armed services improve the procedures by which discrimination and sexual harassment complaints are processed. In part, the amendment states:

''The Secretary of Defense shall ensure that the Department of Defense regulations governing consideration of equal opportunity matters in evaluations of the performance of members of the Armed Forces include provisions requiring as a factor in such evaluations consideration of a member's commitment to elimination of unlawful discrimination or of sexual harassment in the Armed Forces.''

This statutory language reflects an important public policy, but we are concerned that

without strong enforcement mechanisms DoD will not get the message. It is our understanding that so far DoD has missed every deadline for reporting to Congress and adopting the new anti-discrimination regulations required under the Amendment. This foot dragging underscores the need to maintain congressional oversight, including the Senate confirmation of retirement nominations where relevant leadership can be questioned on these types of matters. We believe it would be very unwise to relinquish this important tool for assuring compliance with national anti-discrimination policies and others critical to military readiness. In addition, less senior members of our armed forces who cannot turn to an independent judiciary with an unresolved but persistent discrimination or whistleblowing complaint deserve to know that their leadership is routinely held accountable to the highest standards.

In short, we have serious reservations about S. 635, and we hope you will consider our views carefully when reviewing this legislation. At a minimum, we strongly urge the Committee to hold a public hearing on this issue before any further action is taken.

Thank you very much for your consideration.

Sincerely,

PATTY MURRAY.
CHARLES GRASSLEY.
BARBARA BOXER.

Mrs. MURRAY. At this time I would like to outline a few of my concerns as described in the letter with this section.

Several arguments have been made in support of this section. For instance, it has been argued that military officers should be treated as their civilian counterparts. However, civilian comparisons are not relevant because of the unique role and mission required of our Nation's Armed Forces.

It has been argued that the confirmation of retiring officers increases the administrative workload of the Senate Armed Services Committee. In fiscal year 1993, the committee reviewed just six grade 0–10 officers for retirement and less than 20 at grade 0–9. I do not believe that is an unreasonable number. In addition, reviewing military nominations is a constitutional responsibility that helps maintain civilian control and accountability.

Most importantly, by removing Senate involvement in the confirmation of retiring officers, we remove congressional oversight. We remove our ability to play a role in the very process that has been so troublesome in recent years.

Mr. President, Senator GRASSLEY's amendment would prohibit waiving time in grade requirements if an officer is under investigation for alleged misconduct or if adverse personnel action was pending. While I do not feel this is the ultimate solution to this problem, I do feel it is a move in the right direction toward making this section more acceptable.

There is no reason for an officer to receive a promotion while an investigation into alleged misconduct is pending.

As I have stated, I still have concerns with the wholesale repeal of congressional oversight as it relates to the confirmation of retiring officers. I believe we have a duty and an obligation to ensure that there are standards of accountability.

Mr. President, I urge my colleagues to vote in favor of the Grassley amendment.

Mr. THURMOND. Mr. President, we will accept the amendment on this side.

Mr. NUNN. Mr. President, I want to make sure that I understand the amendment. I believe I do. The Senator from Iowa can check me on this. This basically would preclude the waiver by the President of time in grade requirements that exist in the law for three-star and four-star retirements if there is an investigation or disciplinary action pending at that time?

Mr. GRASSLEY. That is my intent, a narrow application of exception to the purpose of your original bill.

Mr. NUNN. As I understand it, Mr. President, the waiver in this amendment would actually—by the President—would not happen on very many occasions, but if it does not happen, it should not happen when there is an investigation or disciplinary action pending. That is what the Senator is trying to accomplish. This would nail it down and make sure that does not happen.

Mr. GRASSLEY. At that point, if the President wanted to retire them under those circumstances, it would have to come before the Senate for approval.

Mr. NUNN. Mr. President, I think that we should not compromise on accountability in this area. If the Senate confirmation is going to be changed in the three- and four-star area, then I think we must make sure that the waivers are not granted when, at any point, it would undermine accountability of the officer in question. I therefore think it is a good amendment, and I urge its approval.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2083) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, we are ready to go forward with other votes. If Members have any amendments, we are glad for them to come forward.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. THURMOND. Mr. President, I ask unanimous consent that when the Senate resumes the DOD authorization bill at 9 a.m. on Thursday, Senator DORGAN be recognized to offer his amendment, and there be 90 minutes equally divided in the usual form, with no second-degree amendments in order, and following the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the Dorgan amendment.

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

SECTIONS 631 AND 632

Mr. CRAIG. Mr. President, I rise to express some concerns I have about sections 631 and 632 of the Department of Defense authorization bill for fiscal year 1996, S. 1026. These two sections Nos. 631 and 632, will grant unlimited commissary shopping privileges to ready reservists, certain retired reservists and to all their dependents.

Mr. President, I am a strong supporter of the men and women who serve this Nation, including those who serve in the Ready Reserve. Their commitment to this Nation's security is strong, and they deserve our support. My concerns about sections 631 and 632 are not about the Ready Reserve, but rather about the budgetary impact of these proposed changes.

In total, Mr. President, these sections give an estimated 2 million people unlimited access to military grocery stores here in the United States and overseas.

This is quite a dramatic expansion over current law, which limits reservists to shop at commissaries while on active duty plus an additional 12 shopping trips during the course of a year.

Up until now, only active duty, career military men and women enjoyed unlimited commissary shopping privileges. However, under section 631 and 632 the Congress will be bestowing this special benefit to 2 million civilians. Stated differently, if we adopt this language, civilian reservists will have the same compensation benefit as career active duty military personnel.

Mr. President, I have been advised that according to the Department of Defense, there will be no budgetary implications associated with granting unlimited shopping privileges to the ready reservists, retired reservists, and their families. I hope this is in fact true, because this is not the same message that we heard when such an expansion was contemplated in the fiscal year 1994 defense authorization bill.

According to Pentagon testimony just 3 years ago in 1992, every dollar of sales in a commissary store requires about 16 cents in appropriated funding. In other words, it takes roughly 16 cents of taxpayer money to subsidize a dollar sale in a commissary store. Back in 1992, the Defense Department also told Congress that $24 million in tax dollars is needed for every additional 100,000 commissary patrons.

Now, here we are in 1995, and all of a sudden, everything has changed. Now,

according to the Pentagon, it won't cost the American taxpayer a single dime to grant 2 million civilians unlimited access to commissary stores. If this is true, and commissary stores have become efficient, streamline operators, this has to be one of the most astounding success stories in recent memory for the Pentagon.

Mr. President, let me conclude by saying that many of us in this Chamber have been working very hard to reduce the Federal deficit and to achieve a balanced budget by the year 2002. Therefore, it is my concern that section 631 and section 632 may be taking us in the wrong direction if this expansion results in the need for greater appropriations and taxpayer subsidies next year. This is especially true in light of the multitude of needs we are trying to fulfill for both active personnel and reservists, within growing budget constraints.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. 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. ASHCROFT. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

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

WELFARE IN AMERICA

Mr. ASHCROFT. Thank you for this opportunity to address the Senate, as I have done on 3 or 4 previous evenings. I am here to talk again about a topic which will confront the Senate very dramatically later this week. It is the topic of welfare reform.

It is time for the Senate to begin to focus not only on the cost of welfare reform in terms of dollars and cents, but the cost of the welfare tragedy in terms of the human cost—not numbers, but lives.

In each of the previous evenings when I have had an opportunity to address the Senate on this topic, I have talked about specific individuals. Individuals who have a story; individuals who were tragic victims of our welfare system.

The story I want to talk about tonight is the story of Jack Gordon Hill, Jr., of French Camp, CA. Mr. Hill's story is not a particularly uplifting story, for it is yet another story of human suffering at the hands of the welfare system.

Mr. President, I believe that Mr. Hill's story is the personification of a system that has replaced responsibility with rights, and has replaced opportunity with entitlement.

This picture beside me is one bright spot in Mr. Hill's welfare legacy. About a year ago, Mr. Hill credited the Federal Government's Supplemental Security Income Program with saving his life, and all the indications seemed to support his assertion. He was physically strong. He was mentally prepared, and ready once again to accept a place in America.

Mr. President, Jack Gordon Hill, Jr, had a serious problem with drugs and alcohol his entire adult life. His cocaine and whiskey cost him everything he had. Years ago he lost his job, and shortly thereafter he lost his family. He and his wife divorced. He gave up an infant son for adoption. Most tragically, he abandoned his two small daughters in Baltimore, unable or unwilling to take care of them.

In short, Mr. Hill was rushing ever faster toward rock bottom and almost hit, he claims, when he discovered SSI, which provides special payments for addicts. In his words, ''It is like I've been falling in a bottomless pit all my life, and all of a sudden there was this one thin branch sticking out. I grabbed it. Now I am climbing out.''

It turns out that the branch of SSI did not save him. It accelerated his fall. Mr. Hill's branch was a $458 a month governmental check, with which he was able to enter a drug and alcohol treatment center and get away from the street corner he had haunted.

In an interview with the Baltimore Sun last July, he sat in his room, in the California rehab center, playing with his kitten, Serenity—its name represented a new-found state of peace in his life. This world of contrived contentment was built on a foundation of sand.

Six months after that interview, the Baltimore Sun found Mr. Hill back on the same corner where he had begun, drunk and doped up. His Federal funds were now being used to support his renewed addiction to cocaine.

His use of these funds is far from exceptional. The system under which he got them spends $1.4 billion per year of taxpayers' funds. Unlike Mr. Hill, however, most of the individuals who received these funds—hundreds of thousands, according to the Baltimore Sun—never enter treatment centers, or seriously try to beat their addictions. The $458 a month they receive only speeds their inevitable demise.

One drug counselor at a health clinic for the homeless told the Sun that drug dealers flock around the recipients of these Government checks whenever the checks come in. Speaking of his patients who had died from drug overdoses, the drug counselor said, ''All the dealers came circling around the patient of the day like vultures. A week later he would crash from whatever dope he was doing and feel terrible. Those were the times he would go looking for help. The problem was that we could never find help for him when that check came in the mail on the first of the month, and the whole cycle started over again.''

This cycle of abuse, funded by the Federal Government, this welfare system which provides funding for the maintenance of these habits, is a tragedy which is costing us a tremendous toll in terms of human lives. When our welfare system clearly and openly supports a policy which runs contrary to every law and principle in our Government, we cannot be so blind as not to see the immediate and overwhelming need for an overhaul of the welfare system.

I have come before this body repeatedly to relate the personal stories of real Americans, stories which demonstrate how bankrupt our current welfare system is, how it enslaves its beneficiaries, how it traps them and robs them of their independence, their hope, and their futures. It is hard enough to break out of the cycle of poverty and dependence which the welfare system creates economically, but when the welfare system buys drugs for addicts, it virtually guarantees they will not escape and they will never be anything but wards of the Federal Government.

Mr. Hill did not only find himself abused, but he tried to do something. Mr. Hill did more than most of the SSI substance abuse recipients. He tried to get treatment. Yet, because Washington, DC, perceived the solution to his problems to be a wad full of Federal money—because the helping hand of Washington extends money to those who are in need and does not do much else—it destroyed his capacity. True charity cannot come from the Federal Government, it must come from concerned citizens who know the problems of their own communities, know the citizens in those communities, and truly want to solve the problems. And Federal money, money alone, cannot solve the problem. We need to involve the communities. We need to involve the States. We need to involve people—people who have the chance to introduce those on welfare to opportunities that lift them out of welfare.

Federal money should be administered to the States directly, allowing them the freedom to direct funds where they are needed. Federal funds should not be administered from a distant Washington bureaucrat and directed in ways that are not meaningful on the local level. Welfare, as it is currently practiced, simply provides a means for Mr. Hill and others like him to continue their self-destructive behavior. This behavior costs not only Mr. Hill, it costs us—not only in terms of our resources but it costs us productivity and lives. It has cost his three children an association with a father. It has been a tragedy, not just in financial terms, but in personal terms. It provides a means for Mr. Hill and others like him to continue their destructive behavior.

This is not a time for us to engage in half measures of welfare reform, and it is not a time for silence. Unfortunately, silence is exactly what we are getting from the Democrats who are making proposals which they call welfare reform. Every Republican plan