for purposes of a certification under subsection (a).

(c) REPORTS.—(1) The Director of Operational Test and Evaluation and the head of the Ballistic Missile Defense Organization shall include in the annual reports to Congress of such officials plans to test adequately theater missile defense interceptor programs throughout the acquisition process.

(2) As each theater missile defense system progresses through the acquisition process, the officials referred to in paragraph (1) shall include in the annual reports to Congress of such officials an assessment of the extent to which such programs satisfy the planned test objectives for such programs.

(d) DEFINITION.—For purposes of this section, the baseline performance thresholds for a program are the weapon system performance thresholds specified in the baseline description for the weapon system established pursuant to section 2435(a)(1) of title 10, United States Code, before the program entered into the engineering and manufacturing development stage.

SEC. 8102. ELIGIBILITY FOR DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAM.

Section 2524(e) of title 10, United States Code, is amended—

(1) in paragraph (3), by striking out ''at least 25 percent of the value of the borrower's sales during the preceding year'' in the matter preceding subparagraph (A) and inserting in lieu thereof ''at least 25 percent of the amount equal to the average value of the borrower's sales during the preceding 5 fiscal years'';

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) A borrower that meets the selection criteria set forth in paragraph (2) and subsection (f) is also eligible for a loan guarantee under subsection (b)(3) if the borrower is a former defense worker whose employment as such a worker was terminated as a result of a reduction in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.''.

This Act may be cited as the ''Department of Defense Appropriations Act, 1996''.

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

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I say to the Democratic leader, I thought I would announce what I intend to propose. Maybe it is not doable. I would like to propose that the only amendments remaining in order to S. 1026 be those cleared by the two managers of the bill and the missile defense amendment, and that the vote occur on or in relation to the missile defense amendment begin at 9:30 a.m. Wednesday, immediately to be followed by a vote on passage of the Defense authorization bill, pursuant to consent agreement of August 11.

So what I am suggesting is that there is going to be a period of debate of two, maybe 3 hours, and there will be a number of Members involved in that debate. In the meantime, unless there is some objection, if we could have that vote on that amendment and final passage at 9:30 tomorrow morning, other Members would be free to leave.

Mr. LEVIN. If the majority leader will yield, I had an amendment left on the list which I do not believe has yet been cleared. We are still hoping to clear that amendment.

Mr. DOLE. I will make it subject to that.

Mr. DASCHLE. Reserving the right to object——

Mr. DOLE. I have an amendment on welfare that probably will not be relevant, but it will be tomorrow when we take up welfare.

Mr. DASCHLE. If the majority leader will yield, I know that we have a list of amendments that may require rollcall votes. Does this anticipate then that other amendments, which would be offered either tonight or tomorrow morning, would still be in order and would be subject to a vote following disposition of the amendment?

Mr. DOLE. It is my understanding that there—I did not know about the amendment of the Senator from Michigan [Mr. LEVIN]. I have been told that, otherwise, everything had been dealt with. What we might do is suggest the absence of a quorum for a few minutes and see if we can work it out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 1026

Mr. DOLE. Mr. President, I think we have an agreement. It is cleared with the Democratic leader and also the two managers, so I will make the request.

I ask unanimous consent that the only amendments remaining in order to S. 1026 be those amendments cleared by the two managers of the bill and one amendment to be offered by Senator THURMOND, relevant, and one amendment to be offered by Senator NUNN, relevant; and if a vote is required on or in relation to the Levin amendment, it occur first in the voting sequence beginning at 9:30 Wednesday, a.m.; further, that the vote occur on or in relation to the missile defense amendment second in the voting sequence, to immediately be followed by a vote on the passage of the Defense authorization bill, H.R. 1530, pursuant to the agreement of August 11.

So there could be as many as five votes; the votes could be as few as two votes. If the Senator from Georgia offers a relevant amendment, or the Senator from South Carolina, or the amendment of the Senator from Michigan or anything in relation—a motion to table—if that requires a vote, that could be three votes and then on the amendment itself and final passage.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. So I announce to my colleagues there will be no more votes this evening but there will be debate. There are a number of Members on each side interested in this issue, so I assume the debate will probably take at least 2 hours, maybe 3 hours.

So, I ask unanimous consent the vote at 9:30 Wednesday be 15 minutes in length, with second and subsequent votes being limited to 10 minutes in length.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1026) to authorize appropriations for fiscal year 1996 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 continued with the consideration of the bill.

The PRESIDING OFFICER. The distinguished Senator from Georgia.

AMENDMENT NO. 2425

(Purpose: To amend subtitle C of title II of the National Defense Authorization Act for fiscal year 1996)

Mr. NUNN. Mr. President, I believe there is an amendment, No. 2425, which is an amendment to the Missile Defense Act, pending at the desk. I ask that amendment be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for himself, Mr. WARNER, Mr. LEVIN, and Mr. COHEN, proposes an amendment numbered 2425.

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

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

The amendment is as follows:

On page 49, strike out line 15 and all that follows through line 9 on page 69 and insert the following in lieu thereof:

SUBTITLE C—MISSILE DEFENSE

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Missile Defense Act of 1995''.

SEC. 232. FINDINGS.

Congress makes the following findings:

(1) The threat that is posed to the national security of the United States by the proliferation of ballistic and cruise missiles is significant and growing, both quantitatively and qualitatively.

(2) The deployment of effective Theater Missile Defense systems can deny potential adversaries the option of escalating a conflict by threatening or attacking United

States forces, coalition partners of the United States, or allies of the United States with ballistic missiles armed with weapons of mass destruction to offset the operational and technical advantages of the United States and its coalition partners and allies.

(3) The intelligence community of the United States has estimated that (A) the missile proliferation trend is toward longer range and more sophisticated ballistic missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within 5 years, and (C) although a new indigenously developed ballistic missile threat to the continental United States is not forecast within the next 10 years there is a danger that determined countries will acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

(4) The deployment by the United States and its allies of effective defenses against ballistic missiles of all ranges, as well as against cruise missiles, can reduce the incentives for countries to acquire such missiles or to augment existing missile capabilities.

(5) The Cold War distinction between strategic ballistic missiles and nonstrategic ballistic missiles and, therefore, the ABM Treaty's distinction between strategic defense and nonstrategic defense, has changed because of technological advancements and should be reviewed.

(6) The concept of mutual assured destruction, which was one of the major philosophical rationales for the ABM Treaty, is now questionable as a basis for stability in a multipolar world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(7) Theater and national missile defenses can contribute to the maintenance of stability as missile threats proliferate and as the United States and the former Soviet Union significantly reduce the number of strategic nuclear forces in their respective inventories.

(8) Although technology control regimes and other forms of international arms control can contribute to nonproliferation, such measures alone are inadequate for dealing with missile proliferation, and should not be viewed as alternatives to missile defenses and other active and passive defenses.

(9) Due to limitations in the ABM Treaty which preclude deployment of more than 100 ground-based ABM interceptors at a single site, the United States is currently prohibited from deploying a national missile defense system capable of defending the continental United States, Alaska, and Hawaii against even the most limited ballistic missile attacks.

SEC. 233. MISSILE DEFENSE POLICY.

It is the policy of the United States to—

(1) deploy as soon as possible affordable and operationally effective theater missile defenses capable of countering existing and emerging theater ballistic missiles;

(2)(A) develop for deployment a multiple-site national missile defense system that: (i) is affordable and operationally effective against limited, accidental, and unauthorized ballistic missile attacks on the territory of the United States, and (ii) can be augmented over time as the threat changes to provide a layered defense against limited, accidental, or unauthorized ballistic missile threats;

(B) initiate negotiations with the Russian Federation as necessary to provide for the national missile defense systems specified in section 235; and

(C) consider, if those negotiations fail, the option of withdrawing from the ABM Treaty in accordance with the provisions of Article XV of the Treaty, subject to consultations between the President and the Senate;

(3) ensure congressional review, prior to a decision to deploy the system developed for deployment under paragraph (2), of: (A) the affordability and operational effectiveness of such a system; (B) the threat to be countered by such a system; and (C) ABM Treaty considerations with respect to such a system;

(4) improve existing cruise missile defenses and deploy as soon as practical defenses that are affordable and operationally effective against advanced cruise missiles;

(5) pursue a focused research and development program to provide follow-on ballistic missile defense options;

(6) employ streamlined acquisition procedures to lower the cost and accelerate the pace of developing and deploying theater missile defenses, cruise missile defenses, and national missile defenses;

(7) seek a cooperative transition to a regime that does not feature mutual assured destruction and an offense-only form of deterrence as the basis for strategic stability; and

(8) carry out the policies, programs, and requirements of subtitle C of title II of this Act through processes specified within, or consistent with, the ABM Treaty, which anticipates the need and provides the means for amendment to the Treaty.

SEC. 234. THEATER MISSILE DEFENSE ARCHITECTURE.

(a) ESTABLISHMENT OF CORE PROGRAM.—To implement the policy established in section 233, the Secretary of Defense shall establish a top priority core theater missile defense program consisting of the following systems:

(1) The Patriot PAC–3 system, with a first unit equipped (FUE) in fiscal year 1998.

(2) The Navy Lower Tier (Area) system, with a user operational evaluation system (UOES) capability in fiscal year 1997 and an initial operational capability (IOC) in fiscal year 1999.

(3) The Theater High-Altitude Area Defense (THAAD) system, with a user operational evaluation system (UOES) capability in fiscal year 1997 and an initial operational capability (IOC) no later than fiscal year 2002.

(4) The Navy Upper Tier (Theater Wide) system, with a user operational evaluation system (UOES) capability in fiscal year 1999 and an initial operational capability (IOC) in fiscal year 2001.

(b) INTEROPERABILITY AND SUPPORT OF CORE SYSTEMS.—To maximize effectiveness and flexibility, the Secretary of Defense shall ensure that core theater missile defense systems are interoperable and fully capable of exploiting external sensor and battle management support from systems such as the Navy's Cooperative Engagement Capability (CEC), the Army's Battlefield Integration Center (BIC), air and space-based sensors including, in particular, the Space and Missile Tracking System (SMTS).

(c) TERMINATION OF PROGRAMS.—The Secretary of Defense shall terminate the Boost Phase Interceptor (BPI) program.

(d) FOLLOW-ON SYSTEMS.—(1) The Secretary of Defense shall develop an affordable development plan for follow-on theater missile defense systems which leverages existing systems, technologies, and programs, and focuses investments to satisfy military requirements not met by the core program.

(2) Before adding new theater missile defense systems to the core program from among the follow-on activities, the Secretary of Defense shall submit to the congressional defense committees a report describing—

(A) the requirements for the program and the specific threats to be countered;

(B) how the new program will relate to, support, and leverage off existing core programs;

(C) the planned acquisition strategy; and

(D) a preliminary estimate of total program cost and budgetary impact.

(e) REPORT.—(1) Not later than the date on which the President submits the budget for fiscal year 1997 under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a report detailing the Secretary's plans for implementing the guidance specified in this section.

(2) For each deployment date for each system described in subsection (a), the report required by paragraph (1) of this subsection shall include the funding required for research, development, testing, evaluation, and deployment for each fiscal year beginning with fiscal year 1997 through the end of the fiscal year in which deployment is projected under subsection (a).

SEC. 235. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) IN GENERAL.—To implement the policy established in section 233, the Secretary of Defense shall develop an affordable and operationally effective national missile defense system to counter a limited, accidental, or unauthorized ballistic missile attack, and which is capable of attaining initial operational capability (IOC) by the end of 2003. Such system shall include the following:

(1) Ground-based interceptors capable of being deployed at multiple sites, the locations and numbers of which are to be determined so as to optimize the defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental or unauthorized ballistic missile attacks.

(2) Fixed ground-based radars and space-based sensors, including the Space and Missile Tracking system, the mix, siting and numbers of which are to be determined so as to optimize sensor support and minimize total system cost.

(3) Battle management, command, control, and communications (BM/C3).

(b) INTERIM OPERATIONAL CAPABILITY.—To provide a hedge against the emergence of near-term ballistic missile threats against the United States and to support the development and deployment of the objective system specified in subsection (a), the Secretary of Defense shall develop an interim national missile defense plan that would give the United States the ability to field a limited operational capability by the end of 1999 if required by the threat. In developing this plan the Secretary shall make use of—

(1) developmental, or user operational evaluation system (UOES) interceptors, radars, and battle management, command, control, and communications (BM/C3), to the extent that such use directly supports, and does not significantly increase the cost of, the objective system specified in subsection (a);

(2) one or more of the sites that will be used as deployment locations for the objective system specified in subsection (a);

(3) upgraded early warning radars; and

(4) space-based sensors.

(c) USE OF STREAMLINED ACQUISITION PROCEDURES.—The Secretary of Defense shall prescribe and use streamlined acquisition procedures to—

(1) reduce the cost and increase the efficiency of developing the national missile defense system specified in subsection (a); and

(2) ensure that any interim national missile defense capabilities developed pursuant to subsection (b) are operationally effective and on a path to fulfill the technical requirements and schedule of the objective system.

(d) ADDITIONAL COST SAVING MEASURES.—In addition to the procedures prescribed pursuant to subsection (c), the Secretary of Defense shall employ cost saving measures that do not decrease the operational effectiveness of the systems specified in subsections (a) and (b), and which do not pose unacceptable technical risk. The cost saving measures should include the following:

(1) The use of existing facilities and infrastructure.

(2) The use, where appropriate, of existing or upgraded systems and technologies, except that Minuteman boosters may not be used as part of a National Missile Defense architecture.

(3) Development of systems and components that do not rely on a large and permanent infrastructure and are easily transported, emplaced, and moved.

(e) REPORT ON PLAN FOR DEPLOYMENT.—Not later than the date on which the President submits the budget for fiscal year 1997 under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a report containing the following matters:

(1) The Secretary's plan for carrying out this section.

(2) For each deployment date in subsections (a) and (b), the report shall include the funding required for research, development, testing, evaluation, and deployment for each fiscal year beginning with fiscal year 1997 through the end of the fiscal year in which deployment is projected under subsection (a) or (b). The report shall also describe the specific threat to be countered and provide the Secretary's assessment as to whether deployment is affordable and operationally effective.

(3) An analysis of options for supplementing or modifying the national missile defense architecture specified in subsection (a) before attaining initial operational capability, or evolving such architecture in a building block manner after attaining initial operational capability, to improve the cost-effectiveness or the operational effectiveness of such system by adding one or a combination of the following:

(A) Additional ground-based interceptors at existing or new sites.

(B) Sea-based missile defense systems.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

SEC. 236. CRUISE MISSILE DEFENSE INITIATIVE.

(a) IN GENERAL.—The Secretary of Defense shall undertake an initiative to coordinate and strengthen the cruise missile defense programs, projects, and activities of the military departments, the Advanced Research Projects Agency and the Ballistic Missile Defense Organization to ensure that the United States develops and deploys affordable and operationally effective defenses against existing and future cruise missile threats.

(b) ACTIONS OF THE SECRETARY OF DEFENSE.—In carrying out subsection (a), the Secretary of Defense shall ensure that—

(1) to the extent practicable, the ballistic missile defense and cruise missile defense efforts of the Department of Defense are coordinated and mutually reinforcing;

(2) existing air defense systems are adequately upgraded to provide an affordable and operationally effective defense against existing and near-term cruise missile threats; and

(3) the Department of Defense undertakes a high priority and well coordinated technology development program to support the future deployment of systems that are affordable and operationally effective against advanced cruise missiles, including cruise missiles with low observable features.

(c) IMPLEMENTATION PLAN.—Not later than the date on which the President submits the budget for fiscal year 1997 under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a detailed plan, in unclassified and classified forms, as necessary, for carrying out this section. The plan shall include an assessment of—

(1) the systems that currently have cruise missile defense capabilities, and existing programs to improve these capabilities;

(2) the technologies that could be deployed in the near- to mid-term to provide significant advances over existing cruise missile defense capabilities, and the investments that would be required to ready the technologies for deployment;

(3) the cost and operational tradeoffs, if any, between upgrading existing air and missile defense systems and accelerating follow-on systems with significantly improved capabilities against advanced cruise missiles; and

(4) the organizational and management changes that would strengthen and further coordinate the cruise missile defense efforts of the Department of Defense, including the disadvantages, if any, of implementing such changes.

SEC. 237. POLICY REGARDING THE ABM TREATY.

(a) Congress makes the following findings:

(1) Article XIII of the ABM Treaty envisions ''possible changes in the strategic situation which have a bearing on the provisions of this treaty''.

(2) Articles XIII and XIV of the ABM Treaty establish means for the Parties to amend the Treaty, and the Parties have employed these means to amend the Treaty.

(3) Article XV of the ABM Treaty establishes the means for a party to withdraw from the Treaty, upon 6 months notice, ''if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests.''

(4) The policies, programs, and requirements of subtitle C of title II of this Act can be accomplished through processes specified within, or consistent with, the ABM Treaty, which anticipates the need and provides the means for amendment to the Treaty.

(b) SENSE OF CONGRESS.—In light of the findings and policies provided in this subtitle, it is the sense of Congress that—

(1) given the fundamental responsibility of the Government of the United States to protect the security of the United States, the increasingly serious threat posed to the United States by the proliferation of weapons of mass destruction and ballistic missile technology, and the effect this threat could have on the options of the United States to act in a time of crisis—

(A) it is in the vital national security interest of the United States to defend itself from the threat of a limited, accidental, or unauthorized ballistic missile attack, whatever its source; and

(B) the deployment of a national missile defense system, in accord with section 233, to protect the territory of the United States against a limited, accidental, or unauthorized missile attack can strengthen strategic stability and deterrence; and

(2)(A) the Senate should undertake a comprehensive review of the continuing value and validity of the ABM Treaty with the intent of provided additional policy guidance on the future of the ABM Treaty during the second session of the 104th Congress; and

(B) upon completion of the review, the Committee on Foreign Relations, in consultation with the Committee on Armed Services and other appropriate committees, should report its findings to the Senate.

SEC. 238. PROHIBITION ON FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

(a) FINDINGS.—Congress makes the following findings:

(1) Section 234 of the National Defense Authorization Act for Fiscal Year 1994 provides that the ABM Treaty does not apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles.

(2) Section 232 of the National Defense Authorization Act for Fiscal Year 1995 provides that the United States shall not be bound by any international agreement that would substantially modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution.

(3) The demarcation standard described in subsection (b)(1) is based upon current technology.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) unless a missile defense system, system upgrade, or system component, including one that exploits data from space-based or other external sensors, is flight tested against a ballistic missile target that exceeds a range of 3,500 kilometers or a velocity of 5 kilometers per second, such missile defense system, system upgrade, or system component has not been tested in an ABM mode nor deemed to have been given capabilities to counter strategic ballistic missiles, and

(2) any international agreement that would limit the research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner that would be more restrictive than the criteria in paragraph (1) should be entered into only pursuant to the treaty making powers of the President under the Constitution.

(c) PROHIBITION ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1996 may not be obligated or expended to implement an agreement with any of the independent states of the former Soviet Union entered into after January 1, 1995 that would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty or that would restrict the performance, operation, or deployment of United States theater missile defense systems except: (1) to the extent provided in an act enacted subsequent to this Act; (2) to implement that portion of any such agreement that implements the criteria in subsection (b)(1); or (3) to implement any such agreement that is entered into pursuant to the treaty making power of the President under the Constitution.

SEC. 239. BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS.

(a) ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1996 (as submitted in the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) The Patriot system.

(2) The Navy Lower Tier (Area) system.

(3) The Theater High-Altitude Area Defense (THAAD) system.

(4) The Navy Upper Tier (Theater Wide) system.

(5) Other Theater Missile Defense Activities.

(6) National Missile Defense.

(7) Follow-On and Support Technologies.

(b) TREATMENT OF NON-CORE TMD IN OTHER THEATER MISSILE DEFENSE ACTIVITIES ELEMENT.—Funding for theater missile defense programs, projects, and activities, other than core theater missile defense programs, shall be covered in the ''Other Theater Missile Defense Activities'' program element.

(c) TREATMENT OF CORE THEATER MISSILE DEFENSE PROGRAMS.—Funding for core theater missile defense programs specified in section 234, shall be covered in individual, dedicated program elements and shall be available only for activities covered by those program elements.

(d) BM/C3I PROGRAMS.—Funding for programs, projects, and activities involving battle management, command, control, communications, and intelligence (BM/C3I) shall be covered in the ''Other Theater Missile Defense Activities'' program element or the ''National Missile Defense'' program element, as determined on the basis of the primary objectives involved.

(e) MANAGEMENT AND SUPPORT.—Each program element shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

SEC. 240. ABM TREATY DEFINED.

For purposes of this subtitle, the term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SEC. 241. REPEAL OF MISSILE DEFENSE PROVISIONS.

The following provisions of law are repealed:

(1) The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note).

(2) Section 237 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

(3) Section 242 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

(4) Section 222 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 613; 10 U.S.C. 2431 note).

(5) Section 225 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 614).

(6) Section 226 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1057; 10 U.S.C. 2431 note).

(7) Section 8123 of the Department of Defense Appropriations Act, 1989 (Public Law 100–463; 102 Stat. 2270–40).

(8) Section 8133 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1211).

(9) Section 234 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note).

(10) Section 235 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2701; 10 U.S.C. 221 note).

The PRESIDING OFFICER. There are 3 hours of debate scheduled on this amendment, 2 for the Senator from Georgia, 1 for the Senator from South Carolina.

The Senator from Georgia.

Mr. NUNN. Mr. President, I yield myself such time as I may need at this point, and I do not intend to make long remarks at this point to give each of my colleagues a chance to lay down their views and to make their remarks on this amendment, which is a very important amendment. Then I will conclude with other remarks as we proceed through this debate.

Mr. President, at the request of the majority and minority leaders, Senators COHEN, LEVIN, WARNER, and I spent the better part of the week preceding the August recess meeting intensively addressing issues raised by the proposed Missile Defense Act of 1995, as set forth in S. 1026, the pending Defense authorization bill.

The goal of our effort was to develop an amendment establishing a missile defense policy that could be supported by a broad bipartisan group of Senators. On Friday, August 11, we filed a bipartisan substitute amendment reflecting our best efforts to meet the objective, and I hope that all Members have had an opportunity during the recess to review this bipartisan amendment.

I want to express my thanks to my three colleagues, Senator WARNER, Senator COHEN, and Senator LEVIN, for the diligence, tolerance, and good will each of them showed throughout the long and at times very difficult negotiations that occurred over a very intensive period of about a week that led to the agreement embodied in the substitute amendment that is now reported and pending.

I believe the amendment is a significant improvement to the version in the bill, and I support its adoption.

Mr. President, the revised version of the Missile Defense Act of 1995, if passed in this amendment as set forth in this substitute, serves three very important functions. First, it clarifies the intent of the United States with respect to decisions about future missile defenses. Second, it diffuses a potential constitutional contest and confrontation between the executive and legislative branches. And, third, it makes clear to the international community our policy toward the ABM Treaty.

Under the bipartisan substitute, the policy is no longer stated as a binding commitment to deploy a missile defense system. That is a decision that will be made in the future. Instead, the national missile defense policy, and section 232 of this substitute, is to ''develop for deployment.'' The substitute adds several important qualifiers such as the system must be ''affordable and operationally effective.'' This requirement appears in section 232 and is reemphasized throughout the amendment. And the system is limited to addressing only ''accidental, unauthorized or limited attacks.'' That qualification, which is set forth in section 232, is repeated throughout the amendment.

One of the most important qualifications under the substitute is the requirement in section 2333 for ''congressional review, prior to a decision to deploy the system, of development or deployment of (a) the affordability and operational effectiveness of such a system, (b) the threat to be countered by such a system, and (c) ABM Treaty considerations with respect to such a system.''

These vital issues will all be considered before we take a step in the future to authorize and appropriate funds for deployment of a national missile defense system.

Mr. President, perhaps the most important qualification, both in terms of arms control and the separation of powers, is section 2338, which requires the Secretary of Defense to carry out the policies, programs, and requirements of the entire Missile Defense Act ''through processes specified within or consistent with the ABM Treaty which anticipates the need and provides the means for amendment to the treaty.''

Mr. President, finally, let me address the theater missile demarcation provision briefly. Section 238 of the bill as reported would have established in permanent law a specific demarcation between theater and strategic missile defenses and would have prohibited the President from negotiations or other actions concerning the clarification or interpretation of the ABM Treaty and the line between theater and strategic missile defenses. The bipartisan substitute amendment strikes all of section 238 and provides in the bipartisan substitute a limited funding restriction with the following provisions concerning the demarcation or the definitional distinction between theater and national missile defenses.

First, the funding restriction applies only to fiscal year 1996.

Second, this substitute restriction applies only to the implementation of agreement with the successor states in the Soviet Union, should one be reached, concerning a demarcation between theater and strategic defenses for the purposes of the ABM Treaty and additional restrictions on theater missile defenses going beyond those in the demarcation.

In addition to being limited to 1 year, the substitute funding limitation in section 238 has three exceptions. The limitation does not apply ''to the extent provided in a subsequent act'' to implement that portion of any such agreement that implements specific terms of the demarcation set forth in the amendment, to implement an agreement that is entered into pursuant to the treaty-making power of the President under the Constitution.

Mr. President, there are many other changes that improve the overall thrust of this subject matter in the bipartisan substitute. I believe that the bipartisan substitute amendment provides a useful statement of congressional policy and is intended to be presented in a framework that makes clear that we seek a negotiated set of changes with the Russian Federation

to allow for more effective defenses against limited missile attacks than either side is permitted today.

I believe the bipartisan substitute amendment is not, and should not be seen by Russia as, a threat by the United States either to abandon the ABM Treaty or to reinterpret a treaty unilaterally to our advantage. Both we and Russia face the threat of ballistic missile attacks. It is not simply the United States; it is also Russia. The threats may be somewhat different, but the need for defenses should be clear to both sides.

What we have to do is arrange for both sides to be able to deploy more effective defenses than in use today against accidental, unauthorized, and limited attacks while maintaining overall strategic stability and while making it plain that neither side seeks to combine offensive capability with defensive capability thereby giving either side what has for years been feared as a first-strike capability. Some people use that term in connection and synonymously with the term ''strategic stability.'' Some people use the term ''strategic stability'' in a broader context.

But, nevertheless, it is my view that, if we are going to proceed to enjoy the benefits of 20 years of work and negotiations to reduce nuclear weapons under the treaties that have been entered into, like the START I Treaty or treaties now pending like the START II Treaty, it is very important that both sides understand that strategic stability is being maintained, that neither side is intending to combine offensive striking power with defensive abilities so that either side would be tempted at any point in the future—whatever developed—to develop anything resembling a first-strike capability.

That is the scenario that the ABM Treaty was originally designed to prevent. It has some relevance today. But it needs changing in some very important but modest aspects.

Mr. President, it is important that whatever we do with defenses—and I favor going forward with both the theater missile system and also a national missile system against limited and unauthorized attacks and third-country attack—whatever we do we should make sure that we continue to carry out the reductions of the armaments that have been most threatening against the United States for the last 20 years, the heavy missiles. And those missiles are part of both START I and START II reductions.

It is enormously important that we not send signals to the Russian Parliament, the Russian leadership, to the Russian people that they in any way should fear for their own security and that they, therefore, should not go forward with the reductions of the missiles that they have either agreed to or that are pending in the START II agreement.

Mr. President, that is what this is all about. I know there will be some who will agree with the changes. There will be some who may not agree with the changes. But this does represent the best effort that Senator LEVIN and I on the Democratic side, together with Senator WARNER and Senator COHEN on the Republican side, were able to put together in an effort to achieve these goals that I have enumerated.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. NUNN. Yes.

Mr. WARNER. I will later address this pending amendment. But I would like to ask a question of my distinguished colleague. I think we concur, the four of us, Senator THURMOND, Senator COHEN, myself, and Senator LEVIN and also our distinguished ranking member. It would be my hope that the Senator from Georgia would have an opportunity to make some assessment as to how the administration views this amendment. I wondered if the Senator would share with the Senate what he has.

Mr. NUNN. I say to my friend from Virginia that I talked to Secretary of Defense Perry about this amendment, and I think it is fair to say that he believes it is a dramatic improvement over the original version.

I would not be able to portray to the Senator from Virginia that I conveyed this or that I have discussed it in any kind of detail with the White House. And I cannot give any message about how they view either this authorization bill or the appropriations bill which was passed. There are a number of other areas that do not concern this that have been of concern to the White House and the Secretary of Defense, including, in the bill we just passed, the appropriation bill, the elimination of some very important funding that the Secretary of Defense had undertaken under the Nunn-Lugar program for working to reduce the Russian military establishment.

That is a concern to Secretary Perry; it also is a concern to me, that funding was eliminated both in the appropriations bill in the House and Senate. But as far as this particular provision is concerned, I have no doubt that Secretary Perry feels it is a great improvement, and I would assume, without having directly talked with the President about it, that he would also view it in that way.

Mr. WARNER. Mr. President, I thank our distinguished colleague, but I hope the administration would view this as an effort to reconcile important differences and that it is a work product worthy of support by the Senate and by the administration.

Mr. NUNN. It is also my hope that would be their view. I would say to my friend, I know there are other provisions in this bill and the appropriations bill that concern both the White House and the Secretary of Defense. So I can make no statement here that indicates their feeling on the overall product we now have. I am sure they will be heard from as we move into conference.

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

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to support the bipartisan missile defense amendment which was worked out prior to the August recess.

While I continue to believe that the missile defense provisions in the bill reported to the Senate by the Armed Services Committee are sound and reasonable, I also agree that the compromise is a positive step away from the status quo.

The compromise amendment does not include everything that I wanted, but it does not fundamentally undermine any of the policies or initiatives that I viewed as critical. In my view, it is an adequate position to take to conference. The House defense authorization bill differs in several ways from the Senate compromise missile defense amendment. Obviously, there will be considerable discussion before a consensus is reached between the two Chambers.

Let me again thank all those who worked so hard prior to the August recess. And I especially wish to thank Senator WARNER, Senator COHEN, Senator NUNN, and Senator LEVIN. Also, let me thank the leaders for their cooperation.

Finally, I would like to draw to the attention of the Senate an article by the Republican leader, Senator DOLE, in today's Washington Times which addresses the subject of missile defense. This is an excellent piece for which I commend the Republican leader. I ask unanimous consent that a copy of the article be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. THURMOND. In closing, Mr. President, let me once again urge my colleagues to support the bipartisan compromise on missile defense. It is a positive step that all Members should be able to endorse.

I yield the floor.

EXHIBIT 1

A TIMELY REMINDER FROM IRAQ

(By Robert Dole)

When Saddam Hussein's son-in-law and former chief of mass destruction bolted, apparently threatening to tell all, the Iraqi director preempted and sent us the loudest wake-up call we are likely to get on the growing threat of weapons of mass destruction. As we finish up the Department of Defense Authorization Bill, it's time to heed that call.

According to their belated admission, the Iraqis filled nearly 200 bombs and warheads for ballistic missiles with botulinum toxin, anthrax spores and aflatoxin. In addition to the shockingly advanced nuclear weapons program already revealed, Iraq now says it ran a second program to develop a nuclear weapon by April 1991 with material diverted from nuclear power reactors.

The latest revelations from Baghdad underscore four points.

First, arms control treaties and export controls did not prevent Iraq from pursuing its deadly aims. Don't get me wrong—diplomatic efforts increase the cost, time and technical challenge required to acquire weapons to mass destruction. We should press on with them. The point is simply that diplomacy does not prevent malevolent countries like Iraq from acquiring these weapons and there are a number of countries of Iraq's ilk out there.

Second, Iraq managed to conceal a good part of its activities from the rest of the world, even after post-Gulf War U.N. sanctions made it the most inspected country on earth. Clearly, absence of evidence is not evidence of absence. The lesson is that we no longer have the luxury of waiting for our intelligence bureaucracy to gather reams of evidence before ''validating'' a threat. Our own defense programs need to start anticipating emerging threats.

Third, what makes these weapons truly menacing is the prospect of their delivery with ballistic missiles, which allow countries that never before wielded such power to vault themselves onto the world stage. Imagine trying to put together the coalition for Desert Storm if Cairo, Ankara, Rome or London had believed they were vulnerable to missiles loaded with anthrax. And let's not forget that the United States and its key allies may soon be a target. In just three to five years, the North Korean Taepo-Dong II intercontinental ballistic missile could reach American soil. Those lacking in imagination about what that implies should recall the words of Saddam Hussein: ''Our missiles cannot reach Washington. If they could reach Washington, we would strike it if the need rose.''

Fourth, the Clinton administration and its allies hobble America's missile defense efforts by clinging to the 1972 ABM Treaty with the now defunct Soviet Union. They have even tried to drag our theater missile defense programs, never covered by the ABM Treaty, under new limits that the administration has hatched from ever-burgeoning interpretations of that treaty.

It's time to defend ourselves in the multipolar world of the 21st century. It's time to change the regime established by the 1972 ABM Treaty, which currently leaves the American people vulnerable to missile attack from any country capable of developing or buying a long-range missile, I think there are ways we can cooperate with Russia on missile defenses, but that is partly up to them. Our job on the defense bill is to lay out what is necessary for America's defense. We now have a defense bill which takes important steps in that direction.

First, it establishes a Cruise Missile Defense Initiative, the need for which was just underscored by Iraq's admission that it was experimenting with unmanned aerial vehicles, cousins of the cruise missile, to deliver biological agents.

Second, it establishes a theater missile defense ''core program'' to ensure that we stay focused and move toward deployment of those systems that are clearly needed as soon as possible, adding the crucial Navy Upper Tier system to the core. This system will allow our Navy to take missile defenses wherever in the world American interests are threatened.

Third, it precludes arms control zealots from dragging theater missile defense systems which are not covered by the ABM Treaty into a web of new limitations. It calls for a year of careful consideration on how to proceed with the ABM Treaty in the longer term. During that time, the president should seek to negotiate with Russia a mutually beneficial agreement that will allow the United States to proceed with its multiple-site deployments.

Most important, it establishes U.S. policy to develop for deployment by 2003 ground-based interceptors at multiple sites, fixed ground-based radars and space-based sensors for a defense of the United States of America.

Mr. President, it's time to defend America.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield 10 minutes to the able Senator from Maine.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, let me thank Senator THURMOND for his confidence in asking Senator WARNER and me to represent the Republican side in the negotiations with Senator NUNN and also Senator LEVIN.

The four of us have enjoyed working together over our years of service on the Armed Services Committee, and it was a special privilege for me to be able to sit down for hours and hours, well into the night, in fact, on several occasions, working from at least 5 in the afternoon until midnight on at least two occasions, but the issues that were involved were serious. They required that kind of attention to detail.

Notwithstanding some of the comments that were made earlier today by some of our colleagues, words do make a difference. Poets are not the only individuals who pinch words until they hurt. Arms controllers do as well.

Words within the field of arms control carry specific meaning, and it was very important that we took great care as we tried to hammer out a compromise between our respective positions, in making sure that we would not do damage to longstanding precedents and longstanding interpretations. Notwithstanding the fact there has been some criticism leveled at this bipartisan proposal, we believe the care which we have taken to describe in some detail, with some great sensitivity, I might add, the meaning of the words that were used, carries significant implications for arms control and national security.

We have to remind our colleagues again and again we are not seeking to rekindle the debate over star wars, some sort of astrodomic system that is going to hover over the United States and protect this county from an all-out assault from the former Soviet Union or any major power that may emerge in the future. We could not do that. We do not envision that. We agree, in light of the proliferation of missile technology that we are agreed upon, that there is a grave danger of missile technology proliferating at an ever and ever faster rate that poses a threat to the United States, also to the former Soviet Union. They also should have great concern about the proliferation of this kind of technology.

How do we quantify it? How great is that threat? I do not think any of us are in a position to make a judgment. But we do not want to be in the position 3 or 4 or 5 years down the road of having some accidental launch, an unauthorized launch, or a limited attack against the United States and all the President of the United States could do would be to tell the people targeted: ''Sorry, we will do the best to clean up the thousands if not millions of dead after the missile hits. We have no means of protecting you. And, yes, we understand what 5 o'clock traffic is in Washington, New York, and every major city and the chances are you will not be able to get out of the city on 30 minutes' notice, and so all we can do is hope to minimize the slaughter that will take place by sending in our rescue teams, assuming they survive the blast.''

That is an untenable position, and so we have to have some means of defending against these types of limited, accidental, or unauthorized launches, and there should be no dissent on that. This is not a matter of partisanship. There is no dissent that we need to have that capability.

In June, when the Armed Services Committee marked up the Defense authorization bill, the committee voted to put the United States on the path to deployment of a highly effective system to defend the American people against limited missile attacks.

Because we want to and must defend all Americans, not just those in a particular region of the country, we called for a multiple-site defense. And, because we can expect the threat to evolve to become ever more sophisticated, we called for a defensive system that would also evolve and a research-and-development program to provide options for the future. Since the National Missile Defense Program approved by the committee goes beyond that being pursued by the administration, we added $300 million above the $371 million requested.

We also called for deployment of highly effective systems to defend our forward deployed forces and key allies and, to ensure this result, reorganized the administration's theater missile defense effort. A related matter involved negotiations being conducted with Moscow to define the line distinguishing TMD from ABM systems.

Over the last year and a half, the Clinton administration has drifted toward accepting Russian proposals to limit TMD systems in unacceptable ways—in effect, to subject TMD systems to the ABM Treaty, which was never intended to cover theater defenses. The committee addressed this troubling situation with two steps. First, we voted to write into law the Clinton administration's initial negotiating position on what constitutes an ABM system. And second, we adopted

bill language to prevent the administration from implementing any agreement that would have the effect of applying ABM Treaty restrictions to TMD systems.

Last month, when the Defense authorization act came to the floor, the committee's judgment was challenged. One amendment was offered to delete the additional $300 million provided for national missile defense. And another amendment was offered eliminate the policy to deploy a multiple-site national defense system, eliminate the statutory demarcation between TMD and ABM systems, and eliminate the ban on applying the ABM Treaty to TMD systems.

As was the case during the committee's mark-up, these efforts failed in relatively close votes.

Mr. President, I have been on the Armed Services Committee since 1979 and have spent some of that time in the majority. It has not been our practice for the majority to use its position to impose its views on the minority. Instead, we have usually sought to develop as broad a consensus as possible on important issues of national security.

In this spirit, Members of the majority also offered amendments on the floor to move beyond close, partisan votes toward a broader consensus.

Senator KYL offered an amendment expressing ''the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack.'' His amendment setting forth this basic principle, which was the basis for the Armed Services Committee's action, was approved overwhelming, 94–5.

And to address the concerns of some Senators that the committee was advocating abrogation of the ABM Treaty, I offered an amendment affirming that the multiple-site defense we endorsed can be deployed in accordance with mechanisms provided for in the ABM Treaty—such as negotiating an amendment—and urging the President to negotiate with Moscow to obtain the necessary treaty amendment. My amendment was also approved by a very large margin, 69–26.

I highlight that vote margin because the bipartisan amendment we have negotiated would change even the language of the Cohen amendment, which was adopted overwhelmingly by the full Senate. I think this is a clear indication of how far the majority has been willing to go in accommodating the minority in order to build a broader consensus.

THE BIPARTISAN AMENDMENT

The result of the negotiations that have occurred is the bipartisan amendment, which is being cosponsored by the four Senators designated by the two leaders to attempt to resolve this issue. In order to reach agreement on this amendment, both sides made concessions, although it should be noted that many of the agreed upon changes are less concessions than clarifications of the Armed Services Committee's intent.

Senators interested in this matter can read the bipartisan amendment and compare it to current text of the bill. Our negotiations involved debate over almost every single word in subtitle C. For reasons of time, I will merely try to summarize the most important issues.

MISSILE DEFENSE POLICY

In section 233, which addresses missile defense policy, we have made a number of changes to clarify the intent of the committee's language.

The bipartisan text states that ''it is the policy of the United States to develop for deployment a multiple-site national missile defense system.'' The difference with the original text is that it substitutes the words ''develop for deployment'' for the word ''deploy.''

This change is consistent with the fact that what we are funding in this bill is research and development on national missile defense, not procurement. There will be a number of authorization and appropriations bills to be acted upon before we begin to fund the actual deployment of the system. I would note that the words ''develop for deployment'' were in the committee-approved bill, in the NMD architecture section, and so this clarification is consistent with the committee's intent.

Moreover, I would emphasize that the policy section clearly states—as did the committee bill—that the system we are pursuing is a multiple-site system. As the findings make clear, a multiple-site system is essential if we are to defend all of the United States and not just part of the country. This is also made clear in the NMD architecture section, which states that the system must be optimized to defend all 50 States against limited, accidental, or unauthorized ballistic missile attacks.

This is further bolstered by the new language inserted by the compromise at various places that the system must be ''affordable and operationally effective.'' An NMD system confined to a single ground-based site would not be operationally effective, as noted in the ninth finding.

The bipartisan text also states in the policy section that the NMD system will be one that ''can be augmented over time as the threat changes to provide a layered defense against limited, accidental, or unauthorized ballistic missile threats.'' This passage was of great importance to many Members on this side who are concerned about the ability of the system to remain effective in the face of an evolving threat.

The committee-approved language stated that the NMD system ''will be augmented over time to provide a layered defense.'' There were strong feelings on our side about the words ''will be augmented.'' In the end, we agreed to change this to ''can be augmented.'' Again, while the committee's language had much to commend it, funding for deployment of other defensive layers will not be appropriated for several years.

The other changes to this passage, such as the inclusion of the words ''limited, accidental, or unauthorized'' clarify the ballistic missile threat for which a layered defense would be required, reflect the intent of the committee's bill.

At the suggestion of the other side, a new paragraph was added to the policy calling for congressional review, prior to a decision to deploy the NMD system. This is fully consistent with the committee's intent and the realities of the congressional budget process. Funds to begin deployment of the NMD system are not in the bill before the Senate. Thus, when such funds are requested, that request will pass through the regular process of committee hearings and mark-ups, floor consideration, and conference action.

Another change to the policy section was the inclusion of several portions of the amendment that I offered and that was approved by the Senate last month. This states that it is U.S. policy to ''carry out the policies, programs and requirements of (the Missile Defense Act of 1995) through processes specified within, or consistent with the ABM Treaty, which anticipates the need and provides the means for amendment to the Treaty.''

It also states that it is United States policy to initiate negotiations with the Russian Federation as necessary to provide for the NMD systems specified in the NMD architecture section. At the urging of Congress in the Missile Defense Act of 1991, President Bush initiated such negotiations with Moscow.

It is my understanding that tentative agreement was reached to provide for the deployment of ground-based multiple-site NMD systems. But the Clinton administration discontinued those negotiations. Under this legislation, it would be U.S. policy to once again engage Moscow in negotiations to amend the ABM Treaty or otherwise allow for multiple-site NMD systems.

The policy section then states that ''it is the policy of the U.S. to * * * consider, if those negotiations fail, the option of withdrawing from the ABM Treaty in accordance with the provisions of Article XV of the Treaty, subject to consultations between the President and the Senate.''

I would note that both amendment to the treaty, as provided for in articles XIII and XIV, and withdrawal from the treaty, as provided for in article XV, are ''processes specified within the ABM Treaty.''

Contrary to the concerns of some, the Armed Services Committee never advocated abrogation of the treaty and the bill reported out by the committee neither required nor supported abrogation. The debate that took place during the committee mark-up made it clear that there was absolutely no intent to abrogate.

These provisions regarding the ABM Treaty and negotiations with Moscow

taken from the Cohen amendment and incorporated into the bipartisan amendment reaffirm what was always the intent of the committee.

Mr. President, I want to emphasize that these provisions and the other language in the section 233 clearly state that these policies are ''the policy of the United States.'' Not the policy of the Senate or the policy of the Congress. I say this because I have heard that an administration official has said that, once this bill becomes law, the administration will declare that these statements of U.S. policy are not its policy but merely the sense of the Congress.

The bill makes a clear distinction between statements of U.S. policy and expressions of the sense of Congress. We have spent a great deal of effort negotiating exactly what statements will fall into the policy section and which will be in the form of sense of the Congress. In fact, these negotiations began with Senator NUNN urging that the Cohen amendment be strengthened from being the sense of the Congress to a statement of U.S. policy.

Mr. President, I would merely note the obvious fact that once the bill becomes U.S. law, then the bill's statements of policy are U.S. policy.

NMD ARCHITECTURE

The bipartisan amendment also provides changes and clarifications in section 235, regarding the architecture of the national missile defense system.

The committee's bill stated that the NMD system ''will attain initial operational capability by the end of 2003.'' The bipartisan amendment states that the NMD system will be ''capable of attaining initial operational capability by the end of 2003.'' This is a useful clarification because while Congress can mandate many things, we cannot dictate with certainty that engineers will accomplish specific tasks within a specific period of time.

Section 235 also states that the NMD ''system shall include * * * ground-based interceptors capable of being deployed at multiple sites, the locations and numbers of which are to be determined so as to optimize the defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks.'' The committee's version of this provision was identical except that the bipartisan amendment inserted the words ''capable of being.''

I found this suggestion from the other side to be acceptable because I do not think it really changes the meaning of the original text. Interceptors are inherently ''capable of being deployed at multiple sites.'' I cannot conceive of any technical reason that an interceptor would be incapable of being deployed at multiple sites. Accordingly, ''capable of being deployed at multiple sites'' does not, as far as I can tell, in any way limit the NMD system proposed by the committee. Indeed, one could argue that the only way that ground based interceptors are ''capable of being deployed at multiple sites'' is if there are multiple sites.

So, I am pleased that this change helped to produce a bipartisan resolution to this matter, even if I cannot find any substantive result of this change.

In subsection (b) of section 235, our side did make a concession. The committee's bill directed the Secretary of Defense ''to develop an interim NMD capability to be operational by the end of 1999.'' In order to achieve agreement with the other side, we have modified this to require the Secretary ''to develop an interim NMD plan that would give the U.S. the ability to field a limited operational capability by the end of 1999 if required by the threat.'' In both versions, the interim capability would have to not interfere with deployment of the full up NMD system by 2003.

Mr. President, I would also note that the bipartisan amendment retains the portion of section 235 that calls for a report by the Secretary of Defense analyzing ''options for supplementing or modifying the NMD system by adding one or a combination of sea-based missile defense systems, space-based kinetic energy interceptors, or space-based directed energy systems.'' As I discussed earlier, such options for layered defenses are of considerable interest to many Members.

To summarize, Mr. President, the bipartisan amendment both clarifies and changes the committee bill's provisions on national missile defense. It keeps us on the path toward a ground-based, multiple-site NMD system with options for layered defenses as the threat changes. But it recognizes that requests for NMD procurement funds will not be made for several years.

TMD DEMARCATION

The other issue that required much discussion was what is commonly referred to as the theater missile defense demarcation question. I would like to summarize the resolution that was achieved in section 238, which was completely rewritten with the assistance of many Senators.

The section has findings noting that the ABM Treaty ''does not apply to or limit'' theater missile defense systems. The findings also note that ''the U.S. shall not be bound by any international agreement that would substantially modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making powers of the President under the Constitution.'' What this means is that any agreement that would have the effect of applying limits on TMD systems under the ABM Treaty must be approved as a treaty by the Senate.

Section 238 then states the sense of Congress that a defensive system has been tested in an ABM mode, and therefore is subject to the ABM Treaty, only if it has been tested against a ballistic missile target that has a range in excess of 3,500 kilometers or a velocity in excess of 5 kilometers per second. This threshold is the one defined by the administration and proposed in its talks with Moscow on this subject.

Finally, section 238 has a binding provision that prohibits implementation during fiscal year 1996 of an agreement with the countries of the former Soviet Union that would restrict theater missile defenses. This prohibition would not apply to the portion of an agreement that implements the 3,500 kilometer or 5-kilometer-per-second criteria nor to an agreement that is approved as a treaty by the Senate.

But it would apply to all portions of an agreement that sought to impose any restrictions other than the 3,500 kilometer or 5-kilometer-per-second criteria. Various other potential restrictions have been discussed, such as limits on the number of TMD systems or system components, geographical restrictions on where TMD systems can be deployed, restrictions on the velocity of TMD interceptor missiles, and restrictions on the volume of TMD interceptors missiles. Under section 238 of the bipartisan amendment, during fiscal year 1996, the administration is barred from implementing any of these potential restrictions or any other restrictions on the performance, operation, or deployment of TMD systems, system components, or system upgrades.

At the same time, Mr. President, there are no constraints on the ability of the President to engage in negotiations on the demarcation issue, which I know was an issue of concern to some. What section 238 controls is the implementation of any restrictions on TMD systems.

Mr. President, I want to acknowledge the efforts of the many Senators who contributed to the drafting of this amendment. Every member of the Armed Services Committee played a role, as did the two leaders, and key Senators off the committee. Senator KYL played a very constructive role, offering language that formed the basis for the resolution on section 238 and providing useful suggestions on the NMD portions of the bill. The chairman of the Armed Services Committee is to be especially commended for providing strong guidance to the negotiators and the committee, as a whole, and facilitating the talks along the way.

I want to commend Senator NUNN, once again, and Senator LEVIN and Senator WARNER for the many, many hours that were spent negotiating over specific words. As I mentioned before, words matter a great deal when we are talking about arms control.

I yield the floor.

Mr. WARNER addressed the Chair.

Mr. WARNER. Mr. President, if I could take a minute.

Mr. THURMOND. Mr. President, I yield 15 minutes to the able Senator from Virginia.

Mr. WARNER. Mr. President, at this time I just want to take 30 seconds to thank my distinguished colleague from

Maine. He ended up on a very important note, ''use of words.'' I can assure you, when we were sitting around, time and time again, we referred to him as the master craftsman for the use of words, the placement of a comma and the prose that flows. Make no mistake about that. If this thing ever has to go to court, it is your fault.

[Laughter.]

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. NUNN. Mr. President, I yield the Senator from Michigan such time as he may desire.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. NUNN. Within reason.

[Laughter.]

Mr. LEVIN. I wonder if we can get a parliamentary interpretation.

The PRESIDING OFFICER. That is exactly 1 hour and 50 minutes.

Mr. LEVIN. I definitely thank the Chair, and I think I thank my friend from Georgia.

Mr. President, first let me echo the words of those who have already spoken about the process just for a minute. The four of us have worked together now many, many years in this Senate, particularly on the Armed Services Committee, but on other matters as well. We know each other, like each other a great deal, respect each other as individuals and also for the depths of our beliefs and our feelings.

It was a true pleasure to work with Senators NUNN, WARNER and COHEN as we crafted this substitute. There is a lot in here representing each of us. Most important, I believe this substitute reflects a wise course relative to national missile defense.

I agree fully with what Senator WARNER just said about Senator COHEN. No one is a greater crafter of words around this place than Senator COHEN. He is not just a poet, but he is a writer of fiction as well, and some darned good nonfiction, too.

Mr. President, first, I want to start with what the law currently is. There is a lot of misconception, I think, in this body about what the current law is relative to national missile defense. We are not starting with a clean slate here called a bill and then adding a substitute for consideration by the Senate. We are starting with an existing law on national missile defense, then there is a bill, then there is a substitute.

The existing law already provides that it is a goal of the United States to develop the option to deploy an antiballistic missile system that is capable of providing a highly effective defense of the United States against limited attacks from ballistic missiles.

So that is the ground on which we are starting, that we already have in law a goal of the United States to develop the option to deploy this national missile defense system that we are talking about.

The bill that is before us, to which many of us had strong objections, goes way beyond saying that we should develop an option to deploy and then at some future time decide whether to exercise the option. The bill that we have before us says that we ''shall deploy'' and that is what gets us into great difficulty. It gets us into great difficulty in terms of the ABM Treaty, which prohibits the deployment of certain systems, antiballistic missile systems, at multiple sites.

The section of the bill before us, section 233, says that it is ''the policy of the United States to deploy a multiple-site national missile defense system.''

No ifs, no ands, no buts. That is the policy of the United States in the bill. The trouble with that is we have a number of impediments to that policy being a wise one. We have the question of what the threat is, what the cost effectiveness is, what the military effectiveness of such a system is, and we have an agreement with the Russians called the Anti-Ballistic Missile Treaty which President Nixon entered into and which has helped to create some major stability in the relationship between the two countries when there was a cold war. And now that the cold war is over, we must figure out how to deal with a new Russia who is a partner, a friend, an ally hopefully, not an adversary of the United States.

When the bill says that we will deploy a system which the ABM Treaty says we cannot, what the bill does is set us on a course of action which is not only unwise but is reckless.

We received letters from both General Shalikashvili, who is our Chairman of the Joint Chiefs of Staff, and the Secretary of Defense, Secretary Perry, in strong opposition to the bill because of what it does to the ABM Treaty but, most important, because of the jeopardy in which it places the Start II Treaty that we are hoping to ratify. That treaty will reduce significantly the number of nuclear warheads on both sides, and that is really the issue.

The issue here is the impact of the action of the Senate on the reduction of offensive nuclear weapons which threaten us. Surely it is not in our national interest to be trashing an agreement relative to antiballistic missile systems if, by undermining that agreement, we are then going to end up facing thousands more warheads on ballistic missiles which Russia would insist on keeping if we unilaterally pull out of the ABM Treaty. That is why General Shalikashvili said:

> While we believe that START II is in both countries' interest, regardless of other events, that we must assume that unilateral U.S. legislation could harm prospects for START II ratification by the Duma and probably impact our broader security relationship with Russia as well.

That letter was dated June 28, 1995.

And in a letter dated July 28, 1995, Secretary Perry said:

> Certain provisions related to the ABM Treaty would be very damaging to U.S. security interests. By mandating actions that would lead us to violate or disregard U.S. treaty obligations, such as establishing a deployment date of a multiple-site NMD system, the bill would jeopardize Russian implementation of the START I and START II treaties which involve the elimination of many thousands of strategic nuclear weapons.

We tried to modify the language in the bill pursuant to the amendment process prior to the recess. We tried to strike language which committed us to a course of action which would, by violating the ABM Treaty, jeopardize the reductions in the numbers of offensive nuclear weapons on the side of the Russians. We failed to do that by a couple votes.

Let me put some numbers on this. If the Russians see us violating a treaty which has allowed us to negotiate reductions in offensive nuclear weapons, the likelihood is that we are going to face 8,000 Russian nuclear weapons instead of about 3,000. To put this in very specific numbers, that is what we are talking about. That is what the stakes are here, and that is why the Chairman of the Joint Chiefs of Staff and the Secretary of Defense expressed such grave doubts about the language in this bill.

There were a number of problems which we confronted and which, we hope, we resolved in a sensible way. One problem which was in the bill which we have attempted to address was the unilateral declaration as to what the dividing line is between theater missile defenses and strategic missile defenses. It is clear that the ABM agreement does not cover theater missile defenses. I think everybody would agree to that.

I think everyone would also agree, at least I hope they would, that in the event of a substantial modification of the ABM Treaty, that the President then must submit that modification to the Senate for advice and consent to ratification. As a matter of fact, this substitute amendment refers to section 232 of the Fiscal Year 1995 National Defense Authorization Act which provided exactly that. That is existing law; it says that:

> The United States shall not be bound by any international agreement that would substantively modify the ABM Treaty unless the agreement is entered into pursuant to the treaty-making power of the President under the Constitution.

That is the law regardless of this bill. That is the law of the land. You cannot substantially modify a treaty unless you get advice and consent to ratification by the Senate, which previously approved that treaty. That is the law, with or without our statute saying that. We already have a statute which repeats that law, and we made reference to that statute.

But unless this substitute language is adopted, the bill declares what the dividing line is between these strategic and theater missile defense systems, declares the specific dividing line and says to the President in the bill, you cannot negotiate any other dividing line. You cannot sit down with the

Russians and come up with any dividing line between strategic and theater missile defense systems other than the one we are unilaterally declaring in this bill. That makes the Senate the negotiator, not the President of the United States.

While we can advise and consent to ratification, we are not the party that negotiates the treaty. It was a mistake in this bill to attempt to put that dividing line between strategic missile defensive systems covered by the ABM Treaty, and the theater missile defense systems not covered, into law. We have corrected that. We have indicated what we believe the correct dividing line is. We have now told the President, in effect, that you are free to negotiate, but if you negotiate a different demarcation, do not use the funds that we provide in the appropriation bill to implement that without giving Congress the opportunity to approve or to disapprove. That is very different. That is strikingly different from what was in the bill itself.

Following these efforts to amend the language in the bill prior to the recess, we entered into lengthy discussions at the request of the majority leader and Senator DASCHLE, the Democratic leader. The four of us spent many days, as has been outlined, in devising the substitute which is before us. This substitute corrects the major defects and many of the smaller defects in the original language. It basically returns us to the approach in current law. The approach in current law is that we want an option to deploy. We are not committed to deploy, but we want an option.

The approach in the substitute is that we want to develop for deployment a national missile defense system, but what we say in the substitute is that we are not deciding to deploy that here and now. That is very explicitly left to a later decision. We also say that decision should follow consideration of a number of things: Cost effectiveness, military effectiveness, the threat, and the impact on the ABM Treaty. That is the vital difference between the bill's language and the substitute.

In section 233 of the substitute, we explicitly state that the policy of the United States is to develop for deployment a multiple-site national missile defense system. And then we go into the ifs, ands, and the buts. The bill said ''deploy''—no ifs, ands, or buts. The substitute says ''develop for deployment'', but with these ifs, these ands, and these buts. The critical ones, again, are to be cost effective, militarily effective, consistent with the threat, and not adversely affect the ABM Treaty, or at least, if we are going to decide to deploy, do so in a way which is through processes that are specified within or consistent with the ABM Treaty.

The critical language here is that we say explicitly that it is the policy of the United States to ''ensure congressional review prior to a decision to deploy the system developed for deployment under paragraph 2 of (a) the affordability and operational effectiveness of such a system, (b) the threat to be countered by such a system, and (c) ABM Treaty considerations with respect to such a system.''

Mr. President, again, I want to thank our colleagues for their long and very arduous discussions. It has produced a substitute which I can, in good conscience, support, because we have removed the objectionable language in the bill which committed us to deploy a system which, by violating the ABM Treaty, would have almost certainly led to our facing thousands of more offensive nuclear warheads than we otherwise would be facing. We have attempted to carry out the thoughts of General Shalikashvili and his caution to us about the importance of our relationship with Russia and trying to maintain it in a stable way and not to be unilaterally declaring that we are going to abrogate agreements we have entered into with their predecessor. We have done so in a bipartisan way. I hope that we have done so in a constructive and a thoughtful way which will command the broad support of Members of this body.

I ask unanimous consent to have printed in the RECORD at this point a number of documents, including the letters referred to from General Shalikashvili, Secretary Perry, a side-by-side comparison of the bill and the substitute language relative to the ABM Treaty, as well as a further amplification of my statement.

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

SECRETARY OF DEFENSE,
Washington, DC, July 28, 1995.

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

DEAR SENATOR NUNN: I write to register my strong opposition to the missile defense provisions of the SASC's Defense Authorization bill, which would institute Congressional micromanagement of the Administration's missile defense program and put us on a pathway to abrogate the ABM Treaty. The Administration is committed to respond to ballistic missile threats to our forces, allies, and territory. We will not permit the capability of the defenses we field to meet those threats to be compromised.

The bill's provisions would add nothing to DoD's ability to pursue our missile defense programs, and would needlessly cause us to incur excess costs and serious security risks. The bill would require the US to make a decision now on developing a specific national missile defense for deployment by 2003, with interim operational capability in 1999, despite the fact that a valid strategic missile threat has not emerged. Our NMD program is designed to give us the capability for a deployment decision in three years, when we will be in a much better position to assess the threat and deploy the most technologically advanced systems available. The bill would also terminate valuable elements of our TMD program, the Boost Phase Intercept and MEADS/Corp SAM systems. MEADS is not only a valuable defense system but is an important test of future trans-Atlantic defense cooperation.

In addition, certain provisions related to the ABM Treaty would be very damaging to US security reasons. By mandating actions that would lead us to violate or disregard US Treaty obligations—such as establishing a deployment date of a multiple-site NMD system—the bill would jeopardize Russian implementation of the START I and START II Treaties, which involve the elimination of many thousands of strategic nuclear weapons. The bill's unwarranted imposition, through funding restrictions, of a unilateral ABM/TMD demarcation interpretation would similarly jeopardize these reductions, and would raise significant international legal issues as well as fundamental constitutional issues regarding the President's authority over the conduct of foreign affairs. These serious consequences argue for conducting the proposed Senate review of the ABM Treaty before considering such drastic and far-reaching measures.

Unless these provisions are eliminated or significantly modified, they threaten to undermine fundamental national security interests of the United States. I will continue to do everything possible to work with the Senate to see that these priorities are not compromised.

Sincerely,

WILLIAM J. PERRY.

CHAIRMAN, JOINT CHIEFS OF STAFF,
Washington, DC, June 28, 1995.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN. Thank you for your letter and the opportunity to express my views concerning the impact of Senator Warner's proposed language for the FY 1996 Defense Authorization Bill on current theater missile defense (TMD) programs.

Because the Russians have repeatedly linked the ABM Treaty with other arms control issues—particularly ratification of START II now before the Duma—we cannot assume they would deal in isolation with unilateral US legislation detailing technical parameters for ABM Treaty interpretation. While we believe that START II is in both countries' interests regardless of other events, we must assume such unilateral US legislation could harm prospects for START II ratification by the Duma and probably impact our broader security relationship with Russia as well.

We are continuing to work on TMD systems. The ongoing testing of THAAD through the demonstration/validation program has been certified ABM Treaty compliant as has the Navy Upper Tier program. Thus, progress on these programs is not restricted by the lack of a demarcation agreement. We have no plans and do not desire to test THAAD or other TMD systems in an ABM mode.

Even though testing and development of TMD systems is underway now, we believe it is useful to continue discussions with the Russians to seek resolution of the ABM/TMD issue in a way which preserves our security equities. Were such dialogue to be prohibited, we might eventually find ourselves forced to choose between giving up elements of our TMD development programs or proceeding unilaterally in a manner which could undermine the ABM Treaty and our broader security relationship with Russia. Either alternative would impose security costs and risks which we are seeking to avoid.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

MISSILE DEFENSE ACT OF 1995: SUBSTITUTE AMENDMENT

Side-by-side comparison of the Missile Defense Act in S. 1026 and the substitute amendment of August 10, 1995.

SEC. 233. POLICY

The bill asserted that the policy of the U.S. was:

To ''deploy a multiple site'' national missile defense system that ''will be'' augmented to provide a larger defense in the future.

The substitute amendment has as the policy:

To develop for deployment a national missile defense system that can be augmented.

To negotiate with Russia to provide for such a system, based on the ABM Treaty.

To consider, if those negotiations fail, the option of withdrawing from the ABM Treaty.

The purpose of the system is to defend only against limited, accidental and unauthorized missile attacks.

A new provision in the substitute amendment states the policy that:

Congress shall review the affordability, the operational effectiveness and the threat to be countered by the national missile defense system, and ABM Treaty considerations, prior to deciding whether to deploy the system.

The last new policy provision:

To carry out the policies, programs and requirements of the Missile Defense Act through processes specified in or consistent with the ABM Treaty.

SEC. 234. THEATER MISSILE ARCHITECTURE

The bill requires the Pentagon to meet certain dates for the specified programs.

The substitute amendment:

Relaxes the requirement to meet those dates,

Requires a report for each program/date explaining the cost and technical risk of meeting those dates,

And requires a report on the specific threats to be countered by each TMD system.

SEC. 235. NATIONAL MISSILE DEFENSE ARCHITECTURE

The Bill requires the Pentagon to develop a national missile defense system which will be operational first in 2003. It requires the system to include ground-based interceptors ''deployed at multiple sties''.

The substitute amendment requires the Pentagon to develop a national missile defense system that is capable of being first operational by the end of 2003. It states that the system shall include ground-based interceptors capable of being deployed at multiple sites.

Interim capability: The bill required the Pentagon to develop an interim capability to be operational by 1999.

The substitute amendment requires the Pentagon to develop a plan instead of a capability, and that it would give the U.S. the ability to have such an interim capability in place by 1999 if required by the threat.

The substitute amendment also requires a report that would include information on the cost of the program, the specific threat to be countered, and the Defense Secretary's assessment of whether deployment is affordable and operationally effective.

SEC. 237. POLICY REGARDING THE ABM TREATY

The Bill has sense of Congress language that:

The Senate should conduct a review of the ABM Treaty.

The Senate should consider establishing a Select Committee to conduct the review, and

The President should cease all efforts to ''modify, clarify, or otherwise alter'' our obligations under the ABM Treaty.

The Bill requires the Secretary of Defense to provide a declassified record of the ABM Treaty negotiations.

The substitute amendment adds findings related to the ABM Treaty, including that the policies, programs and requirements of the Missile Defense Act can be accomplished in accordance or consistent with the ABM Treaty.

The substitute amendment:

Strikes the proposal to establish a Select Committee.

Strikes the proposal that the President cease all efforts to modify or clarify our obligations under the ABM Treaty.

Strikes the entire provision calling for a declassified treaty negotiating record.

States that the Foreign Relations and Armed Services committees should conduct the review of the Treaty.

SEC. 238. PROHIBITION ON FUNDS TO IMPLEMENT A TMD DEMARCATION AGREEMENT

The Bill:

States the policy that ''unless and until'' a missile defense system is tested against a target missile with a range greater than 3,500 km or a velocity greater than 5 km per second, it has not been tested ''in an ABM mode'' nor ''been given capabilities to counter strategic ballistic missiles'' (both of which are prohibited by the ABM Treaty), and therefore is not subject to ABM Treaty application or restrictions.

Prohibits any appropriated funds from being obligated or expended by any official of the federal government to apply the ABM Treaty to TMD systems, or for ''taking any other action'' to have the ABM Treaty apply to TMD systems. (This would prevent any discussion or negotiation by federal officials with the Russians to consider any other demarcation than the one specified in the bill.)

The substitute amendment strikes Sec. 238 and replaces it with:

Two findings that restate items from previous Acts.

Sense of the Congress language defining the TMD demarcation (3,500 km/ 5kps), and stating that unless a TMD system is tested above the demarcation threshold, the system has not been tested in an ABM mode, nor deemed to have been given capabilities to counter strategic ballistic missiles''.

Sense of Congress language saying that any agreement with Russia that would be more restrictive than the demarcation provided should require ratification.

Binding prohibition on funding: FY 96 DOD funds cannot be used to implement a demarcation agreement unless: provided in a subsequent act (majority vote), or if the agreement goes through the ratification process.

Mr. LEVIN. Again, I thank my good friends from Georgia, Virginia, and Maine for their hard work. I thank the chairman for his support of this effort, and I thank, also, Senator DASCHLE, who has spent so much time on this effort to make sure that we come up with a solution which satisfies the basic principles that we set out to achieve.

I yield the floor.

Mr. THURMOND. Mr. President, I yield 15 minutes to the able Senator from Virginia, Senator WARNER.

Mr. COHEN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. COHEN. Would the Senator from Virginia be willing to delete from the RECORD the depositing of any legal responsibility on my doorstep?

Mr. NUNN. I will object to any such deletion, Mr. President. I think the responsibility is clearly established.

Mr. WARNER. Mr. President, I think that brief exchange underlines what has been said by all of my colleagues preceding me regarding the four of us having been associated now more than 17 years together on this committee, under the tutelage of Senators like Senator THURMOND, Senator Stennis, Senator Tower, and Senator Jackson. These were great teachers. We had the opportunity to learn from them. I hope that today in our service to the Senate as members of this committee, we can achieve some of the goals that those great Senators contributed to legislation for the national security of the United States.

Mr. President, as I listened to these remarks, it occurs to me that if we were walking down Main Street America today and we were to be stopped and questioned by any of our constituents, candidly, I say to the Senate, they would think this system is in place today.

It is inconceivable after the billions and billions and billions of dollars we have spent on our national defense over the last, really, two decades, that a series of Presidents and a series of Congresses have not put in place for the basic protection of the American citizen something to interdict the accidental or unintended firing of an intercontinental missile.

This is not star wars. I will ask unanimous consent, Mr. President, to have printed in the RECORD following my remarks an article that appeared today in the Washington Post, in which I and other Members were interviewed to talk about this particular piece of legislation.

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

(See exhibit 1.)

Mr. WARNER. It took me some time to try to get home to the reporter, and indeed I think he grasped it rather readily, that the biggest burden we had is to overcome the lingering apprehension that what we are doing in this amendment is laying the foundation for another star wars program. That is not the case. It is a very limited defense. It is precisely as described by those who have spoken previously, a system for limited purposes.

It is in the interest of the former Soviet Union, and particularly Russia, that this be put in place because should an accidental firing occur, perhaps the first focus of attention would be turned to Russia. I am hopeful that this technology that will be developed could be used by Russia to install their own system. We do not fear in this country Russia putting in a system comparable to this. It is in the mutual benefit of both nations to have such a system.

I am happy to have joined with my colleagues. Someone mentioned it is like the old four horsemen getting together once again to resolve a situation which for a period of time appeared to be unresolvable.

I want to say that Senator COHEN and I particularly value the advice and

counsel we received from the distinguished chairman of the committee, Senator THURMOND, Senator LOTT, Senator SMITH, and Senator KYL. Each of these Senators have spent a number of years studying this question. Particularly in the House, Senator KYL was well known for his knowledge on this subject. He was particularly helpful in the course of our negotiations.

Prior to taking the position Senator COHEN and I worked up with our colleagues to its final stage, Senator THURMOND convened the full Armed Services Committee. Every single member was present. They looked it over very carefully. Then we sat down and finalized it with our distinguished colleagues and friends of long standing, the Senator from Georgia and the Senator from Michigan.

It is a significant step forward. I was extremely heartened tonight when Senator NUNN said he had an opportunity to speak with the Secretary of Defense. I think this Nation is fortunate to have such a fine man as Secretary Perry to take on that heavy and, indeed in many respects, thankless responsibility. This is an area in which he has worked for many, many years. All four of us that negotiated this have worked with the Aspen Institute when he was one of the leaders of that discussion forum, and we covered many times—many times—issues relating to the intercontinental missile systems, the deterrence, and the several treaties. Given his background, I hope that he can be persuasive to the President and other members of the administration so that this amendment can be accepted. Indeed, not only accepted, but perhaps supported.

Neither side gained everything they want. That is the essence of a negotiation. The result of this effort is a Missile Defense Act of 1995, a substitute for the original one in the bill which sets a clear path for deployment. That is the way I would like to state it—a clear path to deployment.

We in the United States cannot—particularly the legislative branch of Government—dictate that a certain system will be deployed. Frankly, we do not even know that it will work, we say with considerable candor. The technology is unfolding so rapidly, we do not know exactly whether it can work.

There is also a very serious element of the cost associated with this system. These are things that have to be worked out in the future. But we have set, in this amendment, the United States of America on a clear path of deployment. Let there be no mistake about that, no wavering—I can certainly speak for this side of the aisle—no wavering of the intents of the present composition of the U.S. Senate on this side of the aisle as to the ultimate goal of deploying such a system.

Why? Because it is in the mutual interests of ourselves and Russia and other nations of the world; and secondly, the American public not only demands it, they think it is its place right now. They would expect no less of a President or series of Presidents and a series of Congresses.

In the course of our deliberations, there were many concerned with the issue of why now? Why must we press this on now? If we start tonight on developing this system, it might well be to the year 2003 or later—7, 8, 9, 10 years—before the system can be developed; that is, research and development completed and in place to protect the American citizen—perhaps a decade.

In the same period of time, there are estimates that those nations apart from Russia and our allies who particularly want to develop for themselves the missile system, they will have in all likelihood systems of their own in place. Many of the nations that we fear most today have this as a top agenda item, to build this type of system.

My point is, there is a coincidence in time of the defensive system that we want to put in place and the offensive systems being developed by other nations, call them rogue nations, who very much desire to threaten the United States some day with a missile.

The revised Missile Defense Act of 1995 establishes a policy of development for deployment of a multiple-site national missile defense system capable of defending the United States—that is, from the limited attack—and prohibits any final effort by the administration to impose limitations without the consent of the U.S. Senate pursuant to the Constitution of the United States on the development and deployment of a U.S. theater missile defense system by virtue of new interpretations of the ABM Treaty of 1972.

I was extremely heartened to hear my distinguished colleague from Michigan say unequivocally that that treaty does not cover short-range ballistic missile systems. That is important. I would rejoin by saying, but the technology advances that have taken place since 1972 force now this type of legislation which is intended to maintain an operation between the theater systems and the intercontinental systems and maintain that separation in a way that will not undermine the fundamental goals of the ABM Treaty.

The principle focus of my remarks today is on the changes made to section 238 of the Missile Defense Act of 1995. That is a section that I worked on as a member of the Armed Services Committee and an amendment which I put forth in that committee which was eventually incorporated into the bill as now written. And that amendment of mine is being revised by this amendment, which is the subject of the discussion for the moment.

As it originally appeared in my amendment, section 238 used the Senate's power of the purse to impose a broad and absolute prohibition on the administration's ability to take any action which imposed ABM Treaty restrictions on the development and deployment of theater missile defense systems. These systems are urgently needed to protect the lives of the men and women of the armed services and our allies in their forward-deployed situations.

How well we know that. Senator NUNN recounted, in the course of our last debate, how Senator NUNN, Senator INOUYE, Senator STEVENS, and I were in Tel Aviv when the last Scud missile fell and we saw firsthand the use of that system, not for military purposes but for purposes of sheer terrorism. Saddam Hussein leveled that system on Tel Aviv for no other purpose than to terrorize those people. The Patriot, as best it could—the best defense we had at that period of time—I think in a credible manner interdicted a number of those missiles. That is why we are here tonight to lay the foundation to move ahead in the technology so that we can employ all of the brains, all the technology without any restriction imposed by the ABM Treaty on developing the future systems to interdict the short-range ballistic missiles that were encountered during the gulf war.

The bipartisan amendment, which we urge the Senate to adopt, achieves our goal, namely to prohibit the administration from implementing any agreement with Russia which would impose limitations including performance, operation or deployment limitations on theater missile systems unless the Senate exercised, pursuant to a Presidential submission of such agreement, its constitutional right of advice and consent.

The 1972 ABM Treaty never intended, never envisioned the theater systems. I was in the Department of the Navy at that time. I was in Moscow in 1972, when ABM was signed, as a part of President Nixon's delegation. My duties then were related primarily to naval matters, but all of us in the Department of Defense watched with great interest how this treaty, the ABM Treaty, was developed.

Dr. John Foster, who was then the Director of Research and Development in the Pentagon, was one of the key individuals. I recently consulted him about his recollection with respect to the ABM Treaty, and he confirmed what I believed was true then, as I do today, that the negotiators never had in mind the theater systems which we must employ now in our defense.

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

Mr. WARNER. Mr. President, I ask if I may have a few more minutes.

Mr. THURMOND. Mr. President, I yield such time as the Senator may require for further debate.

Mr. WARNER. Mr. President, I thank the distinguished chairman.

As I said before the Senate went on recess, during the original debate on this amendment, I have long believed that we must accelerate the development and then the deployment of operationally effective theater missile systems for our troops, defenses that are not improperly constrained by the

ABM Treaty. This amendment does that. Likewise, we must, in the interests of the American people, make a clear statement of our national determination to proceed to a national defense system to protect against the threats enunciated in this bipartisan amendment.

The threat that theater missiles propose to our forces is clear. Thirty nations have short-range theater ballistic missile systems, and more and more each day are acquiring the same capability.

The gulf war should have caused all Americans to unite behind the missile defense effort. What can be more terrifying than the thought of U.S. citizens, both at home and deployed overseas, defenseless against this type of weapon of terror, once used by Saddam Hussein, and which could be used in the future by others. Yet, here we are, 5 years after that conflict in the gulf, and our troops are still not adequately, in my judgment, protected from ballistic missile attacks. And there are those who still resist efforts to move forward in this area.

Fortunately, I think, as a result of this compromise, we now have gained sufficient strength in the U.S. Senate to move this amendment tomorrow in a positive way.

Mr. President, it became evident to me, earlier this year, that our crucial effort to develop and deploy the most capable theater missile defense systems was in danger of being unacceptably hampered by the administration's desire to achieve a demarcation agreement with the Russians. They were actively negotiating toward that goal. Several of the negotiating positions either proposed or accepted by the administration would have severely limited the technological development of U.S. theater missile defense systems, and would have resulted in an international agreement imposing major new limitations on the United States. Consequently, I have taken actions in 1994 and now in 1995 to prohibit such actions by the administration.

Mr. President, previously I have tried other avenues to have the Senate's voice heard on the issue of ABM/TMD demarcation. My preferred option—and the one which I tried last year—was simply to require the President to present to the Senate for advice and consent any demarcation agreement which would substantially modify the ABM Treaty. The Congress adopted my views and made them part of the fiscal year 1995 Defense Authorization Act.

However, despite that legal requirement, the administration has made it abundantly clear that it does not intend to submit any such demarcation agreement, pursuant to the Constitution, to the Senate for advice and consent. Although the administration was negotiating an agreement that would, in effect, make the ABM Treaty a TMD Treaty, administration officials believed that there was no need for the Senate to exercise its constitutional right to provide advice and consent to that agreement.

It was clear that a new approach was needed. Therefore, I focused on the Congress' power of the purse to ensure that the views of the Senate were considered in the demarcation negotiations.

The bipartisan missile defense amendment preserves this approach. Section 238 prohibits the expenditure of funds for fiscal year 1996 to implement an agreement that would establish a demarcation between theater missile defense systems and ABM systems or that would restrict the performance, operation or deployment of U.S. theater missile defense systems, unless that agreement is entered into pursuant to the treaty-making powers of the President, or to the extent provided in an act subsequently enacted by the Congress. In other words, for the coming fiscal year the prohibition stands unless the Senate takes an affirmative act to change or remove that prohibition.

In addition, this provision establishes as a sense of the Congress the generally accepted demarcation standard between TMD and ABM systems. Section 238(b)(1) states that ''unless a missile defense system, system upgrade, or system component, including one that exploits data from space-based or other external sensors, if flight tested against a ballistic missile target that exceeds a range of 3,500 kilometers or a velocity of 5 kilometers per second, such missile defense system, system upgrade, or system component has not been tested in an ABM mode nor deemed to have been given capabilities to counter strategic ballistic missiles.'' This was the standard used by the Clinton administration at the beginning of the demarcation negotiations in November 1993. The administration would be well-advised to return to that standard.

Mr. President, I would have preferred a prohibition that would have remained in effect for more than 1 fiscal year. I would have preferred a demarcation standard adopted in a binding form, rather than as a sense of the Congress. But I believe that the essence of my original amendment was preserved in this compromise package.

This legislation represents a significant step forward in the effort to provide the men and women of the Armed Forces with the most effective theater missile defense systems that our great nation is capable of producing. I urge my colleagues to support the amendment.

Finally Mr. President, I wish to acknowledge my special appreciation and respect for Senator COHEN'S very valuable contribution to the negotiations leading up to the bipartisan amendment. We have worked together for 17 years on the Armed Services Committee, and I value his advise and counsel.

EXHIBIT 1

CONGRESS TO PUSH FOR A NATIONAL MISSILE DEFENSE

By Bradley Graham

Two years after the Clinton administration placed the program on a back burner, Congress is about to redouble U.S. efforts to build a national system against ballistic missile attack, putting it at odds with the White House and at risk of confrontation with the Kremlin.

Republicans leading the initiative stress their plan is not a return to the ''Star Wars'' dream of President Ronald Reagan, who envisioned a space-based shield that would make the United States impenetrable to a massive launch of enemy missiles. Rather, the stated aim now is to erect a more modest, ground-based system that would protect the country against accidental launch or limited attack at a time when more nations are coming into the possession of ballistic missiles.

But opponents regard even this scaled-back effort as dubious technologically and not urgent strategically since little immediate threat exists. They say the program is a waste of the billions of dollars that the House and Senate appear ready to pour into it over the next few years.

Moreover, administration officials worry that a hellbent congressional effort to develop a missile defense system, coupled with renewed Republican talk of undoing the 1972 Anti-Ballistic Missile (ABM) Treaty, will upset relations with Moscow and scuttle the planned elimination of thousands of nuclear warheads.

When the Senate returns from its August recess today, it is scheduled to debate a compromise measure hammered out by a four-man bipartisan group to avoid breaching the ABM Treaty while still calling for accelerated development of a national missile defense system.

In attempting to establish a policy that can be supported by a broad majority of senators, however, the measure effectively postpones the day of political reckoning between proponents and opponents of a national system and between Washington and Moscow.

The measure would direct the Pentagon to ''develop for deployment'' a multisite missile defense system capable of being operational by 2003. But the decision to deploy would be put off until an unspecified time and subjected to considerations of affordability, effectiveness, threat assessment and treaty implications.

''I am not opposed to having an option to deploy providing we don't move toward it in a hasty way,'' said Carl M. Levin (D-Mich.), a liberal whose involvement in negotiating the compromise was key. ''What I strongly oppose is doing it in a way that would undermine the relationship with Russia and the whole planned dismantlement of nuclear weapons.''

For the Republicans who won control of Congress last November, revival of the missile defense issue seemed at first a simple way of dramatizing their general appeal for a stronger defense, while also addressing their real concern about the growing number of rogue states with access to ballistic missiles.

The GOP's ''Contract With America'' called for faster deployment of a national missile defense system. Many Republicans have sought to frame the political debate around the fact that the United States has no system to fend off even a single incoming ballistic missile. Opinion polls show that most Americans are surprise to learn the country lacks such a system.

But wrangles over the continued relevance of the ABM Treaty have complicated the debate. So has a related dispute about where to

draw the line between a national defense system, which is covered by the treaty, and increasingly powerful ''theater'' systems for guarding against shorter-range missile attack, which do not come under the treaty's purview.

The 23-year-old ABM pact was meant to block Washington and Moscow from building nationwide defenses against ballistic missile attack, on the premise that as long as each country is vulnerable to the other's nuclear arsenal, neither will attack the other. The accord allows each side to establish a single-site system with no more than 100 interceptor missiles.

Administration officials say the treaty remains a cornerstone of international arms control efforts and abrogating it would jeopardize plans to cut U.S. and Russian nuclear arsenals to 3,000 warheads and possibly fewer under strategic arms reduction treaties. Such arms control agreements, not anti-missile weapons systems, offer the more reliable protection for U.S. interests, say missile defense skeptics.

''No one will reduce their strategic forces if there's a buildup in strategic defense,'' said Spurgeon M. Keeny Jr., director of the Arms Control Association. ''If we lose all of this for a system that might kill only a handful of missiles, it's madness. We'll soon find much of the Defense Department's procurement budget going into this Fortress America.''

But some key Republican players have questioned the relevance of the ABM Treaty in today's security environment, arguing that Cold War logic does not hold in a world no longer dominated by U.S.-Soviet tensions and now menaced by less familiar adversaries.

''Frankly, we think the ABM Treaty has to be renegotiated, so I'm not too concerned about bumping up against it,'' said Sen. John Kyl (R–Ariz.). ''We've pretty much established the need to revise it, so we might as well face up to that.''

A month ago, Senate Republicans were backing language in the 1996 defense authorization bill that required deployment of a multisite missile defense system by 2003. Arguing that such a move would violate the ABM Treaty, Democrats prepared to filibuster and the Clinton administration threatened to veto the bill if it passed.

After nearly a week of intensive talks in early August, Sens. Levin, Sam Nunn (D-Ga.), John W. Warner (R-Va.) and William S. Cohen (R-Maine) offered a compromise substitute amendment—expected to win floor approval this week—that promises to avert a showdown with the White House for now and clear the way for passage of a defense authorization bill.

The measure reaffirms that U.S. policy is to act consistently with the ABM Treaty but also approves negotiations with the Russians on the admissibility of the planned U.S. system. If those talks fail, the amendment asserts, the United States can consider withdrawing from the treaty.

The House already has approved a 1996 defense bill calling for deployment ''as soon as practical'' of a national missile defense system, without specifying the number of sites. And both the House and Senate are proposing to add several hundred million dollars to the Clinton administration program in fiscal 1996 for work on a national missile defense system.

The Clinton administration is not opposed to developing a system capable of protecting U.S. territory. It budgeted nearly $400 million for 1996 to pursue technologies for a ground-based system, beefing up the program a bit in view of congressional interest to include a deployment contingency early next century.

But when it took office in 1993, the administration drastically reordered the priorities of the Pentagon's missile defense effort, shrinking work on a national system, renaming the supervising agency, and concentrating about 80 percent of the funds of what is now called the Ballistic Missile Defense Organization on fielding theater defense systems to protect U.S. troops in combat zones abroad.

The rationale for the shift was the belief that the spread of shorter-range ballistic missiles poses a more immediate threat than the possibility of hostile nations developing intercontinental missiles that can strike the United States.

Currently, more than 15 Third World nations have ballistic missiles and 77 have cruise missiles, according to U.S. intelligence reports. By contrast, only several former Soviet states and China possess missiles capable of reaching the continental United States, and the U.S. intelligence community sees no new country developing the capability to hit the United States with a long-range missile for the next decade.

Administration officials also contend the likelihood of accidental launch by Russia or China is decreasing due to the elimination of many nuclear warheads in the former Soviet states and more reliable command and control procedures for Russian and Chinese forces. Moreover, they argue that with rapid advances occurring in information technologies, premature deployment of a U.S. system would limit the technical options and risk saddling the United States with an overly costly and quickly outdated system.

Other critics of a national system note that the country has been trying off and on for several decades to build one, without much success. More than $38 billion went into Reagan's Star Wars program alone.

''People are talking as if we've never tried this before,'' said Stephen I. Schwartz, director of the Brookings Institution's U.S. Nuclear Weapons Cost Study Project. ''We don't seem to learn from the fact that we spent a lot of money before and didn't get much for it.''

But many Republican legislators worry the administration is underestimating how quickly the threat of ballistic missile attacks from rogue countries may materialize. They cite development of North Korea's Taepo Dong-2 missile, capable of reaching Alaska or parts of Hawaii, and the potential sale to Third World countries of Russia's SS–25 as a space launch vehicle.

In fact, the U.S. intelligence community has been slow to provide a current estimate of the emerging missile threat to the United States. Lt. Gen. Malcolm O'Neill, who heads the Pentagon's Ballistic Missile Defense Organization, said in an interview that he has been waiting more than eight months for an update measuring the degree of uncertainty in the U.S. prediction.

Advocates of a national system, mindful of past failures to achieve their dream, contend the technology is now within reach.

''This is not Star Wars, this is not an umbrella system,'' asserted Warner, the Virginia senator. This is a bare bones effort to build a system to intercept missiles launched accidentally in limited number.''

Some of the more hawkish proponents still argue for a more ambitious setup, criticizing the Pentagon's current focus on ground-based interceptors. A study earlier this year by the Heritage Foundation, a conservative think tank recommended concentrating instead on a Navy plan to deploy ship-based interceptors within three or four years, and then move to a space-based system by early in the next decade.

One area in which Republicans and Democrats generally agree is on the need for effective theater missile defense systems, with the GOP eager to add even more money to development efforts there as well. But the growing sophistication of theater systems, is posing an ABM Treaty problem.

Some of the theater systems under development by the Pentagon may prove powerful enough to thwart ballistic missiles, meaning the Russians may view them as a national defense system and thus a circumvention of the ABM Treaty.

Administration efforts to negotiate with Moscow a distinction between defenses against long-range strategic missiles and short-range theater missiles have drawn Republican concern that the administration may be willing to accept too many limits on development of theater defenses, particularly on the speed of interceptors.

Accusing the administration of trying to apply the ABM Treaty to theater systems, Senate Republicans originally moved to include in the 1996 defense bill a unilateral declaration of the dividing line between strategic and theater weapons and a ban on the president negotiating any other demarcation.

Administration officials protested that a unilateral interpretation of the demarcation line was unwarranted because the ABM Treaty is not constraining theater programs, and unwise because enactment would threaten ratification of the second Strategic Arms Reduction Treaty and set a dangerous precedent.

The Senate compromise includes a nonbinding ''sense of Congress'' provision reasserting what has been the demarcation standard, which would exempt the Pentagon's fastest, longest-range theater anti-missile systems from ABM coverage as long as they were not tested against a missile with a range greater than 3,500 kilometers (or about 2,174 miles) or a velocity greater than 5 kilometers (about 3 miles) per second. But the measure also would permit the president to negotiate an alternative demarcation line between strategic and theater missiles, provided he sought congressional ratification of any new agreement with Moscow—a condition the administration has been reluctant to accept.

The PRESIDING OFFICER. Who yields time? The Senator from Georgia.

Mr. NUNN. Mr. President, the bill as reported set forth the proposed policy for future missile defense as outlined here on the floor this evening. It also proposed the demarcation between theater and anti-ballistic-missile defenses, and I am talking about the underlying bill, not the substitute. In my judgment, however, and that of many other Senators, the proposal addressed these vital issues in a manner that unnecessarily presented major difficulties in terms of arms control and constitutional considerations.

As Senator LEVIN pointed out so well, what we want to do is move forward with a missile defense against limited, unauthorized, third-country-type attacks, but what we do not want to do in the process of trying to accomplish that goal, that important goal, we do not want to end up inadvertently and unintentionally ending the reduction of missiles pointing at us that have already been agreed to. It would be the supreme irony if, in dealing with a future threat, we ended up basically negating 20 years of efforts to reduce the current threat, which is, of course, the continuation of very large numbers of

multiwarhead missiles pointing at the United States by Russia, which we have agreed to dramatically reduce both in START I, which has been entered into, and START II, which is now pending and which we hope at some point the Russian Duma, or legislative body, will, indeed, agree to.

So, in my floor statement on August 3, I outlined five major problems with the version of the bill that this substitute is intended to correct and I believe does correct. This is the underlying bill.

First, I said on August 3, it abandons U.S. adherence to the ABM Treaty. What I meant by that, and what I would mean by that now, is it is an anticipatory breach, the way the original underlying bill is worded.

Second, abandoning adherence to that ABM Treaty now is unnecessary. We can conduct an effective missile defense program, developing for deployment, as the substitute called for in the near term, while continuing our adherence to the ABM Treaty. We do not have to make that choice now. So why risk the very large reductions of the threat now aimed toward us that are underway in order to accomplish a goal where we do not have to make that move at this point in time?

Third, abandoning adherence now to the ABM Treaty is likely to impose huge costs on us if Russia declines to carry out some of its legal obligations and in response to our anticipatory breach.

Fourth, the Senate Armed Service Committee bill abandons adherence by stealth rather than directing the administration to use the legal withdrawal procedures contained in the treaty.

Mr. President, if we decide that the ABM Treaty is no longer in our interest—we may get to that point at some point in the future because we may find that we cannot negotiate the modest amendments required to provide for this national defense. I hope that we can because I think it is in the mutual interest of the United States and Russia. But if we get to that point, then we ought to do what the ABM Treaty calls for, and that is to use legal withdrawal proceedings in our national interest, supreme national interest. Of course, we can do that. I believe the timeframe is 6 months.

We have the right under that treaty to state that in our supreme national interest, it is no longer in our supreme national interest to be a part of that treaty, and then we withdraw from the treaty in accordance with the terms of treaty. That is the way to do it if we ever have to move in that direction or feel that it is in our interest to move in that direction.

Fifth, by failing to use the legal option under the treaty, the Senate would be compelling the executive branch to abandon adherence to the ABM Treaty by usurping certain powers of the executive branch over the conduct of foreign policy, a move that certainly would raise serious constitutional issues.

So, Mr. President, this is the underlying bill and the problem with the underlying bill. That is what we are basically correcting with this substitute amendment.

Mr. President, again, I thank my colleague from Michigan, who did a superb job on this. I thank my colleague from Virginia and my colleague from Maine, Senator WARNER and Senator COHEN, who are indeed not only knowledgeable but they are skillful in their negotiating ability and in their discerning ability to understand the fundamental issues as opposed to some of the rhetorical issues. I think that is the reason we were able to work this out.

I thank the Senator from South Carolina, because he was the one who came up with the idea of getting the four of us to work on this proposal and to try to find a way to reach a consensus. He also not only instigated this effort but discussed it with the majority leader and the minority leader. He also constantly gave us both the encouragement and support, and indeed some very timely prodding to get this agreement worked out.

So I appreciate the Senator from South Carolina and his leadership.

Mr. President, I believe that there are no other remarks after the Senator from Michigan, who may want to conclude. I believe we are about to wrap up the debate. I believe the Senator from Texas wants to take some remarks.

Mr. WARNER. Mr. President, I wonder if the Senator will yield for a brief question on this matter.

During the course of my remarks, I opined that I thought this amendment as currently drawn would be in the mutual interest of the United States and Russia. Should an accidental firing occur, I think all attention would instantly focus on Russia as being the origin. And, therefore, it seems to me, whether it was from Russia or wherever the missile was fired from, I think the initial reaction of the American public would be, well, they are the ones that have it, because many do not understand in the years immediately preceding other nations have come forward now and have made fundamental investment in the system.

So I just ask if my distinguished colleague concurs with my view that it is in the mutual interest of both Russia and the United States.

Mr. NUNN. I do. I say to my friend from Virginia that I think it is in the interest of the United States and Russia to both move forward with modest adjustments to the ABM Treaty so both can protect their countries against accidental unauthorized launch or third-country launch.

As the Senator from Virginia well knows, I first posed this question to the then head of the Strategic Air Command, Gen. Dick Ellis, a wonderful and fine Air Force general, now deceased. But that was in the early 1980's. I asked him the question, I said, ''General Ellis, what basically is our ability to detect the origin of some limited attack against the United States? Could we know for sure where that attack originated? We would not have the ability to defend against it, and would we know for sure the origin of that attack?'' He said he needed to study that.

He did study it. He and his whole team studied it for almost a year and came to the conclusion that the United States, while we had some capability of determining the origin of attack, it was not nearly as good as it should be and the Russians' ability was not as good as ours. Most of that study remains classified.

But I came out with a profound not only sense of unease about our ability and their ability to detect the origin of attack, let us say from an underwater submarine which could be from a third country, but we would both assume it was coming, if we were struck, from the other superpower in terms of nuclear arms. I came to the conclusion that neither of us had the capability that we needed in that regard.

But more importantly, I came to the conclusion that we both had a mutual stake in the ability of each to be able to detect the origin of an attack and also to be able to defend against that kind of an attack so that we never got into an inadvertent war that no one intended by mistake or by accident. And I still have that conclusion even though the circumstances between the United States and Russia have now changed dramatically. We are no longer in this confrontation. We still have nuclear arms that will be with us for years to come even after we reduce under START I and START II.

So that is a long answer to the Senator's underlying question, but I think it is a very important question. And the answer is, yes, I do believe Russia has a similar interest. I think we have many mutual interests. In fact, our interest in terms of nuclear arms, in terms of destruction, the safety, the handling, the prevention of leakage of this kind of material, both nuclear, chemical, biological, as well as technology and the scientists, we have a tremendous mutual type of security interest now with Russia more than perhaps any other nation because we are the two that have these nuclear weapons and the awesome responsibility to deal with them responsibly so that we never, God forbid, have nuclear disaster, not only in this country but in Russia or in the world.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I conclude that I, too, remember General Ellis very well. He was a highly decorated fighter pilot in World War II. He was head of the Strategic Air Command. And, as my colleague will recall, he was appointed to the standing consultative commission, which, Mr. President, is that body that is entrusted with resolving underlying questions with respect to the framework of arms control treaties, including the ABM.

And he discharged that responsibility with great distinction.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Georgia for his kind remarks.

I now yield to the able Senator from Texas, Senator HUTCHISON, such time as she may require.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the distinguished chairman of the Armed Services Committee. I, too, want to commend the chairman of the committee, the ranking member from Georgia, and the group that got together and worked long into the night before the summer recess in an attempt to reach an accommodation that would allow everyone to feel comfortable about how we are treating theater missile defense.

Mr. President, I want to speak because I believe that we have only settled this issue in a very temporary way this year. But I want to say that it is very important for us to look at this for the future because this is going to be one of the major policy decisions that we are going to have to make, not only today but for the future. I think the Senator from Georgia was correct when he said that we may have to make some adjustments in the ABM Treaty. It may well be not only in our best interest to do so, but it may be in the best interest of Russia as well.

We are continuing to make adjustments in the post-cold war era. We do not live in a bipolar world anymore. We now live in a multipolar world, but we have treaties that were based on the bipolar world. We have many other concerns that were addressed in a bipolar context. We know now that technology exists for ballistic missiles in more than 10 countries around the world.

No longer is the threat just from the missiles that we know are in Russia and some of the former republics of the Soviet Union that are now independent countries. We now recognize that there are capabilities in many other nations around the world and that in the future the technology will likely proliferate to such an extent that many countries may soon have the capability of launching ballistic missiles that could threaten our Nation.

So it is incumbent on us as leaders of our country to prepare, and we must have the time to do that and we must start looking at some of these policy issues that must be addressed in this new multipolar world.

As many of us who have traveled into some of the central European countries and into the republics of the former Soviet Union know, this is an unstable world.

We are seeing ethnic conflicts. We are seeing border disputes. We are seeing turf wars. I think the United States is going to have to step back and decide, what our role should be in this new world? When are our armed forces going to be needed? When do we have a U.S. interest and when is that interest a vital U.S. security interest?

I think it is clear just from what has happened in the last 2 weeks that the world is looking to America for leadership. If there is one thing America is—and it is probably the consensus in the world—we are the beacon for a democracy that has worked and that has created the strongest Nation in the history of the world. Because of that, many countries are looking to us for leadership, and we must determine how much leadership we can give, how much is monetary, and how much is security oriented. And I think that is going to have to set the stage for how we prepare to be the world's superpower and yet maintain our strength and protect our shores.

The greatest lesson of all is that the cold war was ended; we obtained that peace through strength. We did not end the cold war through weakness. Other countries in the world knew that we had the capacity and the commitment to protect our interests. We must never veer from that fundamental principle that we are a superpower that will protect ourselves. We must not allow unilateral disarmament of any kind, of any type.

When you talk about a treaty that was made in a bipolar world between the two preeminent powers at the time you cannot have any confidence that those who wrote that treaty could envision all of the things that could happen in the world today. No treaty at that time could ever envision the technologies available to many countries today that have rendered the treaty outdated, outmoded, and no longer a strong approach for us to take. So we are going to have to look at our strategic interests, and in doing that we are going to have to determine what we must do as the leaders of our country to make sure we will have appropriate defenses against any missile that could ever come into our borders.

That is something we are going to have to debate this year, and we are going to have to continue our vigilance to make sure our young people know they can be assured of the strength of our country and that we have the foresight and the vision to maintain that strength.

I am going to support the compromise that has been reached, but I do have reservations that we are not as a group looking to what we must do to make sure we have the strength to withstand any kind of attack that technology has the capability to deliver to our shores. And I think we are going to have to continue our debates, continue our studies, continue our technological advances, and under no circumstances at any time should we say we are not going to defend our shores, that we are not going to make sure that our nuclear stockpile, which is dormant, is nevertheless still capable. Unilateral disarmament is not anything we can consider in any manner if we are going to remain the greatest and only superpower left in the world.

So I commend my colleagues for coming to this conclusion. But it is merely the beginning of a very important policy debate that I think is going to be more important as we learn more of the technologies and the intelligence about what is happening around the world in the area of defense and security.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from South Carolina.

Mr. THURMOND. Mr. President, I reserve the remainder of my time. After the debate is concluded on this matter, then we will have a wrap-up tonight. I have asked Senator WARNER if he would conduct the wrap-up on this side. He has agreed to do so.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I believe the Senator from Michigan has some concluding remarks and I would yield him such time as he may desire.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my good friend from Georgia.

Mr. President, I will be very brief, indeed.

Section 232 of Title X, which is the current law, reads as follows: that the goal of the United States is ''to develop and maintain the option to deploy an antiballistic missile system that is capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles.''

So the current law is to develop the option to deploy, but to decide at a future time whether or not to deploy, depending on the circumstances at that time, including the threats at the time, and the cost and military effectiveness of such a system. The bill says deploy. The current law says develop with an option to deploy. The bill says deploy.

The substitute amendment goes back to the fundamental approach of the existing law, which is to develop so that we can deploy, but then makes it very clear that we will make the decision on whether to deploy at a future date and specifies what the criteria are for consideration at the time of that decision.

Section 233 of our bill says that it is the policy of the United States, in subsection 3, to ''ensure congressional review prior to a decision to deploy the system developed for deployment, under paragraph 2'', of four things: the affordability and operational effectiveness of such a system, the threat to be countered by such a system, and fourth, ABM Treaty considerations with respect to such a system.

In doing this, this substitute recognizes the importance of the ABM Treaty to our security. The ABM Treaty has been one of the reasons we have been able to reduce the number of offensive nuclear weapons that face us.

We are going to be facing a small percentage of the nuclear weapons that used to confront us because, the Russians have told us over and over again,

we have adhered to the Anti-Ballistic Missile Treaty. That has allowed them to agree to these very drastic reductions in the numbers of their offensive weapons. And so we are on the threshold of seeing continuing significant reduction in offensive weapons that we face, or that we could theoretically face, no longer from an adversary but now from someone with whom we are having a growing and a deepening partnership.

It is not just the current law that we should develop technology for a national missile defense—that is the law I read—it is also the policy of this administration to develop that technology in a way that we could deploy it in time to counter any ballistic missile threat that emerges to the United States. So we have a law that says develop and we have a current policy that says develop. But both by current law and current policy the decision whether to deploy is left for a future time.

That is the approach which this substitute restores; develop, but leave the decision to deploy for a future time based on criteria which will be considered at that time to help us make a decision which makes sense for the security of this Nation.

So the road to reductions is dependent in part on the existence of an ABM Treaty. That treaty still continues to serve our national interest. This substitute in a number of ways explicitly and otherwise recognizes the importance of that treaty to this relationship and to the continuing reductions in the number of offensive weapons.

So I do hope that our colleagues will find favor with this substitute and will support this substitute. Again, I want to thank all the colleagues who participated in the formulation of it.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. If I could ask for a minute.

Mr. THURMOND. I yield such time as the able Senator from Virginia shall require.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, the concluding remarks by our colleague from Michigan, I think, set the tone when he seeks to reassure the Senate that this legislation is in the best interest of our Nation and that he is hopeful that we will gain the support of other Senators, because no single Senator fought harder for certain changes in this amendment than did the Senator from Michigan. And I think we conclude debate on a very positive note.

With that statement, I yield the floor.

Mr. KENNEDY. Mr. President, I support the amendment offered by the Senator from Georgia, but I continue to have strong reservations about the remaining aspects of the Missile Defense Act. The amendment makes an unwise provision better, and I commend Senators NUNN, LEVIN, WARNER, and COHEN for their effective work in achieving this compromise. It fails, however, to do what is necessary to serve the best interests of our national security.

The remaining shortcomings in the Missile Defense Act become clear when we consider the principal threats that the United States faces from nuclear missile attack, and the more effective way these threats are addressed by current administration policy, which is also longstanding bipartisan policy under both Republican and Democratic administrations.

One of the threats we face is clearly from nations which now lack ballistic missiles and weapons of mass destruction, but which may develop them in the near future. Proponents of building a national missile defense argue that the prospect of such a threat is sufficient grounds for deploying a defensive system as soon as possible.

The weakness in this argument, however, is revealed in the undisputed testimony of Lt. Gen. James Clapper before the Armed Services Committee last January. General Clapper at that time was the head of the Defense Intelligence Agency. He stated that:

> We see no interest in or capability of any new country reaching the continental United States with a long range missile for at least the next decade.

The missile threat from a new nuclear power is neither real nor imminent, and it will not materialize for at least ten years. The Defense Department's missile defense plan calls for a research and development program that will enable us to build and deploy a national defense rapidly if unforeseen threats materialize. The Clinton defense plan will keep us safe from ballistic missile threats from new nuclear powers.

A more serious threat comes from existing nuclear arsenals of potential adversaries. There is a very low likelihood in the current world situation that we will be subject to nuclear attack from Russia or China. But such a possibility is the most serious potential threat to the security of the United States, and therefore merits careful consideration.

Russia, and to a lesser extent China, possess nuclear arsenals that threaten the security of the United States. This fact is nothing new. The arsenal controlled by Moscow has posed this threat to our Nation for roughly 40 years. Yet, we were able to ensure the security of the United States over this period, in spite of the tensions and conflicting interests of the cold war. We did so by maintaining a nuclear arsenal that could deter the use of nuclear weapons against us by any adversary. Mutual deterrence guaranteed our security from nuclear attack throughout the nuclear age, and it is still our best guarantee.

Now, in the post-cold-war era, the stability and effectiveness of this deterrent relationship is even greater than it was during the cold war, and it is just as important. Russia is no longer our adversary, and therefore the likelihood of conflict between us has greatly diminished. We have signed the START I and START II Treaties which, if implemented, will create stable deterrence at reduced levels of nuclear weapons.

In his famous phrase, President Reagan called on us to trust but verify. Now, the increased trust between our nations has magnified our ability to verify. The START Treaties provide for verification with extensive and effective monitoring that was not possible during the cold war. As the political and military leaders of Russia confirm, the deterrent relationship that has long existed remains the centerpiece of nuclear safety for our two nations. And we can achieve even greater safeguards in the future by maintaining that cooperative relationship. It makes no sense to take unilateral actions that would jeopardize that relationship, as the missile defense advocates would do.

Mutual deterrence is the foundation of the United States-Russian strategic relationship, and the ABM Treaty is the basis for mutual deterrence. For over two decades, the ABM Treaty has insured that the superpowers' nuclear arsenals continue to be effective as deterrents, which is the necessary condition for strategic stability. The Russians themselves have reaffirmed the importance of this longstanding treaty to cooperation in arms reduction.

The proponents of the Missile Defense Act place too little value on the improved strategic relationship between the United States and Russia, and the essential role of the ABM Treaty as the heart of that relationship. Deploying a multisite missile defense would violate the ABM Treaty as it currently stands.

The Russians have clearly stated that they will not ratify START II if the United States violates or withdraws from the ABM Treaty. In my view, the United States is safer facing a Russian arsenal of 3,000 weapons under START II, than if we possess several hundred ABM interceptors while facing the present Russian arsenal of 10,000 weapons.

Deploying a national missile defense system will also impair the cooperative threat reduction programs, under which Russia is accepting United States funds to help dismantle their nuclear weapons.

In addition, withdrawing from the ABM Treaty may also cause the Russians to put their nuclear arsenal on a higher state of alert, increasing the risk of accidental launch against the United States.

The course set by this bill may also lead the Russians to reverse the negotiated step, achieved in 1994, whereby we agreed not to target each other's territory with the missiles deployed in silos and on submarines. If the Russians retarget their missiles, the threat

of catastrophic damage to the United States from accidental or unauthorized attack will clearly rise.

The proponents of the Missile Defense Act ignore all of these considerations. They are proposing a more dangerous course for our national security which Congress should not follow.

The NUNN/LEVIN/WARNER/COHEN amendment will improve the bill compared to its present terms, and I urge adoption of the amendment. But I also urge my colleagues to support the administration's more sensible course on the development of missile defenses. President Clinton's policy is designed to explore the new avenues of nuclear safety opened to us by the end of the cold war, without sacrificing the solid foundation of our security—the mutual deterrence established and supported by Democratic and Republican administrations alike over the past four decades.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I do not know if anyone is going to want to speak any more on this one on either side. I do not have any more requests on the Democratic side.

Mr. President, does the Senator from Michigan know of anyone else who would like to speak on this?

Mr. LEVIN. No.

Mr. NUNN. As I understand the time agreement, we will have the vote on this at 9:30 tomorrow morning.

Does the Senator from South Carolina know when we will be coming in on the bill? Should we reserve any time in case anyone wants to speak in the morning?

Mr. THURMOND. We will be coming in at 9:25 in the morning, and we will get on the bill by 9:30.

Mr. NUNN. Then we will vote at 9:30.

Mr. THURMOND. We are supposed to vote at 9:30.

I am prepared to yield back my time, Mr. President.

Mr. NUNN. I think, just in case there is a minute or two someone wants to speak in the morning, we ought to probably reserve 2 minutes on each side and give back the remainder of the time. That would give us a chance if somebody else wants a minute to be heard.

Mr. THURMOND. Mr. President, we are agreeable to that.

Mr. NUNN. Mr. President, I would yield back all of my time except 2 minutes.

Mr. THURMOND. The same here.

The PRESIDING OFFICER. Without objection, the time is yielded back with the exception of 2 minutes on each side.

Mr. NUNN. I know the Senator from South Carolina would like us to handle several amendments that have been agreed to before we conclude the debate on this Missile Defense Act of 1995 substitute. And, again, I want to thank my friend from Michigan, who did a superb job, and my friend from Virginia and my friend from Maine, who did, I think, a very good job in terms of negotiating what is a consensus, I think a positive step forward, as the Senator from Virginia said, for our Nation.

Mr. WARNER. Mr. President, I join my colleague with respect to all the efforts that were made. Indeed, it was a monumental task. I think the result will be accepted strongly by the Senate tomorrow.

Mr. President, I wonder, if I can have the attention of the distinguished chairman and the ranking member of the committee, if I could bring up another point. That is, Mr. Chairman, I think it is imperative that the Senate receive a briefing from the administration on the situation as it exists in Bosnia today.

Mr. THURMOND. Mr. President, we have already made the request.

Mr. WARNER. I thank the distinguished chairman, because I have written a memorandum to the chairman. It would not be on his desk until tomorrow morning.

Mr. THURMOND. Mr. President, I ask unanimous consent that we have 5 minutes each in the morning. I have a closing statement I would like to make in the morning just before we vote on this bill.

The PRESIDING OFFICER. Without objection, all time will be yielded back with the exception of 5 minutes on each side.

Mr. THURMOND. I ask unanimous consent that—I understand I probably would make that after the bill passes, and so just as to say 2 minutes to each side before that.

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

Mr. NUNN. Mr. President, could I inquire of the Chair as to the time agreement now?

I understand that we have the Missile Defense Act to be voted on at 9:30.

The PRESIDING OFFICER. That is correct.

Mr. NUNN. Could the Chair inform the Senate of what takes place after that amendment has been voted on and disposed of? It is my understanding we have several other possible amendments, including an amendment by the Senator from South Carolina that is relevant and an amendment by the Senator from Georgia, myself, that is relevant, as well as a Levin amendment which may or may not be required to be voted on. We will have time for remarks before final passage of the bill. I believe that is what the Senator from South Carolina has made reference to.

I do not believe the Senator is going to need more time for speaking on this amendment which we vote on at 9:30. I think we will have other time on the bill before that is concluded.

Mr. THURMOND. That is correct.

Mr. LEVIN. If the Senator would yield for a comment. We believe we worked out the Levin amendment which you referred to, and that it will not require a rollcall vote. We have not agreed yet on the final language, but we have agreed on the principle of an amendment. So we do not expect a rollcall will be necessary on the Levin amendment.

Mr. NUNN. We will have other amendments that have to be accepted tomorrow morning. We have not worked them out. We will not be able to conclude all of those. We are going to have to have some time—I hope it will not be a lot of time—after the passage of this Missile Defense Act, assuming it passes, before we vote on final passage.

Mr. THURMOND. Mr. President, we have no objection to that.

I hope we can wrap everything up tonight as much as possible and have as few things to do tomorrow before we vote.

Mr. NUNN. I believe we are prepared to have some of the amendments that have been agreed to now propounded to the Senate.

THE BROWN AMENDMENT CONCERNING THE REUSE OF FITZSIMONS ARMY MEDICAL CENTER

Mr. GLENN. Mr. President, I agreed to accept the amendment of the Senator from Colorado which states congressional support for the timely reuse of military installations approved for closure or realignment. The Senator from Colorado is particularly interested in expediting the reuse of Fitzsimons Army Medical Center in Colorado. While I understand the Senator's support for the reuse of Fitzsimons, I believe expedited reuse should hold true for all military installations impacted by base realignment and closure.

Over the last few years, Congress has enacted legislation to improve base disposal procedures by expediting the overall process and giving greater power to Local Redevelopment Authorities [LRAs] in making disposal and reuse decisions.

Current law prescribes time-lines for screening and disposal of former military installations. From the time an installation is approved for closure or realignment, the following must occur:

0–6 months—Military department identifies DOD and Federal property needs, makes excess and surplus determinations, and commences environmental impact analysis process.

6–18 months—LRA solicits and considers notices of interests, conducts outreach, considers homeless assistance needs, and consults with military departments regarding surplus property uses.

18–33 months—LRA prepares redevelopment plan and homeless submission and submits to DOD and HUD; military department reports property to Federal sponsoring agencies for public benefit conveyances, completes environmental impact analysis, and makes disposal decisions.

33+ months—Military department conveys property and LRA implements redevelopment plan.

It should be noted that turning property over to LRAs could occur much

sooner than 33 months—in fact, transfer could occur as soon as 20 months if reuse plans are developed and approved early in disposal process. LRAs that act expeditiously in developing and adopting reuse plans should be commended as this is not an easy task. Accordingly, the military services should do all in their power within the letter of the law to convey appropriate property to LRAs that have fulfilled all necessary requirements and are ready and able to accept these properties for reuse.

Mr. President, my point is that expedited reuse is the goal for all installations impacted by base closure and realignment decisions.

HYDRONUCLEAR TESTS

Mr. KENNEDY. Mr. President, I support the Exon amendment to clarify the meaning of this bill regarding nuclear weapons testing. This amendment will bring the bill into closer agreement with President Clinton's policy seeking prompt achievement of a Comprehensive Test Ban Treaty.

On August 11, President Clinton took a pathbreaking step by announcing his intention to seek a true comprehensive test ban. The new U.S. policy is to ban all nuclear tests of any size, including the hydronuclear tests addressed in this bill.

President Clinton's action supports our Nation's commitment, made in May at the conference on the permanent extension of the Nuclear Non-Proliferation Treaty, that the United States will seek prompt negotiation of a Comprehensive Test Ban Treaty. Many of the 178 nations who are parties to the Nuclear Non-Proliferation Treaty conditioned their support for the treaty's permanent extension on the prompt achievement of a comprehensive test ban. The test ban is an essential part of the international nuclear non-proliferation regime, which is one of the highest security priorities of the United States.

A ban on nuclear tests will serve our non-proliferation goals, without jeopardizing the maintenance of a safe and reliable nuclear stockpile. The Secretary of Defense, the Secretary of Energy, and the Chairman of the Joint Chiefs of Staff all support the President's new policy. They agree that it provides for effective maintenance of our nuclear arsenal.

The Exon amendment would ensure that this bill takes no action to violate the President's policy, or the testing moratorium enacted into law in 1992. It will clear the way for us to sign a comprehensive test ban, and begin a new era of nuclear security and non-proliferation for the entire world. I urge the adoption of the amendment.

Mrs. BOXER. Mr. President, I inquire of the Senator from Georgia [Senator NUNN], if I may ask him a question about a provision of the fiscal year 1995 Department of Defense Authorization Act.

Mr. NUNN. I would be pleased to answer the questions of the Senator from California.

Mrs. BOXER. Section 816 of the fiscal year 1995 Defense Authorization Act authorized a demonstration project in Monterey County, CA, which would permit the Department of Defense to purchase fire-fighting, police, public works, utility, and other municipal services from Government agencies located in Monterey when such services are needed for operating Department of Defense assets in the county.

Mr. NUNN. I am familiar with this section. It allowed such municipal services to be purchased notwithstanding section 2465 of title 10, United States Code.

Mrs. BOXER. I would ask the Senator, was it the committee's intent to require an OMB Circular A–76 study before the demonstration program could begin?

Mr. NUNN. The purpose of the provision was to expedite the demonstration project, and it is therefore my view that to proceed without conducting an A–76 study would be consistent with section 816 of the fiscal year 1995 Defense Authorization Act.

Mrs. BOXER. I thank the Senator.

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

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

AMENDMENT NO. 2452

(Purpose: Relating to testing of theater missile defense interceptors)

Mr. NUNN. Mr. President, on behalf of Senator PRYOR, I offer an amendment which will establish testing requirements for theater missile defense interceptor missiles. This amendment is supported by both the Ballistic Missile Defense Organization and Director of Operational Test and Evaluation in the Pentagon.

I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PRYOR, proposes an amendment numbered 2452.

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

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

The amendment is as follows:

On page 49, between lines 14 and 15, insert the following:

SEC. 224. TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

(a) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that such program has successfully completed initial operational test and evaluation, and is found to be a suitable and effective system.

(b) In order to be certified under subsection (a) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptor program must have included flight tests—

(1) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

(2) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

(c) For purposes of this section, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) of title 10, United States Code) before the program entered the engineering and manufacturing development stage.

(d) The number of flight tests described in subsection (b) that are required in order to make the certification under subsection (a) shall be a number determined by the Director of Operational Test and Evaluation to be sufficient for the purposes of this section.

(e) The Secretary may augment flight testing to demonstrate weapons system performance goals for purposes of the certification under subsection (a) through the use of modeling and simulation that is validated by ground and flight testing.

(f) The Director of Operational Test and Evaluation and Ballistic Missile Defense Organization shall include in their annual reports to Congress plans to adequately test theater missile defense interceptor programs throughout the acquisition process. As these theater missile defense systems progress through the acquisition process, the Director of Operational Test and Evaluation and Ballistic Missile Defense Organization shall include in their annual reports to Congress an assessment of how these programs satisfy planned test objectives.

Mr. PRYOR. Mr. President, I rise to offer an amendment on behalf of Senator NUNN, Senator BINGAMAN, and myself to restore some common sense to the Missile Defense Act of 1995.

As my colleagues know, the Missile Defense Act of 1995 contains an aggressive program to develop and deploy theater missile defenses in the form of sophisticated missile interceptors.

I say to my colleagues—if we want to protect ourselves from the threat of theater missile attacks, let's make sure the interceptors are capable of destroying incoming missiles!

I was disappointed that this bill deleted a provision passed by Congress 2 years ago that would help us monitor these programs through a series of live-fire tests.

I believe it would be dangerous for the Senate to show a lack of interest in monitoring the progress of our theater missile defense interceptors. Our primary concern should be in making sure they are maturing properly.

Mr. President, I am pleased that the Director of the Ballistic Missile Defense Organization [BMDO] and the Pentagon's Director of Operational Testing agreed to work together in an effort to help us properly emphasize the importance of testing our TMD interceptor programs.

I applaud the Director of the BMDO, Gen. Malcolm O'Neill, and the Director of Operational Testing, Phil Coyle, for working cooperatively in this effort.

Mr. President, this is a responsible amendment that asks the Pentagon to periodically assess the maturity of each interceptor program, and to advise Congress on the progress we're making. It also asks the Secretary of Defense to certify to Congress that these programs work properly before they enter into full-rate production. Finally, this amendment will help prevent the wasteful practice of building weapon systems that do not work as expected.

This concept, Mr. President, is commonly referred to as fly before you buy. Fly before you buy means that new weapons must demonstrate their progress and maturity in operational testing so that we do not waste money buying systems that do not work.

I am proud to say, Mr. President, that with this amendment, the weapon developers in the BMDO office and the Pentagon's testers have worked together to reach an agreement on the proposed language.

This is a remarkable accomplishment that the entire U.S. Senate should applaud.

This is exactly the type of productive cooperation that Senator GRASSLEY, Senator ROTH and I envisioned when we wrote the legislation creating the independent testing office back in 1983. Developers and testers working together for a common goal. Unfortunately, for many years, the developers have refused to allow operational testers to monitor their progress. Too often in the Pentagon, the word ''test'' is considered a four-letter word.

This is exactly the scenario we should avoid with our interceptor programs.

We have already spent over $5 billion on theater missile defense interceptors. In this bill, an additional $2 billion is authorized for these programs. And the total costs are projected to exceed $22 billion!

As we continue spending more and more on ballistic missile defenses, let us not forget the most basic and most important element of these programs—making sure they work.

I wish to once again thank Gen. Malcolm O'Neill for his cooperation. Also, special thanks to Mr. Phil Coyle for his outstanding leadership as the Pentagon's testing czar. Thanks also to Larry Miller of Mr. Coyle's staff for his tremendous efforts in helping to prepare this amendment.

Mr. President, I thank the managers of this bill for accepting this amendment.

I yield the floor.

Mr. WARNER. Mr. President, the amendment is acceptable. The Senator is correct, we support the amendment and urge its adoption.

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

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

The amendment (No. 2452) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2453

(Purpose: To make certain technical corrections)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the chairman of the Armed Services Committee, Mr. THURMOND. It is a technical amendment which makes certain corrections to S. 1026.

Mr. NUNN. Mr. President, I urge the adoption of the amendment. We support it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, proposes an amendment numbered 2453.

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

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

The amendment is as follows:

On page 133, line 25, strike out ''such Act'' and insert in lieu thereof'' the Elementary and Secondary Education Act of 1965''.

On page 195, line 15, insert ''(1)'' after ''(d)''.

On page 195, line 15, strike out ''it is a'' and insert in lieu thereof ''it is an affirmative''.

On page 195, line 17, strike out ''(1)'' and insert in lieu thereof ''(A)''.

On page 195, line 21, strike out ''(2)'' and insert in lieu thereof ''(B)''.

On page 195, line 23, strike out the end quotation marks and second period.

On page 195, after line 23, insert the following:

''(2) The accused has the burden of proving a defense under paragraph (1) by a preponderance of the evidence.''.

On page 250, beginning on line 20, strike out ''Not later than December 15, 1996, the'' and insert in lieu thereof ''The''.

On page 375, strike out lines 11 through 15.

On page 375, line 16, strike out ''(p)'' and insert in lieu thereof ''(o)''.

On page 375, line 20, strike out ''(q)'' and insert in lieu thereof ''(p)''.

On page 376, line 1, strike out ''(r)'' and insert in lieu thereof ''(q)''.

On page 376, line 7, strike out ''(s)'' and insert in lieu thereof ''(r)''.

On page 376, line 13, strike out ''(t)'' and insert in lieu thereof ''(s)''.

On page 376, line 22, strike out ''(u)'' and insert in lieu thereof ''(t)''.

On page 377, line 3, strike out ''(v)'' and insert in lieu thereof ''(u)''.

On page 378, between line 23 and 24, insert the following:

(c) PUBLIC LAW 100–180 REQUIREMENT FOR SELECTED ACQUISITION REPORTS FOR ATB, ACM, AND ATA PROGRAMS.—Section 127 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 2432 note) is repealed.

On page 378, line 24, strike out ''(c)'' and insert in lieu thereof ''(d)''.

On page 379, line 5, strike out ''(d)'' and insert in lieu thereof ''(e)''.

On page 379, line 14, strike out ''(e)'' and insert in lieu thereof ''(f)''.

On page 379, line 20, strike out ''(f)'' and insert in lieu thereof ''(g)''.

Beginning on page 379, line 24, strike out ''106 Stat. 2370;'' and all that follows through page 380, line 2, and insert in lieu thereof ''106 Stat. 2368; 10 U.S.C. 301 note) is amended by striking out paragraphs (4) and (5).''.

On page 380, line 3, strike out ''(g)'' and insert in lieu thereof ''(h)''.

Mr. WARNER. I urge adoption of the amendment.

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

The amendment (No. 2453) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2454

(Purpose: To set aside $2,000,000 for the Allegany Ballistics Laboratory for essential safety functions)

Mr. NUNN. Mr. President, on behalf of Senator BYRD, the Senator from West Virginia, I offer an amendment which would authorize the Navy to use operation and maintenance funds up to a total of $2 million to address essential safety concerns at a Government-owned, contractor-operated weapons facility.

I urge the Senate to adopt this amendment. I believe the other side has cleared this amendment.

Mr. WARNER. The Senator is correct. This is an amendment originally considered in the course of the markup of the Senate Armed Services Committee. I was awaiting further information. That information, to my understanding, has been received and, therefore, the amendment is worthy of consideration and support by the Senate.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, proposes an amendment numbered 2454.

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

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

The amendment is as follows:

On page 137, after line 24, insert the following:

SEC. 389. ALLEGANY BALLISTICS LABORATORY.

Of the amount authorized to be appropriated under section 301(2), $2,000,000 shall be available for the Allegany Ballistics Laboratory for essential safety functions.

Mr. BYRD. Mr. President, the amendment that I offer addresses immediate safety concerns associated with the Allegany Ballistics Laboratory. The Allegany Ballistics Laboratory is the leading producer of tactical missile propulsion systems and conventional warheads for the Department of Defense,

currently producing rocket motors, sensor fuzed weapons, a variety of state-of-the-art missiles, warheads for the Maverick and more. Additionally, the Allegany Ballistics Lab is developing motors and warheads for the next generation of smart precision guided weapons.

Of great concern to me are the many significant safety violations, due to the age of the facility. Originally acquired by the Army in 1941, the Navy was given custody of the site in 1945. In fiscal year 1994, the Naval Sea Systems Command [NAVSEA] requested restoration of the 50-year-old plant over a 5-year period. Now, in what would be its third year of restoration, the plant lacks programmed funding for the ongoing restoration plan. This year's programmed restoration costs would be $38.5 million, of which the Senate Appropriations Committee has provided $30 million. Due to an unfortunate oversight during the Armed Services Committee preparation of this bill, the authorization bill does not include language supporting the safety upgrades at this facility.

Because of the potentially hazardous circumstances that might develop due to neglected safety precautions at this antiquated weapons-producing facility, my amendment would ensure the authorization for a minimal $2 million to provide for the essential safety measures required for the continuing operations of this plant.

The laboratory provides and services munitions for all the military services. Its programs include Naval propulsion technologies, Sidewinder, and Sea Sparrow missiles; for the Army, solid propulsion technologies, special munitions technologies, jointly produced rocket engines; rocket and laser systems for the Air Force; and a variety of motor and generator technologies for ballistic, cruise, and tactical missiles.

A facility of this magnitude and importance to national security requires, at a minimum, the funding for essential safety measures to avert a potential disaster. If these needs are not met, we risk not only plant security and safety, but we risk the loss of our Defense Department's ability to provide adequate munitions to our fighting forces.

Mr. President, safe operations of the plant and safe function of the weapons and defense conversion products depend on competent structural and hazards testing capability. Facilities currently being used are over 40 years old. Needed are safe, efficient control rooms for Insensitive Munitions, hazards and warhead testing to replace the obsolete facilities.

I encourage my colleagues to support this amendment, that will help keep a portion of our defense industry free from the occurrence or risk of injury or loss.

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

The amendment (No. 2454) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2455

(Purpose: To revise for fiscal and technical purposes the provisions relating to military construction projects authorizations)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the chairman of the Armed Services Committee, Mr. THURMOND, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, proposes an amendment numbered 2455.

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

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

The amendment is as follows:

On page 69, line 20, strike out ''$18,086,206,000'' and insert in lieu thereof ''$18,073,206,000''.

On page 69, line 21, strike out ''$21,356,960,000'' and insert in lieu thereof ''$21,343,960,000''.

On page 69, line 23, strike out ''$18,237,893,000'' and insert in lieu thereof ''$18,224,893,000''.

On page 69, line 25, strike out ''$10,060,162,000'' and insert in lieu thereof ''$10,046,162,000''.

On page 407, between lines 19 and 20, insert the following:

SEC. 2105. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1992 MILITARY CONSTRUCTION PROJECTS.

Section 2105(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511), as amended by section 2105(b)(2)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1859), is further amended in the matter preceding paragraph (1) by striking out ''$2,571,974,000'' and insert in lieu thereof ''$2,565,729,000''.

On page 417, in the table preceding line 1, in the amount column of the item relating to Spangdahlem Air Base, Germany, strike out ''$8,300,000'' and insert in lieu thereof ''$8,380,000''.

On page 419, line 24, strike out ''$49,450,000'' and insert in lieu thereof ''$49,400,000''.

On page 420, after line 21, add the following:

SEC 2305. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1992 MILITARY CONSTRUCTION PROJECTS.

Section 2305(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1525), as amended by section 2308(a)(2)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2598) and by section 2305(a)(3)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1871), is further amended in the matter preceding paragraph (1) by striking out ''$2,033,833,000'' and inserting in lieu thereof ''$2,017,828,000''.

On page 424, line 22, strike out ''$4,565,533,000'' and insert in lieu thereof ''$4,466,783,000.''

On page 425, line 9, strike out ''$47,950,000'' and insert in lieu thereof ''$47,900,000''.

On page 426, line 13, strike out ''$3,897,892,000'' and insert in lieu thereof ''$3,799,192,000''.

On page 427, after line 25, add the following:

SEC. 2407. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR PRIOR YEAR MILITARY CONSTRUCTION PROJECTS.

(a) FISCAL YEAR 1991 AUTHORIZATIONS.—Section 2405(a) of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1779), as amended by section 2409(b)(1) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1991), is further amended in the matter preceding paragraph (1) by striking out ''$1,644,478,000'' and inserting in lieu thereof ''$1,641,244,000''.

(b) FISCAL YEAR 1992 AUTHORIZATIONS.—Section 2404(a) of the Military Construction Authorization Act for Fiscal Year 1992 (105 Stat. 1531), as amended by section 2404(b)(1)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1877), is further amended in the matter preceding paragraph (1) by striking out ''$1,665,440,000'' and inserting in lieu thereof ''$1,658,640,000''.

(c) FISCAL YEAR 1993 AUTHORIZATIONS.—Section 2403(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2600) is amended in the matter preceding paragraph (1) by striking out ''$2,567,146,000'' and inserting in lieu thereof ''$2,558,556,000''.

Mr. THURMOND. Mr. President, on August 2, the Senate adopted an amendment authorizing $228.0 million for military constructions projects that were appropriated in the military construction appropriations bill for fiscal year 1996. The amendment I am offering today identifies offsets that will be used to pay for these additional projects. Specific amounts are as follows:

$30.0 million from a reduction to the foreign currency fluctuation account previously made by the Senate.

$98.7 million from construction projects that are no longer required due to the recommended closures by the Base Closure and Realignment Commission. These reductions were taken from a list compiled by the Department of Defense.

$49.0 million from prior year funds for projects that resulted in contract savings or were previously approved and now are no longer needed. This action mirrors the action taken by the Senate MILCON Appropriations Subcommittee.

$53.0 million from the $161.0 million request for the Pentagon renovation. The fiscal year 1996 request included $53.0 million for construction of wedge 1 of the project, which has been delayed for 1 year pending a comprehensive review of the $1.2 billion renovation project.

Mr. President, the reductions to the various programs will not impair the progress of these programs. On the other hand, the additional military construction projects funded by these offsets will enhance the readiness of our Armed Forces and provide for the

welfare of the men and women who serve in the uniform of this Nation. Mr. President, I urge the adoption of the amendment.

Mr. WARNER. Mr. President, this amendment provides offsets for the military construction projects authorized by the Senate earlier in its deliberations on this bill.

Mr. NUNN. Mr. President, I urge the adoption of the amendment, and this side has cleared the amendment.

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

The amendment (No. 2455) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2456

(Purpose: To authorize a land conveyance, Naval Communications Station, Stockton, California)

Mr. NUNN. Mr. President, on behalf of Senator FEINSTEIN, the Senator from California, I offer an amendment which authorizes the Secretary of the Navy, upon concurrence of both the General Services Administration and HUD, to convey 1,450 acres of property at the Naval Communications Station, Stockton, CA, to the Port of Stockton.

This amendment also allows for all existing leases involving Federal agencies located on the site to remain under existing terms and conditions.

Mr. President, I believe this amendment has been cleared by the other side.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mrs. FEINSTEIN, proposes an amendment numbered 2456.

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

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

The amendment is as follows:

On page 487, below line 24, add the following:

SEC. 2838. LAND CONVEYANCE, NAVAL COMMUNICATIONS STATION, STOCKTON, CALIFORNIA.

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may, upon the concurrence of the Administrator of General Services and the Secretary of Housing and Urban Development, convey to the Port of Stockton (in this section referred to as the ''Port''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1,450 acres at the Naval Communication Station, Stockton, California.

(b) INTERIM LEASE.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Port under terms and conditions satisfactory to the Secretary.

(c) CONSIDERATION.—The conveyance may be as a public benefit conveyance for port development as defined in Section 203 of the Federal Property and Administrative Services Act of 1949, (40 U.S.C. 484), as amended, provided the Port satisfies the criteria in section 203 and such regulations as the Administrator of General Services may prescribe to implement that section. Should the Port fail to qualify for a public benefit conveyance and still desire to acquire the property, then the Port shall, as consideration for the conveyance, pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(d) FEDERAL LEASE OF CONVEYED PROPERTY.—Notwithstanding any other provision of law, as a condition for transfer of this property under subparagraph (a), the Secretary may require that the Port agree to lease all or a part of the property currently under federal use at the time of conveyance to the United States for use by the Department of Defense or any other federal agency under the same terms and conditions now presently in force. Such terms and conditions will continue to include payment (to the Port) for maintenance of facilities leased to the Federal Government. Such maintenance of the Federal premises shall be to the reasonable satisfaction of the United States, or as required by all applicable Federal, State and local laws and ordinances.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by Port.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or the lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

(g) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under this section shall be carried out in compliance with section 120(h) of the CERCLA (42USC9620(h)) and other environmental laws.

Mrs. FEINSTEIN. Mr. President, I rise in support of an amendment that conveys the right, title and interest of the Naval Communications Station at Rough and Ready Island in Stockton, California, from the Navy to the Port of Stockton.

This conveyance is a win-win for California and the Navy. The transfer of this property will result in the creation of thousands of jobs in my state and further solidify the Stockton Ship Deepwater Channel as one of the premier international shipping hubs in California. In addition, the Navy will be able to reduce infrastructure that it no longer needs nor is able to maintain. But the Navy and the Port of Stockton support this amendment.

The Port of Stockton's Rough and Ready Island is located 75 nautical miles east of the Golden Gate Bridge in San Francisco. The island consists of approximately 1,450 acres, of which roughly half is dedicated to general purpose warehousing.

Since 1944, Rough and Ready Island has been home to the Navy and played a prominent role in our nation's defense during war and peace alike. Currently Rough and Ready is the site of a U.S. Naval Communication Station (NAVCOMSTA). While the NAVCOMSTA will continue to maintain its presence on the island indefinitely, the Navy has made it clear that continued ownership of such a facility, with its considerable infrastructure, is not consistent with ongoing military realignment objectives.

In addition to the NAVCOMSTA, the Department of Defense houses its regional distribution center on the island. Other Federal agencies that lease space include the General Services Administration, the U.S. Postal Service, and the U.S. Border Patrol.

However, while part of Rough and Ready Island houses a number of Federal tenants, a significant percentage of the island has fallen in disrepair. If it is to be used to its fullest capacity, a number of improvements such as ameliorating and expanding the docks, deepening the waterways, and upgrading the railroad tracks are essential. The only private entity able and willing to adequately execute such an enormous effort is the Port of Stockton.

The Port of Stockton, which operates a 600 acre complex contiguous to Rough and Ready Island, is ready to assume the host position and make the necessary improvements. The Stockton Port District, which was formed in 1927, functions as a nonprofit municipal corporation and is empowered by the California Harbors and Navigation Code to acquire real property by grant or gift in order to promote Maritime and Commercial Interests.

The Port of Stockton is the local sponsor for the Stockton Ship Channel which is one of the busiest interior industrial water ways in the United States. Because it is the only deepwater cargo Port that handles bulk, between 3.5 million and 4 million tons of cargo travel through the Channel every year.

The Port of Stockton will receive the property through a public benefit conveyance. Further, the Port of Stockton has repeatedly offered to honor any long-term leases that are currently operative on Rough and Ready Island with the Navy, Federal agencies, and other tenants.

In addition to the benefits to the Navy, this land conveyance could also create thousands of new jobs in an area that has traditionally suffered from double digit unemployment.

Currently, Cost Plus, a major retailer, occupies 400,000 square foot of warehouse space of the Port of Stockton. Although the Port has received inquiries from other large businesses eager to establish distribution centers of similar size, it is unable to accommodate these requests because it simply does not have the space. The consolidation of Rough and Ready Island with the Port of Stockton will provide more opportunity to fulfill these requests for more space and in turn provide more jobs for the residents of the area.

The Port of Stockton estimates that in the long term, the potential for

large and small businesses utilizing the expanded warehousing, a proposed 92,000 square foot boat storage complex and new dock facilities will result in as many as 2,000 new jobs in the area.

Mr. President, allowing the transfer of Rough and Ready Island is a good deal for California and good deal for the Navy. Not only does this transfer give the Navy an opportunity to relinquish itself of land that is in considerable need of improvement, but it will create economic opportunities for many Californians.

I thank my colleagues for supporting this amendment.

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

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

The amendment (No. 2456) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2457

Mr. NUNN. Mr. President, on behalf of the Senator from Iowa, Senator HARKIN, and the Senator from California, Senator BOXER, I send an amendment to the desk that provides that cost-type contract DOD reimbursement of contract executive compensation would be capped at $200,000. This is similar to the amendment the Senate adopted on the DOD appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. HARKIN, for himself and Mrs. BOXER, proposes an amendment numbered 2457.

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

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

The amendment is as follows:

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

"SEC. . RESTRICTION ON REIMBURSEMENT OF COSTS.

''(a) None of the funds authorized to be appropriated in this Act for fiscal year 1996 may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation (including bonuses and other incentives) at a rate in excess of $250,000.

''(b) It is the Sense of the Senate that the Congress should consider extending the restriction described in section (a) permanently.''

Mr. WARNER. Mr. President, on this amendment, this is the first opportunity this Senator has had to review it. The chairman of the committee has instructed me to accept the amendment.

I must say, it causes me some initial concern, but as I understand it, it is part of the DOD appropriations bill at the present time. Speaking only for myself, I will reexamine this amendment in the course of the conference deliberation on the bill.

So for the present time, I indicate that it is acceptable on this side for the chairman of the committee.

Mr. NUNN. On behalf of Senators HARKIN and BOXER, I urge its adoption.

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

The amendment (No. 2457) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2458

(Purpose: To improve the management of environmental restoration and waste management activities authorized under this Act)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Mr. JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. JOHNSTON, proposes an amendment numbered 2458.

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

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

The amendment is as follows:

On page 535, at the end of subtitle A, add the following new sections:

"SEC. . STANDARDIZATION OF ETHICS AND REPORTING REQUIREMENTS AFFECTING THE DEPARTMENT OF ENERGY WITH GOVERNMENT-WIDE STANDARDS.

''(a) REPEALS.—(1) Part A of title VI of the Department of Energy Organization Act and its catchline (42 U.S.C. 7211, 7212, and 7218) are repealed.

''(2) Section 308 of the Energy Research and Development Administration Appropriation Authorization Act for Fiscal Year 1977 (42 U.S.C. 5816a) is repealed.

''(3) Section 522 of the Energy Policy and Conservation Act (42 U.S.C. 6392) is repealed.

''(b) CONFORMING AMENDMENTS.—(1) The table of contents for the Department of Energy Organization Act is amended by striking out the items relating to part A of title VI including sections 601 through 603.

''(2) The table of contents for the Energy Policy and Conservation Act is amended by striking out the matter relating to section 522.''.

"SEC. . CERTAIN ENVIRONMENTAL RESTORATION REQUIREMENTS.

It is the sense of Congress that—

''(1) No individual acting within the scope of that individual's employment with a Federal agency or department shall be personally subject to civil or criminal sanctions, for any failure to comply with an environmental cleanup requirement under the Solid Waste Disposal Act or the Comprehensive Environmental Response, Compensation, and Liability Act or an analogous requirement under comparable Federal, State, or local laws, where the failure to comply is due to lack of funds requested or appropriated to carry out such requirement. Federal and State enforcement authorities shall refrain from enforcement action in such circumstances.

''(2) If appropriations by the Congress for fiscal year 1996 or any subsequent fiscal year are insufficient to fund any such environmental cleanup requirements, the Committees of Congress with jurisdiction shall examine the issue, elicit the views of Federal agencies, affected States, and the public, and consider appropriate statutory amendments to address personal criminal liability, and any related issues pertaining to potential liability of any Federal agency or department or its contractors.''

Mr. JOHNSTON. Mr. President, the amendment that I have offered addresses two crucial management issues for the defense-related environmental restoration and waste management programs authorized in this bill. The first issue is the continued existence of obsolete conflict-of-interest and financial reporting requirements at the Department of Energy that conflict with governmentwide standards. These requirements result in unnecessary duplication of effort and have deterred outstanding individuals from accepting managerial positions within the Department. The second issue is the impending imposition of criminal liability for Federal managers of environmental cleanup activities in the case of a funding shortfall that prevents full compliance with the law. Action on these management issues is essential, if defense environmental restoration and waste management programs are to succeed.

My amendment will remove the first of these two obstacles and express the sense of the Congress on the the second.

The first part of my amendment repeals three sections of the Department of Energy Organization Act, Public Law 95–91, that were enacted in 1977 and that deal with conflict-of-interest requirement for departmental employees. It also repeals two other freestanding financial reporting requirements enacted as parts of other legislation in 1977. All of these requirements were enacted prior to passage of governmentwide ethics requirements in the Ethics in Government Act of 1978, and in some sense served as a prototype for these requirements. Since the passage of the Ethics in Government Act and the Ethics Reform Act of 1989, though, the need for specific ethics and financial reporting requirements in DOE that are different from governmentwide requirements has disappeared.

Adoption of this provision would not affect the applicability of governmentwide conflict-of-interest and financial reporting requirements to DOE employees. These restrictions, codified in 18 U.S.C. 207 and 208, 41 U.S.C. 423, and 5 CFR 2634 are not affected by the amendment and would remain fully in force for DOE employees.

The Senate has, on four different occasions during the last two Congresses, approved language to repeal these requirements—in the Energy Policy and

Conservation Act Amendments of 1994, S. 2251, the Department of Energy Laboratory Partnership Act of 1994, S. 473, the fiscal year 1994 Department of Defense authorization bill S. 1298, and the fiscal year 1992–93 Department of Defense authorization bill. In addition, Congress has twice enacted into law temporary suspensions affecting the sections of the Department of Energy Organization Act that would be repealed by this amendment.

The Department of Energy and the administration strongly support this part of my amendment. Repeal of these provisions has also been recommended by the National Academy of Sciences in its 1992 report on ''Science and Technology Leadership in American Government: Ensuring the Best Presidential Appointments.''

I ask unanimous consent that a letter from the administration transmitting the text of this part of the amendment and supporting the repeal of these provisions be printed in the RECORD following my statement.

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

(See Exhibit 1.)

Mr. JOHNSTON. Mr. President, the second part of my amendment provides the sense of the Congress on an issue that, if unresolved, will greatly increase the difficulty of attracting and retaining the best managers possible for cleanup activities. Under the Federal Facility Compliance Act of 1992, beginning on this October 6, Federal managers in the DOD and DOE cleanup programs will incur criminal liability for instances of noncompliance resulting from funding shortfalls. They literally can be sent to jail under State or Federal law if the appropriations acts do not contain enough funding to satisfy every last requirement of every State and local solid or hazardous waste law. No manager, scientist, or engineer worth having in a cleanup program can be expected to be attracted to a job in which they are exposed to this sort of criminal sanction.

This potential criminal liability problem may become very real very soon, depending on the outcome of the conference on the Energy and Water Appropriations Act for fiscal year 1996. The Senate Appropriations Subcommittee on Energy and Water Development, of which I am the ranking member, reported a bill that was passed by the Senate and that fully funded the President's budget request for the Department of Energy environmental management program for fiscal year 1996. We will strongly support the Senate position in conference against a House mark for this program that is far smaller. I hope that we prevail. In any case, it is clear that the problem of appropriating funds to meet the expanding requirements of the DOE environmental management program will become increasingly acute over the next several years. I strongly believe that we should start thinking about this problem now, in a deliberative manner, rather than wait for a crisis.

My amendment provides the sense of Congress that—

(1) individuals acting within the scope of their employment shall not be personally subject to civil or criminal sanction for any failure to comply with environmental cleanup requirements under the Solid Waste Disposal Act or the Comprehensive Environmental Response, Compensation, and Liability Act, or an analogous requirement under comparable Federal, State, or local laws, where the noncompliance is due to lack of funds; and

(2) if appropriations are insufficient to fund environmental cleanup requirements, the Congress shall consider appropriate statutory amendments to address potential liability issues for Federal agencies and contractors, after an examination by the appropriate Committees, and after affected Federal agencies, States, and the public have had an opportunity to express their views.

This amendment has been cleared on both sides by the Committee on Environment and Public Works and the Committee on Governmental Affairs. I urge its adoption.

EXHIBIT 1

THE SECRETARY OF ENERGY
Washington, DC, April 28, 1995.

The Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER. Enclosed is proposed legislation that would place employees of the Department of Energy on the same basis as most other government employees with respect to restrictions on holding financial interests that have the potential to conflict with official responsibilities, and with respect to financial disclosure requirements.

The legislation would repeal the divestiture provision of the Department of Energy Organization Act (DOE Act) and related disclosure statutes that were enacted in the mid-seventies. The criminal conflict of interest statutes, the standardized financial disclosure rules under the Ethics in Government Act, and the executive branch standards of conduct which are now in place make these provisions no longer necessary.

More specifically, the enclosed proposal would repeal the divestiture provision in part A of title VI of the DOE Act and also would repeal disclosure provisions in other laws that were superseded but not repeated by part A when it was enacted. The divestiture provision was the only conflict-of-interest provision of the DOE Act not repealed by section 3161 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. No. 103–160). That Act repealed several obsolete conflict-of-interest requirements concerning financial disclosure, post-employment restrictions, and participation restrictions, and was a significant step in ensuring consistency in the application of conflict-of-interest requirements throughout the executive branch.

In addition to repealing most of the Department's obsolete conflict-of-interest provisions, section 3161 required the enclosed report on the divestiture provision. The Department submitted this report to Congress on April 8, 1994, after its review by the Office of Government Ethics which has no objection to repeal of the divestiture provision. The report affirms our earlier conclusion that the divestiture requirement is obsolete, overly broad, and unnecessary, and our recommendation that it should be repealed.

The Department of Energy has been and continues to be strongly committed to the highest ethnical standards. Every employee of the Department is expected to follow not only the letter of the conflict-of-interest laws and regulations, but also their spirit. Elimination of the Department of Energy divestiture provision that, more often than not, requires divestiture when there is no actual conflict-of-interest, would lessen employee perception that the conflict-of-interest rules are arbitrary and unfair. Approval of this proposal would be a significant step in ensuring consistency in the application of conflict-of-interest requirements throughout the executive branch, and we request its prompt consideration.

If these provisions are eliminated, the conflict-of-interest concerns underlying the divestiture provision will continue to be addressed by a statute and regulations applicable to all executive branch employees. These regulations were promulgated by the Office of Government Ethics (Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Pan 2635) and provide a mechanism for the Department to issue supplemental regulations that would prohibit or restrict the acquisition or holding of a financial interest or a class of financial interests by agency employees, or any category of agency employees, based on the agency's determination that the acquisition or holding of such financial interests would cause a reasonable person to question the impartiality and objectivity with which agency programs are administered. If needed, regulations to this effect will be pursued.

The Office of Management and Budget has advised that from the standpoint of the President's program there is no objection to the submission of this proposal.

Sincerely,

HAZEL R. O'LEARY.

Mr. THURMOND. Mr. President, as stated by Senator JOHNSTON, the proposed amendment was cleared by both sides. I would like to briefly comment on the amendment. First, I feel that the conflict of interest provisions are consistent with past Senate efforts to eliminate agency-specific requirements that are no longer necessary. Second, the Sense of the Senate related to environmental restoration addresses concerns related to civil and criminal liability of individual Federal employees acting within the scope of their employment. The sense of the Senate specifically provides that Federal employees shall not be held personally liable for a failure to fulfill an environmental cleanup requirement that is the result of insufficient congressional appropriations. I support the amendment, as offered by Senator JOHNSTON.

Mr. NUNN. Mr. President, this amendment would repeal conflict of interest laws applicable only to DOE and not other agencies. It sets forth a sense of the Senate that executive branch officials should not be held criminally liable for failure to implement an environmental cleanup requirement where the failure is attributable to insufficient funding.

I believe this has been cleared by the majority.

Mr. WARNER. The Senator is correct.

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

The amendment (No. 2458) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2459

(Purpose: To authorize the conveyance of the William Langer Jewel Bearing Plant to the Job Development Authority of the City of Rolla, North Dakota)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators DORGAN and CONRAD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DORGAN, for himself, and Mr. CONRAD, proposes an amendment numbered 2459.

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

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

The amendment is as follows:

On page 487, after line 24, add the following:

SEC. 2838. LAND CONVEYANCE, WILLIAM LANGER JEWEL BEARING PLANT, ROLLA, NORTH DAKOTA.

(a) AUTHORITY TO CONVEY.—The Administrator of General Services may convey, without consideration, to the Job Development Authority of the City of Rolla, North Dakota (in this section referred to as the ''Authority''), all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon and all associated personal property, consisting of approximately 9.77 acres and comprising the William Langer Jewel Bearing Plant in Rolla, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority—

(1) use the real and personal property and improvements conveyed under that subsection for economic development relating to the jewel bearing plant;

(2) enter into an agreement with an appropriate public or private entity or person to lease such property and improvements to that entity or person for such economic development; or

(3) enter into an agreement with an appropriate public or private entity or person to sell such property and improvements to that entity or person for such economic development.

(c) PREFERENCE FOR DOMESTIC DISPOSAL OF JEWEL BEARINGS.—(1) In offering to enter into agreements pursuant to any provision of law for the disposal of jewel bearings from the National Defense Stockpile, the President shall give a right of first refusal on all such offers to the Authority or to the appropriate public or private entity or person with which the Authority enters into an agreement under subsection (b).

(2) For the purposes of this section, the term ''National Defense Stockpile'' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(c)).

(d) AVAILABILITY OF FUNDS FOR MAINTENANCE AND CONVEYANCE OF PLANT.—Notwithstanding any other provision of law, funds available in fiscal year 1995 for the maintenance of the William Langer Jewel Bearing Plant in Public Law 103–335 shall be available for the maintenance of that plant in fiscal year 1996, pending conveyance, and for the conveyance of that plant under this section.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Administrator. The cost of such survey shall be borne by the Administrator.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under this section as the Administrator determines appropriate to protect the interests of the United States.

Mr. DORGAN. Mr. President, I rise to offer an amendment to the defense authorization bill. I would like to take a bit of time to describe my amendment.

My amendment would expedite the conveyance of the William Langer Jewel Bearing Plant in Rolla, ND, to the Job Development Authority of the city of Rolla. The amendment would enable the General Services Administration to transfer the plant to the authority more quickly, and in a way that would enable the plant to continue as a going enterprise. My senior colleague from North Dakota, Senator CONRAD, is cosponsoring this amendment, and the Defense Department and the General Services Administration have no objection to the amendment.

Let me just give my colleagues a bit of background on the Langer Plant. The Langer Plant has roots in the Cold War. Back in the 1950's, when we were in the depths of the cold war, the Congress and the administration took a long look at our defense industrial base. Our defense leadership realized that we at that point lacked the ability to produce jewel bearings, which are finely machined bits of carborundum. These bearings were crucial components in military avionics systems.

The Congress located the plant in North Dakota because of our strategic location. The idea was to put this crucial facility in the middle of our country, where enemies could not easily reach it. It seems a startling consideration, but it is the way people were thinking at the time. So the William Langer Jewel Bearing Plant has been making jewel bearings for the Federal Government since the 1950s.

My colleagues should also know that the plant is a few miles from the Turtle Mountain Indian Reservation. Of the plant's hundred or so employees remaining after a downsizing, about 60 percent are Native American. The Langer Plant brings crucial skilled jobs to an economically depressed area.

Since the plant's founding, Bulova Corp. has run the plant for the Pentagon on a Government-owned, contractor-operated basis. However, changing technology has led the Defense Logistics Agency to declare the plant excess to the Defense Department's needs. The National Defense Stockpile no longer needs to buy jewel bearings. So the Defense Department has reported the plant to the General Services Administration as excess property.

Last year, the Senate Appropriations Committee's report on the Defense Appropriations Act for this fiscal year provided funding to ensure that the plant succeed in its transition from a Government-owned military supplier to a more commercially oriented firm that also remains a viable part of the defense industrial base. This amendment will help complete the plant's transition to commercial operation.

Those of my colleagues who are dealing with base closures and defense downsizing know that Rolla faces a crisis and an opportunity with regard to this plant. The future of this factory depends on its ability to become a commercial manufacturer. While the plant has always sold jewel bearings and related items in the commercial market, it is redoubling its efforts. Its chief commercial products are ferrules, which connect fiber optic cables. Japanese firms dominate volume production of ferrules, but the plant is establishing itself as a supplier of specialty ferrules in niche markets.

I would also note that while the Federal Government no longer needs jewel bearings, it does require the kind of unique micromanufacturing capability that the William Langer Plant provides.

The plant also manufactures dosimeters, which measure doses of nuclear radiation. Dosimeters are vital to the military, to commercial utilities that operate nuclear reactors, and to FEMA's emergency preparedness programs. FEMA has indicated that it will work with new ownership and management of the plant to maintain the plant's capability to manufacture dosimeters. So the plant's employees have several reasons to hope that the plant will survive in the long run.

However, the plant badly needs legislative help in the short run. The normal excess property procedure would require the GSA to sell the plant for fair market value. The problem is that no local entity can afford the plant, which has an original cost of $4.2 million. The plant itself is not now healthy enough in a business sense to finance its own acquisition by a new management team. My amendment's provision that the GSA may convey the plant without consideration is therefore vital to the plant's ability to make a successful transition from Government contracts to commercial operations.

I would like to stress to my colleagues that the Rolla community, the State of North Dakota, the Turtle Mountain Band of Chippewa, and the local business community have been working hard to ensure that the plant makes a successful transition to the private sector. The local community is united behind the plan to transfer the plant to the Job Development Authority of the city of Rolla. Under my amendment, the authority will be able to lease the plant for economic development purposes. The intent of the amendment is to provide both flexibility for commercializing the plant and

accountability to the Federal Government for the plant's future.

Mr. President, to sum up, I would simply say to my colleagues that this amendment tries to give a helping hand to the Langer plant and the city of Rolla, while relieving the Federal Government of a facility that it no longer needs.

I understand that the amendment will be accepted unanimously, and I thank the managers on both sides, Senators THURMOND and NUNN, and the senior Senator from Ohio, Senator GLENN, for their support of this amendment, as well as their staffs for their assistance with this amendment.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, this amendment authorizes the administrator of the General Services Administration to convey the William Langer Jewel Bearing Plant, 9.77 acres of real property, to the city of Rolla, ND. DOD declared the property in excess to its needs in July. GSA conducted a screening of the property and found there are no other Federal interests in the facility. I believe this has been cleared on the other side.

Mr. WARNER. Mr. President, this particular amendment has the support of this side.

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

The amendment (No. 2459) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2460

(Purpose: To authorize a land exchange, U.S. Army Reserve Center, Gainesville, GA)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2460.

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

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

The amendment is as follows:

On page 487, below line 24, add the following:

SEC. 2838 LAND EXCHANGE, UNITED STATES ARMY RESERVE CENTER, GAINESVILLE, GEORGIA.

(a) IN GENERAL.—The Secretary of the Army may convey to the City of Gainesville, Georgia (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property (together with any improvements thereeon) consisting of approximately 4.2 acres located on Shallowford Road, in the City of Gainesville, Georgia.

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the City shall—

(1) convey to the United States all right, title, and interest in and to a parcel of real property consisting of approximately 8 acres of land, acceptable to the Secretary, in the Atlas Industrial Park, Gainesville, Georgia;

(2) design and construct on such real property suitable replacement facilities in accordance with the requirements of the Secretary, for the training activities of the Unites States Army Reserve;

(3) fund and perform any environmental and cultural resource studies, analysis, documentation that may be required in connection with the land exchange and construction considered by this section;

(4) reimburse the Secretary for the costs of relocating the United States Army Reserve units from the real property to be conveyed under subsection (a) to the replacement facilities to be constructed by the City under subsection (b)(2). The Secretary shall deposit such funds in the same account used to pay for the relocation;

(5) pay to the United States an amount as may be necessary to ensure that the fair market value of the consideration provided by the City under this subsection is not less than fair market value of the parcel of real property conveyed under subsection (a); and

(6) assume all environmental liability under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)) for the real property to be conveyed under subsection (b)(1).

(c) DETERMINATION OF FAIR MARKET VALUE.—(1) The determination of the Secretary regarding the fair market value of the real property to be conveyed pursuant to subsection (a), and of any other consideration provided by the City under subsection (b), shall be final.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Sectretary. The cost of such surveys shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the coneyances under this section that the Secretary considers appropriate to protect the interest of the United States.

Mr. NUNN. Mr. President, this amendment authorizes the Secretary of the Army to convey 4.2 acres of real property at an Army Reserve facility in Gainesville, GA, in exchange for an 8 acres of land in the Atlas Industrial Park, Gainesville, GA. The exchange is for fair market value.

I believe this has been cleared. It is an important amendment to the people in Gainesville, GA, as well as to the Army Reserve, which is going to get a larger piece of land and also a new reserve facility in exchange for an existing piece of land at fair market value.

I urge its adoption.

Mr. WARNER. Mr. President, the amendment has the support of this side.

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

The amendment (No. 2460) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, my understanding is that we will not conclude the list of amendments which have been agreed to. We will finish that in the morning. Among those will be one by the Senator from Virginia that relates to the spent nuclear fuel issue. I will, beforehand—I repeat, beforehand—have contacted Senators KEMPTHORNE and CRAIG for their views. Today, I received a series of telephone calls, and it was explained that negotiations are still going on with the Governor of Idaho.

Also, I must say to my colleagues that this is an issue of very serious concern to the U.S. Navy, because it is impacting on the future refueling of our naval ships and consequently impacts on their deployment. It also impacts on the rotation of work among the several shipyards in handling the refueling and other naval work.

Therefore, I am hopeful that this can be worked out satisfactorily between the administration and the State of Idaho and the U. S. Department of Defense. But I am concerned that the progress thus far leaves this Senator—and I just speak for myself—somewhat disheartened. Therefore, I will continue to monitor and address this issue. I may have further remarks on it tomorrow after consultation with my colleagues, the Senators from that State. But I wish to alert Senators of the concern of this Senator on this matter.

Mr. NUNN. Mr. President, I believe that amendment is being worked on by staff. I think it is either worked out or very close to being worked out. So I anticipate that we will be in a position to deal with it tomorrow.

Mr. WARNER. Mr. President, I think we will turn to the conclusion of the Senate's business, unless the Senator has further comments. He is beating a hasty retreat. It is my lifetime opportunity to do what I want in the U.S. Senate.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

SENATOR CLAIBORNE PELL

Mr. MCCAIN. Mr. President, I want to add a few words to the chorus of praise for our distinguished colleague from Rhode Island, Senator PELL. As has been noted in the remarks of my colleagues, Senator PELL's service in Congress includes so many accomplishments of such great consequences for our country that it would distinguish the careers of 10 public servants. That one man rendered so many important services to the American people is truly astonishing, and reflects great credit on Senator PELL.

Senator PELL now informs us that his service in the Senate will conclude at 36 years. Thirty six years is a long