

to establish qualifications for and conditions of service in the Armed Forces.

Third, the primary purpose of the Armed Forces is to prepare for and to prevail in combat should the need arise.

Fourth, the conduct of military operations requires members of the Armed Forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

Fifth, success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

Sixth, one of the most critical elements in combat capability is unit cohesion; that is, the bonds of trust among individual service members that make the combat effectiveness of the individual unit members.

Seventh, military life is fundamentally different from civilian life in that—

The extraordinary responsibilities of the Armed Forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

The military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

Eighth, the standards of conduct for members of the Armed Forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the Armed Forces.

Ninth, those standards of conduct, including the Uniform Code of Military Justice, apply to a member has a military status, whether the member is on duty or off duty.

Tenth, the pervasive application of the standards of conduct is necessary because members of the Armed Forces must be ready at all times for worldwide deployment to a combat environment.

Eleventh, the worldwide deployment of U.S. military forces, the international responsibilities of the United States, and the potential for involvement of the Armed Forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

Twelfth, the prohibition against homosexual conduct is a long-standing element of military law that continues to be necessary in the unique circumstances of military service.

Thirteenth, the Armed Forces must maintain personnel policies that exclude persons whose presence in the Armed Forces would create an unacceptable risk to the Armed Forces' high standards of morale, good order

and discipline, and unit cohesion that are the essence of military capability.

Fourteenth, the presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

If there is any remaining confusion about the policy, the Department of Defense should ensure that all directives, implementing regulations, and teaching manuals are crystal clear. Homosexuality is incompatible with military service. Homosexuality has always been, and continues to be defined by conduct. Speech is conduct, for it is rational to conclude that members of the military who say they are homosexuals have a propensity to engage in conduct. The military should not be made to bear the risk.

I fully anticipate that the Supreme Court will carefully review the body of work Congress placed into law. I believe that the strong policy set forth in 10 United States Code section 654 will fully meet the constitutional test.

I agree with Senator NUNN that no additional legislation is needed at this time. The law is sufficient. I am confident the court will uphold that law.

Obviously we would tend to closely monitor these judicial proceedings, the implementation of department regulations, and the administration's defense of the current law. But the current law is sufficient, in my opinion. I would just assure my colleagues that we intend to pay very close attention to the implementation of that law—as was clearly expressed with solid majority support of this Congress, with the support of this administration.

I ask the Senator from Georgia if he has any additional comments?

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. NUNN. Mr. President, I wanted to thank the Senator from Indiana for his statement this morning, which shows that we have a united view here. I know the Chair, the Senator from South Carolina, the chairman of the committee, also agrees with our view and has made that clear in his statement. So I think we have very strong consensus in our committee. I thank the Senator from Indiana for the tremendous amount of work he has done on this issue over the last years. He has been an extraordinary partner in dealing with a very difficult, sensitive issue, but one that is important to the U.S. military and our national security. So I thank him very much for his support.

Mr. COATS. I thank the Senator. Without his leadership I do not believe we could have been successful. It has truly been a bipartisan effort and the then-chairman of the Senate Armed Services Committee's leadership was invaluable to this process.

As I said it was the most extensive set of hearings and extensive investiga-

tion ever conducted on this subject or perhaps any other subject. That has been placed as a matter of record and is part of the law. I thank him for his support and leadership.

Mr. THURMOND. Mr. President, Judge Eugene H. Nickerson, a district judge for the Eastern District of New York, has rendered a decision in the *Able versus United States* case that declares a portion of the don't ask-don't tell policy in violation of the first and fifth amendments to the Constitution as it relates to six plaintiffs. While this is a narrow ruling, it is also, in my opinion, an incorrect ruling and must be appealed to the second circuit court. I have been assured by the Department of Defense and the Department of Justice that an appeal is being formulated and briefs will be filed in a timely manner. A decision from the second circuit could come as early as this fall.

The Senate Armed Services Committee and the Senate worked hard to craft a constitutional policy that protects individual rights and yet provides our fighting men and women with the right kind of environment in which to build the highest morale, discipline, and esprit in their units. I wish to remind all of you that we bear a tremendous responsibility to our men and women in uniform. They rely on us to make certain they are given every opportunity to survive in combat. It is our responsibility to provide them the best places to train and live, the best equipment possible and the very finest in care for their families. In addition, we must not do anything that could reduce the soldiers' most valuable asset—unit cohesion.

Today, Senator NUNN, Senator COATS, and I are addressing this recent court decision. We worked long hours producing the current policy and both of them agree with me that we need to let the judicial system complete its process. I am confident that the final decision will uphold the constitutionality of the new policy and that it will serve the military well.

#### MEASURE PLACED ON THE CALENDAR—H.R. 849

Mr. COATS. Mr. President, I understand there is a bill that is ready to be read a second time?

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will read the bill the second time.

The bill clerk read as follows:

A bill (H.R. 849) to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

Mr. COATS. Mr. President, I object to further proceedings on the bill at this time.

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

The distinguished Senator from California is recognized.

Mrs. BOXER. Mr. President, I ask unanimous consent to continue for a full 15 minutes as in morning business.

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

### THE CONTRACT WITH AMERICA

Mrs. BOXER. Mr. President, I am down here on the floor of the Senate this morning, almost this afternoon, to talk about the celebration that is going to take place here at the Capitol by the Republicans on the House side, based on the 100 days after their so-called contract for America.

They are bringing the circus to town for this celebration. In one way, I think it is appropriate that they bring the circus to town because, as I watch the proceedings, part of my heart is still in the House of Representatives. I served their proudly for 10 years. It has been pandemonium over there, in one Senator's view; a barrage of activity into the wee hours of the morning. And, in my view, in many of these areas they have just gone too far, too fast, too sloppily. I think proof of that is the fact that the Senate has slowed down their momentum and I believe we will continue to do this as reasonable people in this body, regardless of party, look at their activity, think about their activity, review their decisions, and come up with more reasonable legislation.

An example of that, they sent over a moratorium bill which would have stopped regulations—all kinds of important safety regulations, for example—from going into effect. And this Senate never even took it up. They put forward a very sensible approach to regulations. That is just one example of how the Senate is slowing down the contract for America.

So in one way it is appropriate that the circus is coming to town. But on another level it is inappropriate because who loves the circus the most? Kids. And who gets hurt the most by the contract? Kids.

So, in some ways, to me, there is a real irony in bringing the circus to town and the kids to the circus to celebrate the contract which hurts the kids—perhaps more than any other group, although many of us get hurt by this contract.

Why do I say it is the kids had who get hurt? This is not rhetoric. This is not overstatement. This is fact.

I ask unanimous consent to have printed in the RECORD the cuts just in these rescission bills that are asked for, by the Republicans, that cut out kids, that hurt kids.

I ask unanimous consent to have this document printed in the RECORD at this time.

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

### STATEMENT ON S. 617, SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS—IMPACT ON CALIFORNIA

(By Senator Barbara Boxer)

S. 617 as reported by the Senate Appropriations Committee is a classic Hobson's Choice for California. My state stands in line at the livery stable, waiting for a horse to hire. When she gets to the stable door, the man in charge says "take this one or none". The problem is, the horse offered is a dangerous and destructive outlaw, one that's sure to throw her. So what does she do? Take the one offered so that she can get where she's going? Or reject it and walk? Mr. President, I conclude that California should reject this nag and take a walk.

The amendment offered by the Senator from Maryland, Senator Mikulski, is a far better alternative, and I am happy to have the chance to support it.

Let me explain for the record a few of the most egregious examples of why the bill as reported is a bad deal for my state.

#### COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS (CDFI)

The bill would rescind \$124 million of the Fund's \$125 million appropriation for FY 1995.

The CDFI Fund is important to California. More than 20 established CDFIs serve California citizens that otherwise would have no access to lending or financial services.

For example, the Low Income Housing Fund (LIHF), a large CDFI based in San Francisco, works to increase the amount of capital available for the development of affordable housing. The LIHF serves a wide range of financing needs that are not typically met by other lenders, including construction and gap financing and interest rate subsidies.

There are several new California CDFIs that are currently in the process of formation. For example, the Neighborhood Bancorp., a San Diego CDFI, was recently granted a charter from the Office of the Comptroller of the Currency and is raising capital from private investors.

The Fund helps these institutions raise the capital they need to provide services to distressed communities in California and across the nation.

The Fund was established last year. It got unanimous approval in the Senate and was passed by a vote of 410-12 in the House.

The Senate bill also rescinds:

\$47 million from the Economic Development Administration (EDA). This program funds general economic development planning and infrastructure. Historically, California receives about 15% of EDA funds, or about \$6 million. Communities use EDA grants to improve economic competitiveness and create jobs.

\$27 million from the National Institute of Standards and Technology (NIST). Funds would be cut from the Manufacturing Extension Partnership Program (MEP), which provides small and medium sized companies with manufacturing assistance. The MEP is based on the highly successful Agriculture Extension program. There are currently MEP centers in Southern California that provide assistance to defense contractors seeking to diversify their businesses. Also, we hope to introduce a MEP in the Bay Area soon.

\$93.5 million from the Base Realignment and Closure (BRAC) Account for 1993. This program funds closure related expenses for bases scheduled for closure in 1993. In California, such bases include the Alameda Naval Complex and the Mare Island Shipyard. The BRAC account funds environmental cleanup costs, moving costs, and new construction costs at bases receiving workload. The exact impact of this rescission is impossible to de-

termine, but it is reasonable to worry that this rescission could delay the closing of California military bases.

#### ENVIRONMENTAL PROTECTION

The Committee bill would cut \$1.2 billion from water cleanup infrastructure funding. \$799 million of this cut would come from grant money to the States to help them establish revolving loan funds to finance drinking water improvements. This funding would be available to the states once Congress authorizes such state funds in a new Safe Drinking Water Act. The remaining \$433 million would come from funds set aside for specific projects.

California's share of the drinking water fund under the current allocation formula would be \$57 million. Specific California projects that would lose their FY95 funding include City of LA (\$50 million), Mojave Water Agency (\$10 million), Lake County (\$2 million). California communities whose projects would be spared include San Diego, San Francisco, County of LA, Tijuana, and border cleanup near the New River.

The Committee bill would cut \$100 million from the Superfund program. This cut would significantly slow cleanups at many of California's 96 Superfund sites, including the 18 closing and operational military bases on the Superfund list.

#### AGRICULTURE

The Committee bill would cut \$1.5 million from a new USDA salinity research lab at the University of California at Riverside. This lab is designed to grapple with salinity and other runoff problems endemic to the kind of irrigated agriculture that dominates California agriculture. Such a funding cut would prevent the installation of the new labs equipment.

#### NATURAL RESOURCES

The Committee bill would cut \$3 million from the Fish & Wildlife Service, effectively barring new listings of animal and plant species as "endangered" or "threatened" under the Endangered Species Act.

Timber Rider: An amendment attached to the bill would require the Forest Service (under USDA) and the Bureau of Land Management (under the DoI) to sharply increase "salvage logging" in western forests. Unlike the House version of this language, the Committee bill would not require a particular cut level. It would, however, effectively waive several important environmental safeguards.

Forest health is a problem in California and throughout the west, but this extreme approach threatens both forest ecology and cooperative efforts like the Quincy Library Group.

#### ENERGY

The Committee bill would cut \$48 million from the Department of Energy's programs to boost energy efficiency. DoE cannot give a precise breakdown of how much of this funding California would lose, but the amount would be significant because of California's leadership position on the development and use of these technologies.

This includes a proposed \$10 million cut from the program used by federal agencies to weatherize low income homes—a cut that will mean about 240 fewer weatherized homes under this program in California.

This also includes a \$5 million cut from the Clean Cities Program which supports the purchase of clean vehicles by federal agencies to match such purchases by cities. The California cities affected by this lost funding include, Fresno, Sacramento, San Jose, San Francisco, Oakland, and Long Beach.

The Committee bill would cut \$35 million from solar and renewable energy research