occur on adoption of the conference report immediately following the vote on H.R. 2880.

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

UNANIMOUS-CONSENT AGREEMENT—START II TREATY

Mr. DOLE. Mr. President, I also ask unanimous consent, as if in executive session, that it be in order for me at this time to ask for the yeas and nays on the adoption of the resolution of ratification to accompany the START II treaty.

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

Mr. DOLE. Further, Mr. President, I ask unanimous consent as if in executive session that the vote on the resolution occur immediately after the vote on adoption of the DOD authorization conference report.

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

Is there a sufficient second for the advancement of the rollcall vote? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the votes be 10 minutes each.

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

Mr. DOLE. Mr. President, I ask unanimous consent that there be 1 minute in between votes to explain the next vote.

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

If there be no further amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2880) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. CAMPBELL], the Senator from Indiana [Mr. COATS], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. KYL], and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado [Mr. CAMPBELL] would vote ''yea.''

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 8, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—82

Abraham	Frist	Mikulski
Akaka	Gorton	Moseley-Braun
Ashcroft	Graham	Moynihan
Baucus	Grams	Murkowski
Biden	Grassley	Murray
Bingaman	Gregg	Nickles
Bond	Harkin	Nunn
Boxer	Hatch	Pell
Bradley	Hatfield	Pressler
Breaux	Heflin	Pryor
Bumpers	Hutchison	Robb
Burns	Inhofe	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Santorum
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Simon
Conrad	Kempthorne	Simpson
Coverdell	Kennedy	Smith
Craig	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Leahy	Thomas
Dole	Lieberman	Thompson
Dorgan	Lott	Thurmond
Exon	Lugar	Warner
Feingold	Mack	Wellstone
Feinstein	McCain	
Ford	McConnell	

NAYS—8

Brown	Glenn	Levin
Bryan	Helms	Reid
Dodd	Lautenberg	

NOT VOTING—9

Bennett	Domenici	Hollings
Campbell	Faircloth	Kyl
Coats	Gramm	Shelby

So the bill (H.R. 2880) was passed.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

Mr. DOLE. Under the previous order, there is 1 minute between each vote, if anybody would like to have it.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1124) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of January 22, 1996.

Mr. THURMOND. Mr. President, I am disappointed that the Senate has to consider the revised Defense authorization conference report for fiscal year 1996. To the dismay of many Members, President Clinton vetoed the original bill on December 28 because of his objections to: Deploying a missile defense system able to defend all 50 States; certifying that deployments of U.S. forces under U.N. command and control are in the national interest; and, requiring the President to seek congressional approval of funding of unanticipated contingency operations.

The primary reason for the President's veto of the bill was the administration's uncompromising opposition to deploying a system to defend the United States against ballistic missiles. The first duty of the President, as defined in the Constitution, is to defend America. Missile defense for America is a very achievable goal; it is hard to understand the opposition to providing protection for America.

Mr. President, we are told that there is no immediate threat, but I can assure you that when we are threatened, it will be too late to start. We will then be at the mercy of an aggressor's blackmail, or worse. In order to complete action rapidly on the renewed conference without further diluting the national missile defense provisions, the conferees dropped the NMD sections from the conference report. Although the conference report we are now considering does not include language on NMD, Republicans remain determined to enact forceful NMD legislation in the near future. I remain strongly committed to the deployment of a multiple-site NMD system by 2003 and am working with Senator LOTT, Senator SMITH, Senator KYL, and others in formulating a new bill.

Mr. President, the requirement to submit a supplemental request of funds to pay for contingency operations was also listed as a reason for the President's veto.

Unfortunately, President Clinton continues to deploy our military forces overseas for a variety of non-traditional military operations without due regard to cost or funding. These operations absorb significant human resources and funds which had been budgeted and appropriated for military readiness and modernization.

Our provision would merely have required the submission of a supplemental request to ensure that readiness is maintained, while at the same time allowing the Congress to carry out its constitutional responsibility. Although I disagree with President Clinton's argument that such a requirement is unconstitutional, the conferees agreed to change this requirement to a sense of Congress.

In his veto message, the President asserted that he thought his authority as commander in chief would be undermined by a requirement to certify that placing U.S. troops under operational control of the United Nations is in our national security interest. I do not understand how any President can possibly object to a requirement that explicitly states to the American people that any deployment of American troops is in the national interest. This was a broadly supported provision and the President's veto ensures that neither the Congress nor the President has seen the last of this common-sense legislation.

While I disagree with the objection, since certification is an accepted way

for Congress to exercise oversight responsibility, I do not want this important bill delayed by another veto. Further, if we had watered down this section as the President would have liked, the Congress would be abdicating its oversight responsibilities.

For these reasons, the conferees concluded that it would be better to drop the section in its entirety. A separate bill will preserve the integrity of Congress' intention to ensure U.S. forces are placed under UN control only when it is in the U.S. national security interest.

Mr. President, the House National Security Committee and the Senate Armed Services Committee have moved swiftly to resolve the President's objections to the previous defense authorization bill because we recognize the importance of the bill to our Armed Forces. This conference report retains the many important initiatives of the earlier bill.

The conference agreement contains a number of acquisition reform provisions which make it easier for Federal agencies to buy commercial technologies, while preserving the standard of full and open competition. Other initiatives range from improved quality of life for servicemembers and their families, to a full pay raise. Our Armed Forces should not have to wait any longer for the support they deserve.

Mr. President, I am pleased to say we will now have the opportunity to express our support for our military men and women by voting to approve the conference agreement on the National Defense Authorization Act for Fiscal Year 1996. I urge my colleagues to pass this conference report in a strong, bipartisan show of support for our Armed Forces.

Mr. President, I wish to express my appreciation to the able ranking Member, Senator NUNN, for the great contribution he has made to this bill. Without his cooperation and counsel it would have been very difficult to get this revised bill enacted.

Mr. NUNN. Mr. President, I am pleased to join with Senator THURMOND in support of the revised conference report on the National Defense Authorization Act for fiscal year 1996, which has just passed. The annual Defense authorization bill is one of the major responsibilities of the Congress each year. It has become the primary vehicle for fulfilling the responsibility of Congress, set forth in article I, section 8 of the Constitution, to raise and support the Armed Forces and to provide rules for the governance and regulation of our military forces. The fact that we have a Defense authorization bill that is likely to be approved by the Congress and signed by the President reflects the determination of Senator THURMOND, and many other Members, to make significant changes in the bill that was vetoed on December 28, 1995.

The Senate debated the first conference report on December 19, 1995. I voted against that conference report, which was the first time in my 23 years in the Senate, that I voted against a Defense authorization conference report. I had supported every previous Defense authorization conference report, including 6 years in which I served in the minority under two Republican chairmen. I concluded then that the conference report contained fundamental flaws that were contrary to the best interests of the taxpayers and the sound management of our national defense activities. On balance, the bill's bad policy outweighed its good policy. My floor statement on December 19 detailed the serious reservations that I had about the first conference report.

MAJOR CHANGES

Mr. President, the revised conference report satisfies a number of the concerns which I addressed in my December 19 remarks on the Senate floor in opposing the bill and in the President's veto message. I view these changes as very substantial.

The revised conference report completely eliminates the objectionable National Missile Defense language from the previous conference report. As I noted on the Senate floor, the language in the first conference report amounted to an anticipatory breach of the Antiballistic Missile Treaty. I had expressed serious objection, as had the administration, to that language. The language in the first conference report could have had a significant impact on Russian consideration of the START II Treaty which is designed to produce a major reduction in Russian nuclear weapons. The language also could have lead the Russians to abandon other arms control agreements if they conclude that it is United States policy to take unilateral action to abandon the ABM Treaty. All that language is has been removed from the conference report.

The revised conference report changes the first conference report in a number of other significant respects:

The new report completely eliminates the proposed restrictions on U.S. forces under U.N. command and control, which the administration had viewed as interfering with the constitutional prerogatives of the President.

The new report eliminates the mandatory requirement in the contingency funding provision for a supplemental appropriation, and replaces it with a sense-of-Congress provision, thereby removing another constitutional concern expressed by the President.

The new report completely eliminates the language which would have repealed the statutory authority for an independent Director of Operational Test and Evaluation—a key position in terms of ensuring unbiased tests of major weapons systems.

The new report makes it clear that the conferees support placing the oversight of special operations under a senior DOD official who is subject to Senate confirmation in order to ensure strong civilian control of special operations activities. The action of the conferees reflects the fact that when Congress created this position of Assistant Secretary for Special Operations and Low Intensity Conflict, we were not simply trying to give visibility to an Assistant Secretary. There are significant substantive differences between the Assistant Secretary of Defense for Special Operations and each of the other Assistant Secretaries. The position of Assistant Secretary for Special Operations is tied directly to a unique combatant command that exercises management powers similar to those of a civilian Service Secretary. The conference report makes it clear that there is a continuing requirement for a senior, Senate-confirmed official to exercise these responsibilities as the individual's principal duty.

The new report extends the time period for the sale of the naval petroleum reserve from 1 to 2 years. The 1 year period in the previous version was insufficient to ensure that the taxpayers would obtain the maximum value through knowledgeable competitive bidding.

The new report specifically requires consideration of costs and risks in the development of plans for future submarine technology. The previous report omitted these vital factors, which could have lead to a great deal of wasted effort on theoretical and impractical approaches to modernizing our submarine fleet.

IMPORTANT LEGISLATIVE INITIATIVES

The conference report contains important legislative authorities which I support, such as:

Important military pay and allowance provisions, including a 2.4-percent pay raise for the troops and a 5.2-percent increase in the basic allowance for quarters.

Approval of Secretary Perry's family and troop housing initiative, which would provide new authorities—including shared public and private sector funding—to finance needed construction and improvements in military housing.

Detailed acquisition reform legislation that complements last year's landmark Federal Acquisition Streamlining Act. Key provisions would: Use simplified procedures to streamline the process of procuring commercial products and services while preserving the requirement for full and open competition; reduce the barriers that inhibit acquisition of commercial products by eliminating the requirement for certified cost and pricing data for commercial products; streamline the bid protest process by eliminating the separate bid protest authority of the General Services Board of Contract Appeals and providing for all bid protests to be determined by the General Accounting Office; consolidate and clarify the standards of conduct for Federal officials in the acquisition process to ensure consistent treatment of such personnel on a government-wide basis.

Establishment of a Defense Modernization Account. This provision, which I sponsored, will encourage the Department of Defense to achieve savings in procurement, R&D, and operations and maintenance by allowing the Department to place those savings in a new account, the Defense Modernization Account. The Department could use amounts in the account to address funding shortfalls in the modernization of vital weapons systems.

CONTINUING FLAWS

I am disappointed, however, that the conferees retained a variety of flawed provisions that were contained in the previous conference report. I recognize that there was a reluctance to rewrite the entire conference report at this point in time, but I am particularly concerned about a number which are contrary to the best interests of the taxpayers and the national interest. I detailed the problems with these provisions in my floor statement on December 19, and I will simply highlight a number of my continuing concerns today.

EARMARKING

Mr. President, I am particularly concerned about the provisions of the bill which earmark the procurement of specific ships in specific shipyards. These anticompetitive provisions are contrary to the longstanding practices of the Armed Services Committee. In the past, we have provided appropriate guidance on the development and procurement of major weapons systems and to leave to the executive branch the process of awarding contracts. We have done this to ensure that the Government achieves the best price and quality based upon bids and proposals reviewed under merit-based criteria. We have endeavored to avoid legislation and conference report language which earmarks specific contracts to specific contractors. We have avoided earmarking because there is too great a danger that awards under such a system could be based on political and parochial considerations rather than the best interests of national defense. I am very concerned about the shipbuilding provisions of the conference report, which could lead to substantial unnecessary expenditures for the procurement of Navy vessels.

I am also concerned that section 1016 of the bill has the effect of earmarking a ship maintenance contract for a specific shipyard. This is a provision that not only precludes competition, it also directs work to be performed that the Navy says is unnecessary. Once we start down this route, other shipyards—as well as repair and maintenance contractors for aircraft and vehicles—will want their share of these directed, noncompetitive contracts. The Competition in Contracting Act is designed to save money through effective competition. From time to time, there are exceptions which can be justified on the merits in terms of industrial base considerations—but those decisions should be made on the basis of sound analysis and thorough consideration of executive branch views, not on the basis of legislated earmarks.

PROTECTIONISM

The conference report establishes new Buy American legislative provisions for ships and naval equipment which will result in enormous cost increases for naval vessels and which could produce an unfavorable reaction against U.S. military sales abroad—one of the strongest elements of our export economy. As a result of the conference, foreign countries which lose the right to bid on American contracts as a result of this provision will likely retaliate by imposing their own restrictions on American products, thereby damaging the export sector of the United States that currently has a strong surplus.

There is ample existing authority for DOD to exclude foreign companies from competing on contracts when there is a valid industrial base requirement for a domestic producer. The Department of Defense has not requested any additional legislative authority to impose specific Buy-American requirements on the components listed in the conference report. There has been no showing of a critical domestic industrial base need that would justify singling out these vessel components, among the hundreds of thousands of items procured by the Department of Defense, as warranting protection from competition. Mr. President, I find it strange that a Republican majority in the House and Senate committed to free trade and market competition, would inject the most sweeping Buy American provisions we have placed in a Defense authorization bill I have ever seen. This will damage the U.S. defense industry and the American taxpayer.

A more onerous Buy-American provision is set forth in the bill's authority to use sealift funds to purchase vessels for the National Defense Reserve Fleet. Unlike the Buy-American provision that applies to components, which I previously discussed, the provision governing National Defense Reserve Fleet vessels has no waiver authority. As a result, DOD would be precluded from purchasing foreign vessels for the five additional Roll-on/Roll-off ships called for in the mobility requirements study, despite the potential for major savings to the taxpayers. This provision could add over $1 billion to the cost of these ships. The result could be a bonanza for certain domestic shipbuilders at taxpayer expense, or—what is more likely—the Navy will decided that the cost is likely to be so high that the Navy might forego purchasing enough ships to meet mobility requirements. That would be bad for the taxpayers and bad for national defense.

UNWISE PERSONNEL POLICIES

The conferees have approved legislation mandating the discharge of HIV-positive servicemembers. Out of the 1.4 million members of the Armed Forces on active duty, only 1,150 are HIV positive. That is less than one-tenth of 1 percent. Moreover, these HIV-positive servicemembers constitute only 20 percent of the total permanent nondeployable personnel in the military. The other 80 percent nondeployable for reasons such as cancer, heart disease, asthma, and diabetes. The bill requires discharge only of the HIV-positive servicemembers—not any of the other medically nondeployables.

This is particularly unfortunate because many of those who are HIV positive are not adversely affected in terms of their ability to perform useful military service.

Mr. President, we need to put a human face on these statistics.

There is a sergeant with 16 years of service, with a wife and two children, who contracted HIV from a blood transfusion. He is performing sophisticated personnel management activities in a nondeployable status. When he heard about our bill, he said to his commander: ''The service is my life. I've given everything I have to it. When this bill passes, I'll be out of the service and out of a job. How am I supposed to support my family?'' What do we tell that sergeant and his family? How can we justify to the taxpayers the waste of 16 years of military training and education?

There is a female staff sergeant with 8 years of service who is assigned to a high level administrative position in one of the military departments. She contracted HIV from her husband, who subsequently died. She is the mother of a 4-year-old child. Under the bill, she will be out of the service, out of a job, and ineligible to reach retirement. She is perfectly capable of continuing her outstanding performance of duty, but now she will be fired.

There is an E–6 married for 10 years, who has a child and who is HIV positive. His service record includes a Navy Commendation Medal, two Navy Achievement Medals, and four sea-service deployment ribbons. His Navy Commendation Medal was awarded for automating a warehouse system that saved the Navy an estimated $2 million over a 2 year period. He has 12 years of service and has been HIV positive for 5 years. There is a reasonable likelihood that he could serve for many more yeas, with the potential to develop systems that will save millions more for the Navy. This bill deprives him of his livelihood and deprives and taxpayers of the contributions that he can make to greater efficiency and savings.

There is a sergeant with 13 years of service who is married, with three children. He is HIV positive, as is his wife and two of the three children. Under the bill before us, he is the only one of the family who will retain a right to DOD medical care. His family, including his HIV-positive wife and two HIV-positive children, will be excluded from any DOD health care. As a result of the bill, he will be discharged from service, lose his employment, lose his retirement potential, and lose his family's

medical care. This is an individual who is perfectly capable of performing military duties, yet we are going to throw away our investment in him and place him in dire financial straits. This is unacceptable.

Mr. President, these are but a few examples of the many productive servicemembers who will be discharged at great personal harm to them and their families, and at a great personnel investment loss to the taxpayers. This is not a situation where we have a large number of nondeployables. The numbers are small—well within the range of the number of nondeployables who have been retained on active duty under longstanding military manpower policies.

In my view, Mr. President, the HIV provision is counter productive should have been stricken from the bill. In an effort to forge a compromise, I proposed that the conferees establish a waiver procedures. My compromise proposal would have permitted a Service Chief and Service Secretary to recommend waiver of the mandatory discharge, on a case-by-case basis, when retention of the individual would be in the ''best interests of the Department of Defense'' or would ''prevent an unacceptable hardship for the individual service member and the immediate family.'' The majority conferees, however, refused to consider this approach.

It is my hope, Mr. President, that we will come to our senses, take a rational look at this policy, and repeal it before it can do any harm.

Other flawed personnel provisions include unwarranted restrictions on access of servicemembers and dependents overseas to abortion services at private expense and the unnecessary interjection of the judiciary into POW/MIA determination process.

CONCLUSION

Mr. President, I continue to be concerned abut these flawed policies as well as the others I discussed in my December 19 statement. In my judgment, however, in view of the important provisions contained in the conference report and the major changes that were made by the second conference, I believe it is time to enact these provisions into law and put this year's debate behind us. I will vote for the conference report, but it is my intent to propose amendments during the coming year to address the significant flaws that remain in the bill.

As I mentioned, Mr. President, I am pleased to join with Senator THURMOND in support of the revised conference report on the National Defense Authorization Act for fiscal year 1996. Of course, this bill is one of the major responsibilities of the Congress each year. Given the number of people who want to speak, I am going to make my remarks brief and summarize what is a very comprehensive bill.

Mr. President, I congratulate Senator THURMOND for his persistence and his tenacity and his dedication. Without that dedication and energy and leadership, we would not be here on this bill; certainly it would not have come back after it was vetoed.

Mr. President, the revised conference report completely eliminates the objectionable national missile defense language from the previous conference report. As I noted on the Senate floor in considerable detail on a number of occasions, the language in the first conference report amounted to an anticipatory breach of the Anti-Ballistic Missile Treaty.

Mr. President, we did have a compromise proposal that passed the Senate. That compromise proposal passed overwhelmingly in the Senate. It was changed in the conference, and that is what prompted the veto from the President. That Senate language, which is not in the report that has just passed, would still, I believe, be acceptable. Certainly, I hope we can work constructively in that regard this next year.

Mr. President, this conference report made a number of other significant changes, some of which were outlined in the veto message by the President. Others were changes that I had urged and that others had urged, including the extension of the naval petroleum reserve sale to 2 years, which I think is very important. The original bill, which was vetoed, had only 1 year, which could have put a tremendous amount of pressure and resulted in perhaps billions of dollars of loss in the competitive bidding process to the taxpayers of America.

The new report also eliminates restrictions on U.S. forces that the White House had objected to. It eliminates the mandatory requirement on contingency funding provisions for supplemental appropriations, replacing it with a sense of Congress. It also eliminates the language which would have repealed the statutory authority for an independent Director of Operational Test and Evaluation, and makes it clear that the conferees support continued oversight of the special operations under a DOD civilian official who is subject to Senate confirmation.

In addition, Mr. President, this conference report has a number of important legislative provisions, including military pay and allowance, including basic allowance for quarters for our military forces, including Secretary Perry's family and troop housing initiative, including detailed acquisition reform, which is enormously important, which streamlines the Federal Acquisition Streamlining Act, and also including, I think, an important new provision, a defense modernization account, which I sponsored, which in effect says to each of the services, if you save money on any of your research and development procurement, if you find ways to save money, you can put the money in this specific account; and, subject to further approval of Congress, which I think would be almost automatic, hopefully, they will be able to spend this money on modernization.

This gives the military a real incentive to save money and put it into much higher priority purposes because we all know we are going to be very short in modernizing our force in the outyears.

Mr. President, the Senator from Arizona has enumerated a number of provisions which he objects to in this bill. I too have some concerns about this bill. I share his concern about earmarking of specific ships in specific shipyards. I think that works against the best interests of the taxpayers. I think it is very poor procurement policy, and I believe it is a real danger in terms of eroding the kind of support we need for the defense bill from the broad segment of the American people concerned about how much money we spend. This is counterproductive, and it really means there is the danger we could go more and more toward awarding ship contracts to parochial interests or political interests rather than on the merits and based on true competition. That is something I hope we can correct next year. I raised that question over and over again to no avail.

Mr. President, this bill also, as the Senator from Arizona pointed out, has some buy American provisions in it that will cost us lots and lots of money in terms of lost trade because we will basically be taking a trade advantage we have in defense articles and saying we are not going to buy your articles and then we are going to get retaliation and we are going to have our own defense contractors and our own workers suffer. So in order to help a few defense contractors, we are hurting a much broader segment and we are hurting our overall work force when we do that. I hope we can take corrective steps on those buy American provisions which I will not enumerate in the interest of time.

One other subject which I think has to be mentioned this evening is the provision in this bill on mandating by law the discharge of HIV positive service members. This was not requested by the Department of Defense, not requested by any of the military services. Out of 1.4 million members of the armed services on active duty, 1,150 are HIV positive. That is less than one-tenth of 1 percent. Moreover, these HIV positive service members constitute only one-fifth or 20 percent of the total permanent nondeployable personnel in the military. The other 80 percent are people who cannot be deployed into combat for reasons such as cancer, heart attack or heart disease, asthma and diabetes. The bill requires discharge only of HIV positive service members, not any of the other medically nondeployable personnel.

This is particularly unfortunate because many of those who are HIV positive are really not adversely affected in terms of their ability to perform their job in a useful way. If they are adversely affected in that regard, certainly there is every right to discharge under the current law.

Mr. President, we need to put a human face on this matter rather than treating it simply as some abstract political move which it has been treated as so far. Let me just give the Senate three or four real human examples that already have come to my attention that are going to suffer serious consequences as a result of the provision in this bill which I think is very unwise. There is a sergeant with 16 years of service, with a wife and two children, who contracted HIV from a blood transfusion. He is performing sophisticated personnel management activities in a nondeployable status—16 years of investment we have in this sergeant that has tremendous experience in his area of expertise. When he heard about our bill, he went to his commander, and he said, ''The service is my life. I have given everything I have to it. When this bill passes, I'll be out of the service and out of a job. How am I supposed to support my family?'' What do we tell that sergeant and his family, Mr. President? How can we justify to the taxpayers the waste of 16 years of military training and education?

Another example. A female staff sergeant with 8 years of service—these are actual examples—who is assigned to a high-level administrative position in one of the military departments contacted HIV from her husband who subsequently died. She is the mother of a 4-year-old child. Under the bill, she will be out of the service, out of a job, and ineligible to reach retirement even though she already has put in 8 years in the military and performs her job very ably every day. She is perfectly capable of continuing her outstanding performance of duty but now she is going to be fired by law.

We do not give discretion to anyone. We just say, Fire them all. Fire them all. They have HIV. Get rid of them.

It does not matter how they got it. It does not matter whether it is their fault—even a blood transfusion, getting it from your wife or from your husband. We are firing them.

Another example. There is an E–6 married for 10 years who has a child and is HIV positive. His service record includes a Navy Commendation Medal, two Navy Achievement Medals, and four sea-service deployment ribbons. His Navy Commendation Medal was awarded for automating a warehouse system that saved the Navy an estimated $2 million over a 2-year period. He has 12 years of service, has been HIV positive for 5 years. There is a reasonable likelihood he could serve for many more years with the potential to develop systems that will save millions of dollars for the Navy. This bill deprives him of his livelihood, deprives the taxpayers of his contributions that he can make to the military service.

Another example. A sergeant with 13 years of service, married with three children, is HIV positive as is his wife and two of the three children.

Under the bill before us, he is the only one in the family who will retain the right to DOD medical care. His family, including his HIV positive wife and two HIV positive children will be excluded from any DOD health care as a result of this bill. As a result of this bill, he will be discharged from the service, lose his employment, lose his retirement potential, and lose his family's medical care. This is an individual who is perfectly capable of performing military duties, yet we are going to throw away our investment in him, and place him and his family in dire financial straits.

Mr. President, as everyone in this Chamber knows, I led the fight in making sure that we have a sensible provision in terms of gays and lesbians serving in the military service. That is not what we are talking about here. We are talking about punitive action. We are talking about action that does not make any sense from any point of view.

During the consideration of this bill and in conference, I proposed a compromise. I proposed that the conferees establish a waiver provision. My compromise proposal would have permitted a service Chief and a service Secretary—would require both, both the uniformed military and the civilian to recommend waiver of the mandatory discharge that is in this bill on a case-by-case basis, when retention of the individual would be in the best interests of the Department of Defense or would present an unacceptable hardship for the individual servicemember and his immediate family. The majority of conferees, however, did not consider this approach.

I have given just a few examples where there is going to be tremendous harm to families, great personnel investment loss to the taxpayers. The numbers are small but the human tragedy here is going to be very large for no justifiable military reason. We are not talking about unit cohesion now. We are not talking about morale in the military. We are talking about people who can do their job and who may have been infected with HIV for no fault whatsoever of their own.

I am concerned about these flawed policies. I am also concerned about the overseas abortion services restrictions that are in this bill, and I am also concerned about, as Senator MCCAIN said, what I believe to be the unnecessary interjection of the judiciary into the POW/MIA termination process.

However, in my judgment, the overall balance is in favor of passage of this bill, and it has passed. I believe it is time to enact these provisions into law and put this year's debate behind us. And, of course, I voted for the conference report because of my overall feeling of the necessity of getting this report passed for the benefit of our military services and our national security. But we have some badly flawed policies in this bill that need protecting, and I will be working with others to try to change those provisions in the coming year.

THE REVISED CONFERENCE AGREEMENT ON THE FISCAL YEAR 1996 NATIONAL DEFENSE AUTHORIZATION BILL

Mr. MCCAIN. Mr. President, I regret very much that I come to the Senate floor today to speak against the revised conference agreement on the fiscal year 1996 national defense authorization bill. To my dismay, this revised conference agreement is significantly worse than the first agreement. It is another example of the inability of Congress to put aside the wasteful, pork-barrel spending practices of the past.

OPPOSITION TO ORIGINAL CONFERENCE AGREEMENT

Mr. President, I voted against the original conference agreement for several reasons, principally:

The inclusion of an additional $493 million for the B–2 bomber program.

Authorization for a third *Seawolf* submarine.

The $700 million for unrequested, low-priority military construction projects.

The $777 million for unrequested equipment for the Guard and Reserve, without regard to the priorities of the Guard and Reserve.

Legislation placing unnecessary and counter-productive ''Buy America'' restrictions on DOD's procurement decisions, to the detriment of our relations with some of our most faithful allies.

Legislation directing the noncompetitive allocation of four attack submarine contracts to Electric Boat and Newport News shipyards.

Myriad earmarks for entities and organizations favored by individual Members of this body.

And finally the unworkable, unnecessary, and burdensome new provisions dealing with POW/MIA issues.

For all of these reasons, which are discussed in more detail in my statement contained in the December 19, 1995, CONGRESSIONAL RECORD, I voted against the original conference agreement on this bill.

SUPPORTING THE COMMITTEE AND THE AUTHORIZATION/APPROPRIATION PROCESS

Now, I know that some of my colleagues were disturbed at my decision to cast my vote against the bill, even though the bill did pass the Senate. But, Mr. President, let me state very clearly that it was not an easy decision for me to make.

I have great respect for Chairman THURMOND, and I know that he worked very hard to accomplish the principal task of the Senate Armed Services Committee—enactment of the annual defense authorization legislation. It saddens me that, to date, that goal has not been accomplished.

Having served for more than 8 years on the Senate Armed Services Committee, I also clearly appreciate the Committee's crucial role in the Congress' defense budget review. As I said on the floor last December, this Committee has been at the forefront of the debate on national security policy and defense programs since the days of John Tower's chairmanship. The authorization

committee, with its historically unbiased and nonparochial approach to defense issues, is an essential check-and-balance in the congressional budget process. In my view, it would be in the best interests of our Nation's national security to sustain the relevance and viability of the Armed Services Committee in the defense budget and policy review process.

For these reasons, I voted in committee last summer to report a defense authorization bill to the Senate floor, and I also reluctantly signed the original conference agreement. In both instances, I opposed many of the principal provisions in the bill. In taking these actions, I was not supporting the bill itself. I was supporting the Chairman, the Senate Armed Services Committee, and the congressional budget review process.

When it came time to cast my vote in the Senate on the original conference agreement, I came to the conclusion that the many positive aspects of the bill were outweighed by its negative provisions discussed above. I therefore voted against the original conference bill last December.

PROBLEMS WITH THE REVISED CONFERENCE AGREEMENT

When the President vetoed the original conference agreement late in December, I was hopeful that some of my objections would be addressed in a revised conference agreement. To that end, I wrote to Chairman THURMOND on January 4, 1996, to ask that he revisit some of these issues. I made it very clear that I could not support a revised conference agreement which does not address my specific concerns with the original, vetoed bill.

But my concerns were, unfortunately, ignored.

VETO FIXES

Mr. President, while the conference agreement does address the three major objections raised by the President, in my view, the conferees overreacted by stripping two provisions from the bill and substantially modifying the third.

I was disappointed that the conferees chose to eliminate entirely the policy language for national missile defense programs. I fully support the early deployment of effective missile defense at an affordable cost, which is what the conferees directed in the original agreement. Unfortunately, the conferees chose to strike this entire section from the bill, instead of working to modify it slightly to achieve some progress toward a meaningful effort to protect the people of the United States from accidental or unauthorized attacks.

The conferees also chose to remove entirely the language restricting the President's ability to place U.S. military forces under the command and control of the United Nations. The President did object strongly to the requirement to certify a national security interest before placing our troops under U.N. command. However, it seems to me, at a minimum, that it would have been useful to retain some statement of the Congress' strong objection to this type of action, as a base upon which to proceed with additional legislation during this year.

Finally, the conferees caved in to the President's objections to language requiring submission of a timely supplemental appropriations request to pay for contingency and peacekeeping operations. This language constituted nothing more than an expansion of the current law which requires submission of a Federal budget request each year at a specified time. Changing the conference language from a requirement to a sense of the Congress provision seems to be a very fine distinction and an unnecessary change.

Certain other changes were made to address the President's objections to the bill, most of which I do not oppose. However, I should note that very little was done to address a major concern raised by the President, namely, the noncompetitive allocation of shipbuilding and ship repair contracts. Another area that was not resolved to the satisfaction of the administration was the ''Buy America'' language, to which I also objected. Both of these are provisions to which I also objected.

BUY AMERICA

Mr. President, let me take a moment to discuss the ''Buy America'' restrictions in this bill. The conferees did remove a waiver provision which would have had the unintended consequence of rewarding nations with a history of retaliatory trade practices. However, the bill adds ''Buy America'' restrictions for propellers, ball bearings, and many other items which, frankly, are counterproductive to our ongoing trade relations with our most important allies.

As an example, the British placed orders for approximately $5 billion in United States-made defense articles last year; United States orders of British-made defense items totaled only about $800 million last year, a ratio of 4-to-1 to our economic advantage. This is a somewhat unusual year, in terms of the size of British orders to United States companies. I am advised that, on average, the British Government purchases twice as much defense equipment from the United States as we do from them.

Yet, even with this obvious economic advantage to the United States of doing business with the British Government, the new restrictions in this conference agreement would require the Pentagon to purchase many items from United States manufacturers rather than allowing competition from British and other foreign manufacturers. The result is that the U.S. taxpayer will not necessarily get the best deal on the price of these goods, and our trade relations with our allies will suffer as a result.

Let me take a moment to list some of the specific defense items that the British Government has procured from United States contractors.

Laser guided bombs from Texas Instruments.

C–130J aircraft from Lockheed-Martin.

Airborne stand-off radar system from a Loral/Raytheon team.

CH–47 helicopters from Boeing.

Infra-red countermeasures capability from Northrop Grumman.

Torpedo engines from Sundstrand.

I should also note that the British Government has announced its intention to sign contracts for two major procurements which affect contractors in my State of Arizona, namely, McDonnell-Douglas' Apache helicopters and Hughes' Tomahawk missiles.

Let me take a few minutes to talk about some of the specific domestic source restrictions in the bill.

The bill establishes in permanent law a requirement to buy the following defense items from U.S. suppliers:

Welded anchor and mooring chains, which benefits one company in Pennsylvania and possibly another in Washington State.

Air circuit breakers, which benefits two companies in Pennsylvania.

Vessel propellers of at least 6 feet in diameter, which benefits companies in Mississippi and Pennsylvania, and possibly Massachusetts.

Enclosed lifeboats, which benefits a company in Florida.

Ball and roller bearings, which benefits a company in South Carolina.

Gyrocompasses, benefiting a company in Virginia.

Electronlic navigation chart systems, benefiting 12 companies in Maryland, California, Iowa, Utah, Massachusetts, and Virginia.

Steering controls, benefits six companies in Louisiana, California, Wisconsin, and Georgia.

Pumps, benefiting 25 companies scattered throughout the United States.

Propulsion and machine controls, benefiting a company in California and one in Canada.

I find it interesting to note that these restrictions are usually justified on the basis of industrial base concerns, but in 6 of these 10 cases, there are at least 2 U.S. manufacturers of these items, and in some cases as many as 25 U.S. suppliers. Where is the threat to our industrial base for these items?

Several provisions in the bill have specific relevance to our defense trade with the British. The bill restricts the purchase of ball and roller bearings; there is a competent British manufacturer of these items. The bill also restricts procurement of propellers for naval vessels; a competent British source exists for these items. British companies are also capable of producing electrical navigation charts, propulsion systems, and a number of the other items that are limited in this bill to American companies.

This bill adds a number of new Buy America restrictions, although not by any means all of the items the House

bill would have protected. I can assume that there are still other industries who might want to take advantage of the apparent willingness of the Congress to enact this type of protectionist legislation. If that were the case, if even more defense items were added to the domestic sources restrictions for Pentagon procurement, the negative impact on both foreign and U.S. business could be far greater.

For example, many British companies have entered into teaming arrangements with United States companies to compete for contracts for some very important United States military programs. Shorts Bros., teamed with Lockheed-Martin, is interested in the Starstreak air-to-air missile system for the Apache helicopter. British Aerospace, teamed with Hughes, is interested in the AIM–9X advanced short-range air-to-air missile program. Westlands, teamed with McDonnell-Douglas, is interested in the EH–101 combat support helicopter for the Navy. GEC, teamed with Northrop Grumman, is interested in the Army's Infra-red countermeasures program.

Judging by the enthusiasm of Congress for legislating Buy America restrictions, some of these British companies could, in the future, be precluded from competing for United States defense business. The secondary impact of additional Buy America restrictions would then be preventing their U.S. teaming partners from competing for these contracts. That is an outcome that I suspect many of my colleagues had not considered.

Mr. President, some of these restrictions have been in place for many years. The Buy American Act of 1933 implemented the first restrictions on U.S. Government purchases of foreign-made products. Since this type of protectionist trade legislation was initiated, items such as food, clothing, fabrics, watches, bolts, and nuts have been required to be purchased from American companies. In the defense field, the Pentagon must purchase from American companies such items as buses, machine tools, bearings, anchor and mooring chains, and numerous other items.

Let me cite one particular instance in this bill. The ball bearing industry in this country has been protected from foreign competition for many years, but the existing Buy America restriction ended last October. This bill extends the restriction until the year 2000. It seems to me that, if an American company cannot position itself to compete in the international marketplace after a period of protection from competition, perhaps there is more benefit to the American taxpayer in permitting foreign companies to compete for that Government business than in propping up a weak American concern.

Mr. President, I talked with the British Defense Minister last week. The British Defense Minister made it very clear, very clear, that, if these Buy America provisions prevailed, they will have to reevaluate their policies of purchasing defense and other products from the United States of America.

I cannot understand why the conferees decided to implement these additional protections for U.S. businesses. In my view, they are extremely shortsighted, in that they do not take into account the distinct possibility that our trading partners may understandably decide to retaliate against these unfair, protectionists restrictions by denying the United States access to their markets, defense or otherwise.

It is a bizarre circumstance, in my view, when the U.S. Congress concocts legislation which operates counter to the best interests of the taxpayer and which threatens our positive defense trade balance with allies like the British. I generally do not favor trade restrictions of any kind. In particular, the defense trade restrictions contained in this bill are not necessary to protect any U.S. defense industrial base. And further, defense trade restrictions negatively affect our defense capability by inhibiting the Pentagon's ability to buy the best weapons systems at the cheapest cost from any supplier in the world.

I had hoped that the unnecessary restrictions added in this bill would be removed in the second conference, as requested in the President's veto message, but they were not. I intend to work to remove these counter-productive domestic source restrictions to ensure free and open markets for defense goods and services. A true two-way street arrangement with our loyal allies, such as the British, is the best way to ensure the future availability of defense items which are vital to the continued readiness of our Armed Forces and those of our allies.

NEW PROVISIONS AND REVERSALS

Mr. President, beyond the action of the conferees in addressing some of the major veto objections, it is entirely incomprehensible to me that the conferees decided to add entirely new material and to reverse previous good decisions in order to satisfy some Members' parochial interests. These additions and changes were not even mentioned in the President's veto message.

Let me review just a few examples of programs which were added in the second conference agreement. These earmarks were gratuitously added to match funding included in the already enacted Defense Appropriations Act.

Some $10 million was earmarked for Aurora Borealis research, called the HAARP Program, in Alaska.

This program is a perennial congressional add-on, and its relevance to military requirements is completely inexplicable; 2 years ago, the program was described as a technology which would allow the United States military to locate tunnels and caverns in North Korea which could hide artillery pieces. Last year, an article in the Washington Post, April 17, quotes Pentagon and contractor officials who claim that the program will enhance communications with submarines. Still others claim that the program could seriously disrupt communications around the globe.

For a program which has been ongoing for a number of years and which is estimated to cost $160 million, it seems that a clear military purpose should be identified for it. And it seems that the Pentagon should be requesting funding for this program if it is of any military relevance whatsoever.

Some $10 million was earmarked for the Thermionics Program, in addition to $12 million in prior year funds which are directed to be transferred to the program. I understand that this earmark was mistakenly dropped in the conference agreement. However, in my view, that does not make any less onerous the fact that an earmark has been added in bill language that was not included in either of the Senate or House versions of the bill, or in the original conference agreement.

In addition, the revised conference agreement contains a legislative earmark of $4 million for a Counterterror Explosives Research Program, which was not included in the bill language in either the House or Senate version of the bill or in the original conference agreement. Apparently, this earmark was moved from the report language to the bill language, in exchange for the inclusion of the thermionics earmark in bill language. An interesting trade-off.

The conferees also reversed several policy decisions contained in the first conference agreement. For example:

The decision to shut down the unnecessary National Drug Intelligence Center in Pennsylvania was reversed, and the new conference agreement provides $20 million for its continued operation.

Mr. President, let me take just a moment to discuss this issue. The fiscal year 1994 Defense Appropriations Act directed DOD to fund the staff and operation of the National Drug Intelligence Center [NDIC], located in Johnstown, PA, for the Department of Justice. Over the past 5 years, DOD has spent over $102 million in support of this center.

Because of concern over the amount of defense funding being used to fund a Department of Justice operation, the Senate adopted a provision in its version of the fiscal year 1996 National Defense Authorization Act limiting DOD support to providing 36 skilled technicians. What this means is that the DOD would no longer pay the salaries of the 209 Department of Justice employees at the center, nor would it pay for the travel and other associated costs of these employees. I believe that this is more than fair. If the Attorney General believes that NDIC provides a valuable service to Justice Department operations, then the Department of Justice should pay for its operations.

The original conference agreement included the Senate's provision. Unfortunately, when the bill came back from

conference the second time, the restrictions had been removed and $20 million was authorized for operation of the center in fiscal year 1996.

Mr. President, there is no defensible reason this issue was reopened in conference. It was not mentioned in the President's veto message. Nobody has been able to justify why the Department of Defense should be paying the bill for this Department of Justice operation. Apparently, however, one powerful Member of Congress had a special interest in this project, and so it was restored.

The conferees also reversed a decision of the first conference to prohibit the Department of Defense from entering into a long-term lease agreement for a financial management educational institution in Southbridge, MA, without benefit of competitive, merit-based selection. This is, of course, unacceptable, Mr. President.

Again, let me take a moment to discuss this provision in the revised conference agreement. While I understand that the legislation still requires the Department of Defense to choose the site of the Defense Business Management University by using a merit-based competition, I believe that the original conference agreement was much clearer in demonstrating the intent of Congress that such a site be chosen on its merits.

I believe that the administration made an error in judgment when it decided to spend $69 million on a lease for a privately-owned facility which will have to be substantially renovated to accommodate the requirements of a teaching institution. There is no justification for this when there are suitable facilities, already designed and equipped to perform this activity, at many of the military bases that are being closed through the BRAC process.

I have always maintained that competition should be used in selecting sites to host Federal facilities, and I will be monitoring the selection process of this site to ensure that the American taxpayer's interests are protected.

Finally, Mr. President, the conferees struck from this revised agreement the prohibition on obligating funds for five unauthorized, earmarked projects contained in the fiscal year 1995 Defense Appropriations Act.

Mr. President, since the days of John Tower's chairmanship of the Senate Armed Services Committee, the Senate Armed Services Committee has faithfully fulfilled its role of authorizing the expenditure of defense funds. While there is some disagreement about the extent to which the authorizing committee should insist on a say in the allocation of funds, the committee has maintained a clear oversight role in this regard. Unfortunately, the decision of the conferees to strip this provision from the bill essentially waives the requirement that appropriations must be authorized on a line-item level.

I suspect also that this provision was waived because the five specific programs for which appropriations were provided without authorization are programs which have special interest for certain Members of Congress. The programs for which the original conference agreement had prohibited the obligation of unauthorized appropriations were: $2.4 million for the TAR-TAR support equipment program for the Navy; $8 million for natural gas utilization equipment for the Navy; $7.5 million for a munitions standardization-plasma furnace technology program for the Army; $2 million for a cold pasteurization/sterilization program for the Army, and $500,000 for an air beam tents program for the Army.

By striking the prohibition on spending approximately $20 million for these five programs, this revised conference agreement provides a retroactive authorization for these unauthorized appropriations, a decision with which I strongly disagree.

Mr. President, again, I find it incomprehensible that the conferees on this bill decided to reconsider matters which had been resolved by the full conference and which had nothing whatsoever to do with the President's veto of the original conference agreement.

ORIGINAL OBJECTIONS REMAIN

I am also distressed that none of the provisions to which I objected in the first conference agreement were satisfactorily addressed in this new agreement. So, like the first conference agreement, nearly $4 billion of the $7 billion in defense spending added by Congress is wasted on unnecessary programs like the B–2 bomber, low-priority military construction projects, unrequested equipment for the Guard and Reserve, earmarks for Members' special interest items, and the like.

CONCLUSION

Mr. President, for reasons which are not readily apparent to me, not all members of the Armed Services Committee were appointed as conferees for the second conference on this bill. I and a number of my other committee colleagues did not serve as conferees, and therefore, we did not have an opportunity to discuss or vote on any of the changes included in this new agreement.

For many years, I have been dedicated to exposing to the public instances of congressional mismanagement of taxpayer dollars. I have spoken out against wasteful spending and earmarks whenever it appears, whether in authorization or appropriation legislation. But the wasteful spending that is most offensive to me is that which is included in defense spending bills. Pork-barrel spending of defense dollars diverts resources from higher priority military requirements and potentially squanders the support of the American people for an adequate defense budget, and without that support, insufficient resources devoted to defense may potentially endanger the security of our people.

The examples I have cited today—which bear little or no relevance to military requirements—are the most dangerous kind of pork-barrel spending. By approving the earmarks and add-ons in this bill, Congress is diverting scarce defense resources from other important defense programs which are necessary to ensure the security of our Nation. No other wasteful spending carries with it the potential for such great danger. The American public should be disturbed by this egregious waste of their money, and for this reason, I intend to vote against this revised conference agreement.

Mr. President, I spoke earlier about my respect for Chairman THURMOND and the role of the Senate Armed Services Committee in the authorization and appropriation process. Looking at the magnitude of the wasteful spending in this bill, and the unprecedented degree of earmarking of funds for the narrow interests of some Members of Congress, my disappointment tempts me to rethink my view of the committee's role in the process. However, I am convinced that the bill before the Senate today is an anomaly and not a harbinger of the authorization process in the future. I will certainly do everything in my power to ensure that the committee retains its traditional, nonparochial approach to oversight of defense policy and budget issues, with the best interests of our military services and our national security as the highest priorities.

Mr. President, I want to say again if we continue to do this, if we continue to add unneeded, unwanted, unnecessary pork barrel spending on defense authorization appropriations bills, the American people will lose confidence that their defense dollars earmarked for defense are being wisely and efficiently spent and we will not get the necessary funds to maintain this Nation's vital national security interests.

This has got to stop, Mr. President. I hope that next year we can begin anew and recognize that we cannot do these things because we do not have the money in the defense budget anymore, and it is an abrogation of our responsibilities to the American taxpayer. Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I support the conference report on the Defense Authorization Act for Fiscal Year 1996, S. 1124.

I voted against the earlier conference report last December. That bill had many serious defects that would have harmed our national security, rather than strengthening it. President Clinton vetoed the bill, and the veto was sustained by the House of Representatives earlier this month.

In the conference, the Senate and House have reconsidered many of the key issues cited by those of us who opposed the bill and by the President in justifying his veto. Both sides have made a genuine effort to reach common ground. As a result, the current bill contains many noteworthy improvements.

I want to commend the Committee Chairman, Senator THURMOND and the distinguished Ranking Member, Senator NUNN, as well as their counterparts in the House, Congressman SPENCE and Congressman DELLUMS, for their leadership in guiding this conference. In addition, I commend Senator EXON, Senator WARNER, Congressman MONTGOMERY and Congressman BATEMAN and the other conferees for their constructive roles in producing this much improved bill.

First and most important, the provision in the earlier bill calling for deployment of a national missile defense system has been dropped. That provision would have called upon the United States to violate the landmark Anti-Ballistic Missile Treaty, waste billions of dollars on an unnecessary Star Wars system, and would have undermined the START II Treaty with Russia. That provision was the worst defect in the earlier bill, and I commend the conferees for deleting it.

In addition, two other objectionable provisions were dropped. One would have limited the ability of the President to put U.S. Forces under operational or tactical control of the United Nations. Limiting the President's control of U.S. forces in the field restricts his constitutionally-guaranteed powers as commander-in-chief.

In addition, the previous bill restricted the President's ability to carry out contingency operations as he sees fit. This too was an unwarranted restriction on the President's ability to carry out his duties and to deploy troops whenever and wherever U.S. security demands it.

Despite these key improvements, objectionable provisions in the bill remain. One of the worst provisions calls for the mandatory discharge of any members of the armed forces found to be HIV-positive. This provision has no legitimate purpose.

It singles our for discriminatory treatment a group of loyal American servicemen and women who have contracted HIV. These men and women are still able to serve in the armed forces, and they do so under the same conditions as troops who suffer from other debilitating diseases, such as hepatitis, cancer, diabetes, asthma, or heart disease. Those individuals, however, are not summarily discharged, and neither should persons with HIV.

The Defense Department opposes this provision. The Department is able to meet the needs of force readiness and treating these individuals with respect for the service they provide their nation.

Soon, stories will begin to appear of loyal soldiers, sailors, marines, and airmen who have been thrown out into the street, denied the chance to continue serving their country, unable to obtain health insurance for their family members who are also afflicted with this condition.

I hope that supporters of this provision will recognize both the bigotry and cruelty that underlie it, and will repeal it as soon as possible. I believe that a majority of Congress favors its repeal, and I will work over the year ahead to achieve such repeal.

The conference report also includes a provision that prohibits service women based overseas from obtaining abortions with their own private funds in U.S. military medical facilities. I opposed this provision when it was included in the Defense Appropriations bill, and I oppose it now. We have always provided access for service women overseas to obtain the same quality health care available to those on duty in the United States, and continue to do so.

I am also concerned about several issues related to the shipbuilding provisions in the bill. We have examined these provisions in detail in the Seapower Subcommittee, and I believe they will cause uncertainty, inefficiency, and unnecessary expenditures in the Department's shipbuilding program.

Finally, I oppose the bill's endorsement of $7 billion in spending above the level requested by the Pentagon. This is the level of spending provided in the Defense Appropriations bill, previously enacted, which I opposed. It is wrong for Congress to force the Administration to accept a level of defense funding above what the Joint Chiefs of Staff and the Secretary of Defense have requested.

It is especially wrong to do so at a same time when key programs that benefit other Americans are being severely shortchanged by Republican budgets. ''Let the Pentagon eat cake'' is no answer to our budget impasse.

Despite these defects, I believe that on balance, the overall bill deserves to be enacted. We need to protect our national defense, and this bill is already long overdue in the fiscal year. The worst defects in the earlier bill have been eliminated, and we will continue to seek opportunities in other ways to remedy the remaining defects.

Mr. WARNER. Mr. President, I am pleased to join with the distinguished chairman of the Armed Services Committee in supporting the conference report on the DoD authorization bill which is currently before the Senate. Although this bill is the result of further compromise with the administration and, therefore is not all we hoped for, it is still a good bill.

We must keep in mind that there are important items in this Conference Report that would have been lost if a compromise had not been reached and the President's veto had been allowed to stand.

In addition to a pay raise of 2.4 percent and a 5.2 percent increase in basic quarters allowance, there are numerous other provisions in this bill to enhance the quality of life for our military personnel and their families, including new authorities to improve the quality and quantity of military housing; to improve health care and dental care for both active duty personnel and reservists; additional increases in special pay and allowances; and COLA equity for military retirees.

In addition, this bill enacts a plan, which I introduced in the Senate, for the construction of nuclear attack submarines that will ensure adequate and effective competition in the years ahead.

All of these things would have been lost if we had not been able to reach a compromise.

However, we should not lose sight of the important provisions which we were forced to drop in order to get the President's commitment that he would sign the conference report. I would like to join with my Republican colleagues in putting all on notice that the battle for enactment of these provisions is far from over.

Despite President Clinton's objections, I believe that it is vital that we enact a plan to provide for the deployment of an effective ballistic missile defense system for our nation. This is a basic responsibility of a government to provide for the security of its people. We have not done enough in this area. I am pleased that the provisions on theater missile defenses which will provide protection for our troops deployed overseas were retained in the final version of this bill, but we must continue to push for a national missile defense system.

As I listened to the President's State of the Union address earlier this week, I was struck by the President's comments that Russian missiles are no longer targeted at America's children. As we all know, those missiles can be retargeted on a moment's notice. The Russian capability to destroy our nation with their intercontinental ballistic missile force remains.

Moreover, the capability of Third World countries and rogue nations or terrorists to acquire weapons of mass destruction and ballistic missile delivery systems is growing.

The way to ensure that our children will be protected is to build a defensive capability to counter such attacks. I would rather rely on a United States defense system, rather than Russian promises, to protect our great land.

I am working with my Republican colleagues to draft legislation on national missile defense, which we will introduce in the near future.

The second issue I would like to address is U.N. command and control. I have grave reservations about placing U.S. troops under U.N. command and control. That is why I joined, over a year ago, with Senator DOLE and others in cosponsoring S. 5 to put conditions and restrictions on the President's ability to place U.S. troops in such command arrangements. Unfortunately, even the scaled-back version which appeared in the original conference report on this issue—which essentially amounted only to a reporting requirement—was rejected by the President. Again, this issue will not be forgotten.

As a final note, I would like to comment on the President's objections to the additional $7 billion contained in this conference report—an amount that was above the President's request for defense. At the time that the President and other administration officials are complaining about added dollars for defense, they are finding more and more ways to spend those defense dollars.

I learned this morning that the Bosnia operation is now estimated to cost $2.5 billion. This is up from the original estimates of $1.5–$1.9 billion. And this does not include the roughly $600 million in reconstruction aid for Bosnia to which we have committed. I was alarmed to learn that the Administration will propose that at least the first $200 million in reconstruction aid will be paid for out of the DOD budget. In my opinion, this is but the first step in a raid on the defense budget to find the vast sums that will be needed to rebuild Bosnia. I will resist this effort and work with my colleagues to find alternate, nondefense sources of funds for this portion of the Bosnia mission. The Defense Department is doing more than its fair share. It is time to look elsewhere for a bill payer.

In addition to the Bosnia operation, there are ongoing contingency operations in other nations—also not budgeted for—that will result in a request for approximately $500 million in supplemental funding for the Defense Department in the current fiscal year.

Add to that the millions of dollars DOD will pay for the F–16s that we have recently promised to send to Jordan, and you see how our defense dollars are quickly eroding.

Mr. President, I strongly believe in maintaining a robust defense capability. This conference report—despite its shortcomings—contributes to that goal.

DEFENSE AUTHORIZATION ACT: NO PROVISION FOR MISSILE DEFENSE

Mr. HELMS. Mr. President, I am deeply troubled that the Defense Authorization Act for fiscal year 1996 contains not a syllable of the decisive language regarding ballistic missile defense so prominent in the original bill. When he vetoed the original authorization, President Clinton gutted provisions designed to ensure the protection of American citizens against attack by ballistic missiles carrying nuclear, chemical, or biological warheads.

So, Mr. President, America is being held hostage to an outdated concept of deterrence that is truly MAD. I have come to this floor to challenge the wisdom of the ABM Treaty innumerable times, and I feel obliged to do it again. The frenzied, fanatical defense of the ABM Treaty by some is rooted in the mentality of the cold war.

The truth is, the threat to the United States has changed, and a lot of folks have missed the boat. The intent of the ABM Treaty, formulated in the midst of the cold war, was to circumvent the possibility of an expensive and potentially dangerous action-reaction spiral whereby the United States and the Soviet Union sought to overcompensate for one another's ballistic missile defenses by increasing their offensive arsenals.

But, Mr. President, I find all of the evidence pointing to a contrary conclusion. The ABM Treaty did not stop the explosion in offensive arsenals between the two sides. The Soviets increased the number of deliverable nuclear warheads in their arsenal from 2,000 in 1972, to 12,000 today. Furthermore, it was robust missile defense programs that proved conducive to arms control—not arms control itself. Above all else, the Strategic Defense Initiative broke the logjam on offensive reductions. SDI forced the Soviets to the table on the Intermediate-range Nuclear Force Treaty, and contributed to START and the treaty on conventional armed forces in Europe.

But—and I say this emphatically—the administration has forgotten, or chosen to ignore, these facts. Today we are being asked to consent to ratification of the START II Treaty when this country has suffered a massive blow to its plans to defend its citizens against nuclear weapons. This is completely at odds with the intent of START II. I urge Senators to recall that the Joint Understanding of June 17, 1992—which created the framework for the START II Treaty—was concluded simultaneously with a Joint Statement on a Global Protection System against ballistic missiles signed on the same day. This fact is explicitly referenced in the Preamble to the START II. Yet United States-Russian discussions on cooperation on defenses against ballistic missiles have fallen by the wayside. And today, with both the Defense Authorization Act and START II before us, I see neither hide nor hair of any protection against these abhorrent weapons.

At the heart of this matter is the perverse logic of the ABM Treaty, which argues that vulnerability to these weapons is essential to stability. There are a number of factors that bring into question the value of this line of reasoning in the post-cold-war world. Thanks in no small part to SDI, we have made major technological advances in the last quarter of a century which make ballistic missile defenses both feasible and affordable.

Also, there has been a considerable improvement in relations between the two countries following the dissolution of the soviet Union. At its most basic level, the logic of the ABM Treaty assumes hostility between Russia and the United States. Clearly, while there are movements afoot in Russia that are exceedingly troublesome, we are no longer grappling in a cold war embrace.

Most important, the mounting problem of WMD and ballistic missile proliferation, the uncertainties of the new security environment which complicate the role of deterrence, and continuing concerns over the potential for turbulence in the former Soviet Union all suggest that—in a world of multiple potential nuclear threats—the most likely nuclear danger to the United States is not a massive, preemptive Russian strike, but the deliberate or accidental launch of a few warheads. Such a danger is unpredictable, undeterrable, and something to which the United States—currently without any national missile defense whatsoever—is completely vulnerable.

Ironically, though the possibility of an outright nuclear exchange between Russia and the United States is at an all-time low, the risk of mishap has not decreased proportionately to reductions in the Russian nuclear arsenal. In fact, the post-START II Russian force will be far more mobile than its predominantly silo-based predecessor. This poses a potential problem for command and control of the arsenal in the event of internal turmoil in Russia.

Mr. President, I believe that the reduction of the U.S. strategic offensive arsenal under START and START II can only be conducted in connection with a review of U.S. deterrence doctrine and the value of strategic missile defenses in ensuring U.S. national security. A clearly articulated defense strategy and credible national missile defense system possess a deterrent value of their own, and need not threaten the viability of the Russian nuclear deterrent.

For this reason I have directed the Committee on Foreign Relations, in consultation with the Committee on Armed Services and other appropriate committees, to undertake a comprehensive review of the continuing value of the ABM Treaty. In this regard, I reiterate my opposition, as I stated it this past September, to the creation of yet another special Select Committee replete with bureaucratic trappings, staff, and cost to the American taxpayer for the purpose of reviewing this treaty. We already have standing committees with the responsibility for making these determinations and recommendations, and we are not going to add another layer of bureaucracy to this task.

Mr. President, in conclusion, I support this Defense Authorization Act since I shudder to think what this administration might do without the guidance that is contained in this bill. I do not, however, regard the issue of national missile defense to have been resolved, and will actively work to see that Americans are protected against attack by ballistic missiles.

Mrs. BOXER. Mr. President, I have divided feelings about the Conference Report on the fiscal year 1996 Department of Defense authorization bill. I am very pleased that the conferees have retained my amendment prohibiting members of the Armed Forces convicted of serious crimes from receiving their pay. Also, I am pleased that the conferees deleted language mandating the deployment of an antiballistic missile system—a clear violation of the ABM treaty.

However, I am compelled to vote against the bill because, among other

objectionable provisions, it includes a House provision that requires the separation of military personnel who test positive for HIV. This provision is cruel and nonsensical. It has had no rational basis whatsoever. The Department of Defense opposes this policy change.

The current policy—developed in the Reagan and Bush administration—works well. Under current policy, military personnel who test positive are permitted to keep their jobs, so long as they are physically able. HIV-positive personnel are not eligible for most overseas deployments.

Currently, HIV-positive personnel are treated in the same manner as other soldiers with chronic ailments such as diabetes and heart disease. Only about 20 percent of the roughly 6,000 worldwide nondeployable troops are HIV-positive. This provision would unfairly single out HIV-positive troops for separation.

This provision simply makes no sense. Why should the Pentagon fire military personnel who perform their duties well and exhibit no signs of illness? This would waste millions of tax dollars in unnecessary separation and retraining costs.

Backers of this provision argue that HIV-positive personnel degrade readiness because they are not eligible for worldwide deployment. This argument is absurd on its face. Can anyone seriously contend that about 1,000 personnel—less than 0.1 percent of the active force—could have a meaningful impact on readiness?

Assistant Secretary of Defense Fred Pang clearly expressed the Department's position, writing, ''As long as these members can perform their required duties, we see no prudent reason to separate and replace them because of their antibody status. However, as with any service member, if their condition affects their performance of duty, then the Department initiates separation action; the proposed provision would not improve military readiness or the personnel policies of the Department.''

Lt. Gen. Theodore Stroup, Jr., Army Deputy Chief of Staff for Personnel has echoed these sentiments, writing, ''It is my personal opinion that HIV-infected soldiers who are physically fit for duty should be allowed to continue on active duty.''

Mr. President, this provision is cruel and unnecessary, and its inclusion in this final conference report compels me to oppose it.

Mr. LEAHY. Mr. President, I strongly object to the provision included in the DOD conference report that targets service members who are HIV-positive for mandatory discharge. The Department of Defense did not seek and does not support this change in policy. This is a provision built on fear and ignorance and will undermine the strength of our military.

Under current law, service members become nonworldwide deployable due to a number of medical reasons including HIV infection, diabetes, asthma, heart disease, cancer, and pregnancy. This policy, developed by the Reagan administration, allows individuals to continue to provide valuable military service to their country until such time as chronic illness or disability makes them unfit to perform their duties. Singling out the 1,050 service members who are HIV-positive for early separation is discriminatory and highly inappropriate.

Beyond the pure and simple discriminatory nature of this provision, let's look at it as a practical matter. The American people have put a lot of money and resources into the training and development of these service members. Their discharge based solely on their status as HIV-positive throws away the valuable people and taxpayer dollars that have been invested in them.

No one wins with this provision. The service members are unfairly and inappropriately treated, the armed services lose valuable leadership and resources, and the American people lose a valuable investment.

No one can deny that the HIV infection can lead to the deadly AIDS virus. In the same regard, no one can deny that cancer is a deadly disease.

HIV-positive service members are still capable of making many contributions to the armed services.

Anyone who believes that HIV-positive individuals are no longer valuable, vibrant individuals I suggest that you think back to the 1992 Olympic games. Magic Johnson who is HIV-positive led our country to a gold medal in basketball.

We must utilize all of our resources if we are to remain the strongest, most powerful Nation the world has ever known. We simply cannot afford to close the door of service members because of their status as HIV-positive. This provision will set a dangerous precedent. It is built on fear and ignorance, not facts. I hope that we repeal this misguided provision later this year.

Mr. LEVIN. Mr. President, the Defense authorization conference report before us is somewhat different from the earlier conference report the President vetoed. For instance, it removes the provision that would have created the most immediate security problem.

The conferees have removed the extreme provisions mandating deployment of national missile defenses that are not warranted by the threat, would cost tens of billions of dollars, and would violate the ABM Treaty. We had extensive debate on this issue in this body. The Senate-passed Defense authorization bill contained very carefully crafted, bipartisan compromise language setting out parameters for national missile defense [NMD] that would not violate or commit us to violate the ABM Treaty, and would not needlessly provoke Russia into a more aggressive defense posture, nor provide a reason for Russia to abandon nuclear weapon reductions. The original conference report substituted language that was strongly opposed by our top military leadership and that President Clinton warned would result in a veto.

This new conference report drops the language on national missile defense, although it retains a half-billion dollar increase in NMD above what the Pentagon requested. It leaves in place current law regarding the objectives and policies of this country on NMD, which are compliant with the ABM Treaty.

The conferees also dropped objectionable restrictions on the President's authority as Commander in Chief, and a requirement regarding how he must pay for so-called contingency operations. They also dropped a provision undermining the independence of operational test and evaluation of the Pentagon's new weapon systems.

But, Mr. President, I oppose this conference report for many of the same reasons I voted against the previous version. It provides $7 billion more than the Pentagon requested for defense budget authority. It funds numerous weapons systems not requested by the Pentagon in fiscal year 1996, including $493 million for B–2 bombers, $361 million for F–15 fighters, $159 million for F–16 fighters, $2.2 billion for amphibious assault ships, $30 million for hydronuclear tests and $30 million for antisatellite weapons that we do not need. This bill also boosts other program funding significantly above the Pentagon's request, adding $915 million for ballistic and cruise missile defense above the President's request and $317 million for helicopter programs beyond what was sought.

This level of defense spending is unsustainable and these unrequested expenditures are inconsistent with national priorities. Additional military spending beyond what the Department of Defense requested in fiscal year 1996, especially for items the Pentagon does not want and does not need, is reckless and unwise. Defense Secretary Perry said this week that such excess spending will cause a catastrophe for the Defense Department.

While many Federal programs face enormous cuts, defense spending has been left off the table. This bill creates a ''bow wave'' of future spending requirements for unneeded items, which will swamp our efforts to preserve readiness, high morale, targeted modernization, and technological superiority in the U.S. Armed Forces.

I also continue to object to this bill's earmarking of National Guard and Reserve equipment, specified procurement of ship building and maintenance contracts at particular shipyards, and mandated construction of submarine prototypes.

In the personnel area, this bill still contains a very unfair provision mandating discharge for service personnel who test positive for the HIV virus. And it treats our servicewomen overseas worse than we treat them at home, by placing a ban on privately

funded abortions in overseas military hospitals.

So, Mr. President, regrettably I will vote no on this conference report.

Mr. DODD, Mr. President, I rise this afternoon in strong opposition to the 1996 DOD authorization conference report. I do so with considerable regret and concern for our national defense budget.

The bill before us is essentially identical to the bill first proposed in September. And while I respect the efforts of the distinguished chairman and ranking member for bringing a more balanced bill to this body, my fundamental reservations regarding the overall spending levels contained in this legislation remains unchanged.

Let me once again state for the record, this bill contains spending increases that were neither requested by the Pentagon, nor budgeted for by the President. In fact, almost $7 billion in excess spending is authorized by this bill. In an era of wholesale budget reductions, fiscal freezes on educational grants, and elimination of entire health programs, I cannot in good conscience vote for passage of this bill.

In addition to my fiscal reservations, I am absolutely appalled at the codifying language to discharge military members diagnosed to be HIV positive. I understand that service members with HIV will be afforded some measure of medical care within the DOD system. However, I am extremely concerned about the plight of their families and children who will ultimately lose a level of their medical coverage because of this policy. They are the ultimate victims here.

Let me also say to my colleagues that I am fully aware that the President has indicated he will sign this bill when it arrives at the White House. While I respect his decision, I must also respectfully disagree with that decision.

In closing, I am deeply troubled by what is occurring here today. We are charting a course for further defense spending that we may ultimately be unable to sustain in later years. The out year costs for some of the programs that have been added in this bill may very well consume entire future year procurement accounts—effectively strangling vital programs that have been legitimately requested and budgeted for development. I raise this issue now, with the full intention of continuing this debate during review of the 1997 defense budget submission.

Mr. EXON. Mr. President, the 1996 defense authorization conference report before the Senate is by no means a perfect bill. As one who voted against the original version of this bill when it was considered last December, I am aware that numerous flaws remain in the legislation that will trouble many of my colleagues a great deal. While it is true that the majority has yielded to the three top objections raised by the President in his veto message—those legislative provisions dealing with national missile defense, United Nations command and control, and contingency operations funding—the record must reflect, and the American public should understand, that this bill is rife with unsound policy and extravagant spending priorities. I will not recount my earlier statements as to the particulars of my concerns except to note that the conference report before the Senate is still chock full of 7 billion dollars' worth of unrequested, unneeded, and unjustified spending, much of which is earmarked for pet projects in Member districts and States. Force-feeding the Pentagon $7 billion it does not want at a time when many worthy domestic programs are slowly being bled dry by the majority is indeed difficult for this Senator to accept.

However, the conference report is by no means without merit. To the contrary, it contains important and essential statutory authorizations and programmatic funding which, in my opinion, will enhance both the readiness and capabilities of our Armed Forces. To deny the Pentagon these positive aspects of the defense authorization bill due to the conference report's counterbalancing flaws—many of which have already been signed into law through the defense appropriations bill—would be unwise. In my opinion, passage of the conference report is warranted, but not by much. On balance, I believe the Nation will be better off if this bill is allowed to become law.

While I will support passage of the conference report, I will put my colleagues on notice that when the Armed Services Committee begins deliberations of the fiscal year 1997 authorization bill later this spring, improvements must be made in the markup and conference process to make it more bipartisan and less exclusionary. If substantial changes in style and substance are not made, I fear we are destined to relive the mistakes of this year, the effect of which has us still debating a defense authorization bill in late January, 4 months after the fiscal year began.

Mr. President, I yield the floor.

CABLE TV FRANCHISE AGREEMENT

Mr. SMITH. Mr. President, as chairman of the Subcommittee on Acquisition and Technology, I would like to engage the chairman of the committee in a colloquy regarding the section in the legislation entitled ''Treatment of Department of Defense Cable Television Franchise Agreements.''

It has come to my attention that the Court of Federal Claims may have some concerns about the task we assign it in this section, given that it is not equipped to provide advisory opinions unless specific facts and parties are involved. Therefore, I wish to make clear that it is the committee's intent that the court allow the executive branch and any party with a franchise agreement in the section to part participate in the proceeding required by this section by identifying themselves promptly to the court within a period of time established by the court. The court may conduct the proceeding required by this section according to the pertinent rules of practice of the U.S. Court of Federal Claims to the extent feasible, including providing the opportunity for written submissions and a hearing. In order to ensure timely completion, any submissions or hearing should conclude no later than 120 days after the date of enactment of this act.

I would also like to clarify that the phrase in paragraph (2), ''required by law'' should be read to include both law and equity.

Finally, I would encourage the court to consider the position taken by the Senate in section 822 of S. 1026 when addressing this matter.

Mr. THURMOND. I agree with the statement of the Senator from New Hampshire.

Mr. NUNN. As the ranking member of the committee, I also concur with the Senator's statement.

Mr. GLENN. Mr. President, I sincerely regret that I must again rise in opposition to this year's defense authorization legislation. This is a new position for me this year. During my tenure in the Senate, spanning more than two decades, I have been a vocal supporter of the need for a strong and adequately funded national defense. My commitment to a strong defense is the reason that I sought membership on the Committee on Armed Services.

As the former chairman of the Subcommittee on Manpower, I continue to be a strong supporter of our military members and their families. And, as the former chairman and now ranking member of the Subcommittee on Readiness, I support keeping our forces ready—that is keeping them trained and equipped to fight and win today wherever they are called upon to fight.

I also recognize the equally critical need to invest in our ability to protect our freedom and our security in the future by funding the kinds of research and modernization programs that have made U.S. military forces the most combat capable and consequently the most feared forces in the world throughout the better part of this century. I make these background comments, Mr. President, in order to place my continued opposition to this year's defense authorization legislation in the proper context.

This is the second time around for this conference report. There were many important and supportable provisions in the original conference report that remain in this bill, like the 2.4-percent military pay raise, the 5.2-percent increase in the basic allowance for quarters, the new housing initiative, as well as important acquisition reform measures.

Furthermore, some critical improvements to the conference report are worth noting. I am pleased that the conferees eliminated the language requiring the deployment of a national missile defense system by the year 2003. And, I am pleased that the language restricting participation of U.S.

forces under U.N. command and control was dropped.

Nevertheless, this bill remains too flawed to support. Mr. President, for starters, this bill still adds $7 billion in unrequested funding. With that added $7 billion, this conference report, in my view, spends more and buys less.

As we are all painfully aware, we are in the midst of a budget struggle that has twice closed the Government and has called into question the future existence of virtually every Federal domestic program. Yet, we are asked in this legislation to approve a $7 billion increase for the Pentagon. Seven billion dollars the Pentagon didn't request and, with few exceptions, $7 billion in budget authority for programs the Pentagon doesn't need in this year's budget, if at all.

I could have supported additional funding for the Pentagon, if I believed it was funding the Pentagon needed. But the $7 billion in this conference report, like its predecessor, still wastes that money. It adds $450 million for national missile defense—bringing the total funding to $820 million. The conference report still adds $493 million for the B–2 and, if that half a billion dollar nest egg is used to bring production beyond the 20 B–2's already approved, that $493 million is a mere down payment on billions more for the B–2.

The conference, report still buys F–15's, F–16's, F/A–18's, LHD's, LPD's, DDG's the Pentagon didn't ask for.

The conference report still spends $30 million for nuclear testing.

It still earmarks $770 million in unrequested National Guard and Reserve equipment.

Furthermore, the conference report still discriminates against service members and their dependents by prohibiting abortions in overseas military medical facilities. The conference report still discriminates against HIV-infected servicemembers by requiring their discharge.

The conference report still disregards the costs savings achievable through competition by directing the procurement of ships at certain shipyards. The bill takes the same approach with respect to ship maintenance and the purchase of naval equipment.

I believe these funding and policy decisions are sufficient reason to vote against this conference report. Unfortunately, there are more reasons to oppose this legislation.

The latest conference, which excluded most of the members of Armed Services Committee, including myself, revisited several funding decisions which do not appear to have been aimed at making better legislation or enhancing our national security but, instead appear to have been aimed at gaining additional votes for the conference report by appealing to home State interests.

In a couple of instances, the conferees even funded programs that were beyond the scope of the conference, a practice to which I strongly object. Neither the House bill nor the Senate bill included funding for the HAARP Program, the Thermionics Program or the Counterterror Explosives Research Program. Yet, almost $20 million is earmarked in this conference report for these programs. Regardless of the merit or requirement for these programs, I object to their inclusion in the conference report because they were beyond the scope of the conference.

This approach to drafting defense authorization is a dramatic departure from the practice of the Armed Services Committee. For at least as long as I have served on Armed Services, the committee has made its funding decisions based on our national security requirements, not based on parochial interests.

Mr. President, I hope that this year's defense authorization process is only an aberration or false start rather than a glimpse of the Armed Services Committee's future. I hope that the committee's next attempt to draft legislation that will pass both Houses and be signed by the President will not represent merely a sufficient number of special interest items to make the bill passable but will mark a return to the committee's tradition of making a nonpartisan and objective assessment, in which all committee members are welcome and expected to participate, of what is in the best interest of our national security.

Thank you, Mr. President. I yield the floor.

NOMINATION OF GEN. EUGENE HABIGER TO BE COMMANDER IN CHIEF OF THE U.S. STRATEGIC COMMAND

Mr. EXON. Mr. President, Adm. Henry Chiles, the Commander in Chief of the U.S. Strategic Command at Offutt Air Force Base, is scheduled to retire on March 1, 1996, after a lengthy career of exemplary service to his country. Air Force Gen. Eugene Habiger has been nominated by President Clinton to replace Admiral Chiles and a change of command ceremony is scheduled to take place at Offutt Air Force Base on February 21. As I understand the majority leader's wishes, once the Senate adjourns, perhaps today, we will not be in session again until the last week of February. If such a schedule becomes a reality, the Senate will not have a chance to act on the Habiger nomination before the change of command ceremony on February 21 and will have mere days to approve Admiral Chile's retirement as well as the retirement of his deputy, Gen. Arlen Jamison.

While I understand that the Senate Armed Services Committee was not able to consider General Habiger's nomination at this morning's nomination hearing because the necessary paperwork could not be completed in time, I would inquire of the distinguished chairman of the committee and President pro tempore as to what accommodation he will make for the committee and the full Senate to act promptly on this important nomination.

Mr. THURMOND. Let me assure the distinguished Senator from Nebraska that I concur with his views as to the importance in bringing about a smooth and timely change of command at the U.S. Strategic Command. To this end, I will take every step possible, in consultation with Senator NUNN, the ranking member on the committee, to expedite Armed Services Committee action on the nomination and seek Senate confirmation prior to the change of command scheduled in February.

Mr. EXON. While I would prefer that the Senate remain in session so as to continue its work on the unfinished business of the Nation, including this and other important executive branch nominations, I do appreciate the chairman's willingness to expedite this particular matter. He is a good friend and I thank him for his commitment to see that the Senate act on the Habiger nomination in a timely fashion.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, I will vote against the conference report on S. 1124, the second fiscal year 1996 National Defense Authorization Act which the Senate has considered.

This bill is clearly better than the bill the President vetoed last month. A truly awful bill has been transformed into a merely bad bill by stripping it of a series of provisions that never made any sense. The provision on deployment of national missile defense by 2003 has been eliminated. The provisions on command and control of U.S. military forces and contingency operations have been eliminated or turned into sense-of-the-Congress language. The provisions undermining the landmine moratorium and eliminating the director of Operational Test and Evaluation have been removed. The sale of the Naval Petroleum Reserve at Elk Hills has been extended to 2 years while the safeguards protecting the taxpayers' interest have been maintained. I appreciate those changes and I commend Senator NUNN in particular for being able to bring them about and Senator THURMOND for accepting them.

But this remains, in my view, a bad bill with only a handful of good provisions. The bad still outweighs the good for me. The bill still spends $7 billion more on defense programs than the Pentagon requested at the same time we are cutting critical domestic programs in areas such as education, the environment, Indian health care, civilian research, and many, many more.

The bill authorizes a whole host of pork-barrel projects from military construction to research to procurement that can not be sustained in future years. Indeed, new pork was added in the new conference.

The bill still contains a provision mandating the discharge of service members who are HIV-positive even though they are capable of doing their jobs. This is bad policy which will needlessly and unfairly disrupt the

lives of service members who have served their Nation proudly and who could continue to serve their Nation for years before being stricken with AIDS. A majority of the Senate Armed Services Committee opposes this provision. I believe a majority of the Senate opposes it as well. I hope that it will be repealed later this year.

The bill still includes unprecedented Buy-America provisions meant to protect the uncompetitive parts of our industrial base at the expense of the competitive industries who will certainly see their exports hindered by these provisions. Our protectionism will only beget European protectionism to the detriment of our security and to the detriment of taxpayers on both sides of the Atlantic.

The bill still includes a provision denying female service members and the female dependents of all service members the right to use their own money to obtain an abortion in a military hospital overseas.

The bill still includes a provision setting up a loan guarantee program for defense exports that is unneeded and unwise, a program under which up to $15 billion in defense exports will be guaranteed supposedly at no risk to the taxpayers, who should hold their wallets.

The bill still prevents the Pentagon from retiring unneeded strategic weapons, weapons that do not make sense to retain under any budget-constrained scenario.

Unfortunately, I could go on and on concerning provisions in this bill which I can not support. There are some good provisions, the provisions on military pay and family housing, for example, and the provisions on acquisition reform, which I cosponsored when the Senate debated this bill last summer. The acquisition reform provisions were dealt with on a bipartisan basis in the first defense authorization conference last fall. I thanked Senator COHEN and Senator SMITH for taking that approach to these important provisions when the Senate debated the first defense authorization conference report in December. Senator COHEN, in particular, has much to be proud of in the acquisition reform provisions on information technology on which he was the driving force. I hope people will refer to division E of this bill as the Cohen act, and perhaps one day we will make such a designation official.

I'd also like to commend Senator GLENN, Senator LEVIN, Senator SMITH, and Senator STEVENS for their hard work and great contributions to the acquisition reform provisions in the bill.

Unfortunately, the acquisition reform provisions, the pay provisions and the family housing provisions are the exception, not the rule in this bill. There is more in this bill that I can not support than that I can. I will vote against it today and work to fix as many of the problems in this authorization bill as I can in the fiscal year 1997 defense authorization process which will soon be upon us.

I yield the floor.

Mr. DOLE. Mr. President, today we again consider the fiscal year 1996 Defense authorization bill. We are voting on this bill again today because the President vetoed the first bill the Congress sent to him. President Clinton vetoed the first Defense authorization bill because of his insistence that America remain vulnerable to ballistic missiles carrying weapons of mass destruction—and because of his insistence that American soldiers be permitted to serve under the blue flag of the United Nations. I believe that the White House is wrong on both accounts. Defending America should be the No. 1 defense priority. The U.N. Secretary General is no substitute for the Commander in Chief. I know that many of my colleagues, including the Republican members of the Armed Services Committee agree with me.

Because the annual Defense authorization bill is critical for the operations of the Department of Defense and contains many provisions crucial to the well-being of the men and women of our Armed Forces, the distinguished chairman of the Senate Armed Services Committee, Senator THURMOND, crafted a bill that would be signed by the President. The distinguished chairman was assisted, in particular, by the distinguished Senator from Mississippi, Senator LOTT, in negotiating the compromise on ballistic missile defense provisions.

With respect to those provisions that will support our men and women in uniform, the bill we sent to the President last month included a number of quality of life initiatives. The bill authorized a 2.4 percent pay raise and a 5.2 percent increase in allowance for quarters. In addition, for the Reserve components, the bill authorized an income insurance program for involuntarily mobilized reservists and established a dental insurance program. These provisions will enhance the readiness of our Reserve Component Forces—who, like their active counterparts, have deployed to Bosnia.

Additionally, the bill contains a new military housing privatization initiative. This initiative will allow the Department of Defense to utilize new approaches to reduce the family housing backlog. To further enhance the quality of life of our troops, the agreement increases military construction funding by $480 million. Apparently, meeting the basic needs of the Americans who have dedicated their lives to defending our Nation, was not sufficient reason for approving the Defense authorization bill.

In order to ensure the readiness of our forces, the conferees added over $1 billion to the operations and maintenance accounts. Furthermore, they increased research and development and procurement funding. This is the only way to ensure the long-term readiness of our forces.

As for the ballistic missile defense provisions in the bill, the comprehensive approach to defending America from ballistic missile attack adopted in the original conference report did not survive as a whole. The provision establishing a deployment goal of 2003 for a national missile defense system was dropped in the aftermath of the President's veto. Furthermore, the provisions regarding demarcation between strategic and theater missile defense were watered down also in face of White House objections—despite the fact that these provisions reflected the very proposal originally made by the Clinton administration to the Russians.

In short, the Clinton administration has made a conscious decision to make our theater missile defense [TMD] systems less capable and subject to a Russian veto.

On the other hand, this bill does retain the provisions establishing a core program in the area of theater missile defense, which includes THAAD and Navy Upper Tier—two of our most capable TMD systems. These systems are also required to be deployed by specific dates—in an attempt to ensure against repeated administration attempts to delay their deployment. Critical to both theater missile defense and national missile defense is the brilliant eyes program. Under this bill, an initial operational capability [IOC] of 2003 for the brilliant eyes space sensor is also established. This will facilitate earlier deployment of national missile defense system.

It is indeed regrettable that the President was unwilling to join with us in supporting all of our initiatives related to the defense of our country, our citizens, and our allies. Once again, President Clinton has demonstrated his preference for cold-war-era arms control treaties, and multilateral sensibilities. Once again, the President has revealed where our Nation's future security fits on his list of priorities.

But, let the White House be warned: We have agreed to this bill in order to support forces—many of whom are deployed overseas—not to support ill-conceived and short-sighted administration policies. This bill reflects the Republican-led Congress' commitment to equipping and training our forces to guarantee their overwhelming superiority on the battlefield. We have taken steps so our military—though smaller—will maintain their ability to project power around the world—quickly and decisively. We have not given up on our goal of defending America. We will continue to press forward on a national missile defense system.

I understand that the Secretary of Defense has recommended the President sign this bill and that the President intends to do so. In closing, I again want to commend Senator THURMOND for his hard work on this bill.

Mrs. FEINSTEIN. Mr. President, I rise to speak in support of the Conference Report to the Department of Defense authorization bill for fiscal

year 1996. First, I would like to associate myself with the thoughtful remarks of the distinguished Ranking Member of the Armed Services Committee, Senator NUNN. I continue to believe that this world is not a safe place. I, along with other leaders, had hoped that after the end of the cold war there might be more peace in the world. This has unfortunately not been the case. In fact, there is now more conflagration and more war. The price of freedom continues to be eternal vigilance.

This legislation provides for the hardware and force structure that make our Armed Forces strong. It looks forward to our future defense needs by funding increased procurement of weapons systems vital to our war fighting capability and maintains the troop levels necessary to complete our Nation's military missions.

WEAPONS SYSTEMS

This bill authorizes funding for more Air Force F–15, and F–16 fighters—the backbones of our air attack strategy. It also funds the F–22 next generation fighter. This aircraft is the cutting edge of any fighter aircraft anywhere in the world. The Hellfire air-to-surface missile, used so effectively in the gulf war, are procured for the Army. The Navy received authorization to purchase additional F–18 fighters which are used to protect our aircraft carriers and for attack. These systems provide our soldiers in the field with overwhelming force, thus protecting their lives as they fight for America.

FORCE STRUCTURE

The troop strength of our active duty forces and guard and reserve forces is maintained in this bill. Our active duty Armed Forces will be over 1.4 million men and women strong and our guard and reserve forces will total nearly 940,000 soldiers.

The bill enhances our national security by removing the language which would have led to a U.S. violation of the ABM Treaty and continues the Nunn-Lugar Cooperative Threat Reduction Program that helps reduce the risk of nuclear, chemical, and biological weapons proliferation.

It fully funds the research, development, test and evaluation account providing millions in funding to develop a theater missile defense system which will be able to protect our troops deployed overseas from Scud and other ballistic missile attacks. Funding in this account will also allow research to develop new alloys and designs for stronger and lighter fighter plane wings and studies to enhance the electric battery life in vehicles for use in new mechanized infantry equipment and in commercial vehicles.

Finally, the conference report for the DOD authorization bill provides many benefits to our men and women in uniform. A much needed 2.4 percent pay raise for our service men and women is included in the bill, as well as increased funding for the family advocacy and the new parents support programs that help military families balance their duty to their country with their responsibility to their family.

Unfortunately, it is also in the area of military personnel that the provisions in this bill with which I disagree most exist. I would like to take this opportunity to talk about just three of these provisions.

REQUIRED DISCHARGE OF HIV-POSITIVE SERVICE MEMBERS

Most of all, I am saddened and angered by one provision of this bill that is the worst type of fear-mongering imaginable.

I never imagined that I would live in a time when Congress would blatantly discriminate against a group of people who contract a disease, but that is exactly what this bill does.

This conference report contains a provision that blatantly discriminates against an entire group of military personnel simply because they are infected with the HIV virus. The Department of Defense will be required to discharge any service member who tests positive for HIV. There are now more than 1,000 people serving in our military who would be discharged within the first 6 months. The fact that these HIV-positive men and women can still perform their duties as ably as other nondeployable military personnel is ignored. There is no other disease for which a member of the Armed Forces can be forced to separate from service.

What message is Congress sending to the businesses of America? It is essentially saying that if someone contracts the HIV virus, they should be immediately discharged regardless of their ability to work. Is this how we intend to treat people who contract a disease? Is this what our country is based upon?

I pray that this mean-spirited provision does not move this country back to the dark ages of discrimination, hate, and fear. It is my sincere hope that this provision will be reversed by a future Congress that better respects the plight of those with the HIV virus or that it will be found unconstitutional by the courts.

RESTRICTED ACCESS TO PRIVATELY-FUNDED ABORTIONS ON U.S. BASES OVERSEAS

The conferees adopted language that prohibits abortions on U.S. military facilities overseas, even if a woman pays for the procedure herself, except in cases of rape, incest, or life of the mother. This provision is discriminatory and has no place on a defense authorization bill.

ELIMINATION OF AUTHORIZATIONS FOR TROOPS TO COPS AND TROOPS TO TEACHERS

On the issue of defense conversion, the Senate passed an amendment, cosponsored by Senator PRYOR and myself, to authorize $10 million for the Troops to Cops Program and $42 million for the Troops to Teachers Program. These programs greatly assist the difficult transition of service personnel to the private sector in two ways. First, Troops to Cops and Troops to Teachers partially funds the training and hiring costs of local school districts and law enforcement agencies, and second, these programs provide trained and dedicated recruits. I am very disappointed that this provision was eliminated in conference committee.

LACK OF COMPETITION FOR SHIPBUILDING CONTRACTS

The conference report provides for the construction of destroyers and submarines at designated shipyards without requiring competition for this workload. Competition among qualified industrial facilities is a procurement contracting fundamental. I am disappointed that this provision remained in the bill.

Although I disagree with these provisions, on balance this bill enhances our national defense.

PROVIDES FOR THE PURCHASE OF ADDITIONAL B–2 STEALTH BOMBERS

I was very pleased to support the authorization for $493 million in long-lead funding for the B–2 stealth bomber. This most technically advanced aircraft in our bomber fleet gives our Air Force the capability of immediate response to a conflict anywhere in the world without the need for escort aircraft to protect it from anti-aircraft fire. Even with this protection, our non-stealthy bombers are unable to penetrate enemy airspace, as we saw in the gulf war. The B–2 also has the ability to precisely target mobile units unlike any other bomber in the fleet today. The B–2's stealth, long-range, and precision munition capability make it a good investment for the money.

PROVIDES FOR IMPROVEMENTS TO THE BASE REALIGNMENT AND CLOSURE PROCESS

The conference report includes several improvements to the base realignment and closure process. I am particularly proud of the amendment cosponsored by Senator MCCAIN and myself which improves the base realignment and closure reuse process for local communities. One provision of this amendment changes the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, by requiring that the Secretary of Defense consult with the Secretary of Housing and Urban Development over the reuse plan that is developed by the local redevelopment authority. Homeless assistance providers would still be guaranteed a seat at the reuse table, and redevelopment authorities would still be required to accept expressions of interest for base property by homeless assistance groups and other interested parties. In addition, the Secretary of HUD would still review the final reuse plan to ascertain if the needs of the homeless have been met. However, instead of the Secretary of HUD approving or disapproving the reuse plan, the Secretary of Defense would make the final decision. Furthermore, the local redevelopment plan developed by the local community and local elected officials would be given substantial deference by the Secretary of Defense. This puts the power of base reuse firmly where it should be, in the hands of the local redevelopment authority and the community.

PROVIDES FOR LAND CONVEYANCES AND MILITARY CONSTRUCTION PROJECTS

Finally, this conference report includes many important land conveyances and military construction projects for California and the Nation. The land conveyance provisions will allow many local communities to redevelop and expand many underutilized industrial sites which will enhance economic growth. And the military construction projects will provide many needed housing units and other military facilities that will better enable our men and women in the Armed Forces to perform their duties.

I voted for the conference report to the DOD authorization bill for fiscal year 1996, however, perhaps next year, we can concentrate on continuing to make our Armed Forces the best that they can be and restore the rights denied our men and women in uniform.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. CAMPBELL], the Senator from Indiana [Mr. COATS], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. KYL], and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado [Mr. CAMPBELL] would vote ''yea.''

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS], is necessarily absent.

The result was announced—yeas 56, nays 34, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—56

Abraham	Graham	McConnell
Akaka	Grams	Murkowski
Ashcroft	Grassley	Nickles
Bond	Gregg	Nunn
Breaux	Hatch	Pressler
Burns	Heflin	Reid
Chafee	Helms	Robb
Cochran	Hutchison	Roth
Cohen	Inhofe	Santorum
Coverdell	Inouye	Simpson
Craig	Jeffords	Smith
D'Amato	Johnston	Snowe
DeWine	Kassebaum	Specter
Dole	Kempthorne	Stevens
Exon	Kennedy	Thomas
Feinstein	Lieberman	Thompson
Ford	Lott	Thurmond
Frist	Lugar	Warner
Gorton	Mack	

NAYS—34

Baucus	Dorgan	Mikulski
Biden	Feingold	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Pell
Brown	Kerrey	Pryor
Bryan	Kerry	Rockefeller
Bumpers	Kohl	Sarbanes
Byrd	Lautenberg	Simon
Conrad	Leahy	Wellstone
Daschle	Levin	
Dodd	McCain	

NOT VOTING—9

Bennett	Domenici	Hollings
Campbell	Faircloth	Kyl
Coats	Gramm	Shelby

So the conference report was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay it on the table.

The motion to lay on the table was agreed to.

TREATY WITH THE RUSSIAN FEDERATION ON FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START II TREATY)

The PRESIDING OFFICER. As in executive session, the Senate will now consider the ratification of the START II treaty.

The clerk will state the resolution of ratification.

Resolved, (two-thirds of the Senators present concurring therein), That (a) The Senate advise and consent to the ratification of the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the ''START II Treaty'' (contained in Treaty Document 103–1), subject to the conditions of subsection (b) and the declarations of subsection (c):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the ''Elimination and Conversion Protocol'').

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation Reduction and Limitation of Strategic Offensive Arms (also known as the ''Exhibitions and Inspections Protocol'').

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the ''Memorandum on Attribution'').

(b) CONDITIONS.—The advice and consent of the Senate to the ratification of the START II Treaty is subject to the following conditions, which shall be binding upon the President:

(1) NONCOMPLIANCE.—If the President determines that a party to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on July 3, 1991 (in this resolution referred to as the ''START Treaty'') or the START II Treaty is acting in a manner that is inconsistent with the object and purpose of the respective Treaty or is in violation of either the START or START II Treaty so as to threaten the national security interests of the United States, then the President shall—

(A) consult with and promptly submit a report to the Senate detailing the effect of such actions on the START Treaties;

(B) seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(C) in the event that a party other than the Russian Federation is determined not to be in compliance—

(i) request consultations with the Russian Federation to assess the viability of both START Treaties and to determine if a change in obligations is required in either treaty to accommodate the changed circumstances; and

(ii) submit for the Senate's advice and consent to ratification any agreement changing the obligations of the United States; and

(D) In the event that noncompliance persists, seek a Senate resolution of support of continued adherence to one or both of the START Treaties, notwithstanding the changed circumstances affecting the object and purpose of one or both of the START Treaties.

(2) TREATY OBLIGATIONS.—Ratification by the United States of the START II Treaty—

(A) obligates the United States to meet the conditions contained in this resolution of ratification and shall not be interpreted as an obligation by the United States to accept any modification, change in scope, or extension of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (commonly referred to as the ''ABM Treaty''), and

(B) changes none of the rights of either party with respect to the provisions of the ABM Treaty, in particular, Articles 13, 14, and 15.

(3) FINANCING IMPLEMENTATION.—The United States understands that in order to be assured of the Russian commitment to a reduction in arms levels, Russia must maintain a substantial stake in financing the implementation of the START II Treaty. The costs of implementing the START II Treaty should be borne by both parties to the Treaty. The exchange of instruments of ratification of the START II Treaty shall not be contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the START II Treaty.

(4) EXCHANGE OF LETTERS.—The exchange of letters—

(A) between Secretary of State Lawrence Eagleburger and Minister of Foreign Affairs Andrey Kozyrev, dated December 29, 1992, regarding SS–18 missiles and launchers now on the territory of Kazakstan,

(B) between Secretary of State Eagleburger and Minister of Foreign Affairs Kozyrev, dated December 29, 1992, and December 31, 1992, regarding heavy bombers, and

(C) between Minister of Defense Pavel Grachev and Secretary of Defense Richard Cheney, dated December 29, 1992, and January 3, 1993, making assurances on Russian intent regarding the conversion and retention of 90 silo launchers of RS–20 heavy intercontinental ballistic missiles (ICBMs) (all having been submitted to the Senate as associated with the START II Treaty),

are of the same force and effect as the provisions of the START II Treaty. The United States shall regard actions inconsistent with obligations under those exchanges of letters as equivalent under international law to actions inconsistent with the START II Treaty.

(5) SPACE-LAUNCH VEHICLES.—Space-launch vehicles composed of items that are limited by the START Treaty or the START II Treaty shall be subject to the obligations undertaken in the respective treaty.