

should we not allow the Pentagon to pursue those? The amendment I am offering leaves the \$75 million in the bill which is presently there for tactical ASAT technology, without specifying what technologies we might be using it for. It eliminates the mandate forcing the use of the kinetic energy ASAT by the Pentagon. The amendment instead directs that the kinetic energy ASAT option be explicitly evaluated by General Dickman for the space control architecture, but it leaves the choice of whether to fund that option to the Pentagon. The Pentagon must also give Congress the results of its space control study by March 31, 1997.

This is the way in which we normally proceed when the Pentagon defines a threat, as they have in this case, and launches an effort to deal with that threat. We do not impose our solution to a highly complex problem before we have heard the Pentagon's own recommended solution.

Mr. President, the only testimony which the Senate received this year on this whole issue was from Gil Decker, the Assistant Secretary of the Army for Research and Acquisition, who told the Armed Services Committee that this is not an Army priority. This funding did not appear on any service wish list. This is hardly the basis for imposing this kinetic energy ASAT system on the Pentagon.

I urge my colleagues to support the amendment. That concludes my statement in support of it and I yield the floor.

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

Mr. COATS. Mr. President, it is my understanding the Senator from New Hampshire will be seeking some time to respond to the Senator from New Mexico and will be available to speak shortly. Let me just state we appear, now, to be making some progress on the bill. Relevant amendments are being debated and discussed and time limits are being sought. To the extent Members with amendments can notify us of their amendments and we can work out a time agreement, that would be preferable to keep us working late into the night.

REMOVAL OF INJUNCTION OF SECRECY—INTERNATIONAL NATURAL RUBBER AGREEMENT OF 1995, TREATY DOCUMENT NO. 104-27

Mr. COATS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 19, 1996, by the President of the United States.

International Natural Rubber Agreement of 1995, which is Treaty Document No. 104-27.

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

Mr. COATS. Mr. President, I further ask the treaty be considered as having

been read for the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to ratification, the International Natural Rubber Agreement, 1995, done at Geneva on February 17, 1995. The Agreement was signed on behalf of the United States on April 23, 1996. The report of the Department of State setting forth more fully the Administration's position is also transmitted, for the information of the Senate.

As did its predecessors, the International Rubber Agreement, 1995 (INRA), seeks to stabilize natural rubber prices without distorting long-term market trends and to assure adequate rubber supplies at reasonable prices. The U.S. participation in INRA, 1995, will also respond to concerns expressed by U.S. rubber companies that a transition period is needed to allow industry time to prepare for a free market in natural rubber and to allow for the further development of alternative institutions to manage market risk. The new Agreement incorporates improvements sought by the United States to help ensure that it fully reflects market trends and is operated in an effective and financially sound manner.

The Agreement is consistent with our broad foreign policy objectives. It demonstrates our willingness to engage in a continuing dialogue with developing countries on issues of mutual concern and embodies our belief that long-run market forces are the appropriate determinants of prices and resource allocations. It will also strengthen our relations with the ASEAN countries, since three of them—Malaysia, Indonesia, and Thailand—account collectively for approximately 80 percent of world production of natural rubber.

Therefore, I urge the Senate to give this Agreement prompt consideration and its advice and consent to ratification to enable the United States to deposit its instrument of ratification as soon as possible.

WILLIAM J. CLINTON.

THE WHITE HOUSE, June 19, 1996.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana retains the floor.

AMENDMENT NO. 4058

Mr. COATS. Mr. President, I wonder if I can inquire from the Senator from New Hampshire what amount of time he requests we yield on this?

Mr. SMITH. I believe under the request I had 20 minutes. Probably very close to that amount of time.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, may I just make a unanimous-consent request before the Senator makes his statement? I ask unanimous consent that Linda Taylor, a fellow in my office, be given the privilege of the floor during the pendency of S. 1745.

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

Mr. COATS. Mr. President, I yield 20 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 18 minutes remaining.

Mr. COATS. I yield all time remaining to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, some things are very predictable around here. One of the most predictable is that somebody every year gets up there in the authorization debate and tries to kill the ASAT Program. This is not a harmless amendment. This is a very serious amendment that can do damage to the national security of the United States.

I might say very bluntly and honestly, I do not have any parochial interest in this. I have a national interest in this. There is not anybody working on this in my State. It is not a jobs issue in my State. This is a national security matter, and year after year I stand up and engage in debate on this, and in committee, as the opponents continue to go after this program.

This amendment is designed to kill ASAT, to kill the kinetic energy program plain and simple. That is exactly what it is designed to do. That is what they are trying to do. We have invested \$245 million in this program. We have 2 years left, at approximately \$75 million a year, to complete this program. This technology works. It has already been tested. It works. We are going to throw it down the tube, throw it away.

What is ironic to me is that some of the things that Senator BINGAMAN has said on this issue are reasonable. In fact, I offered to work with the Senator in committee to address his concerns over the section dealing with the space architect. But, we could not reach a compromise. There was no interest in having a compromise. He wants the whole thing. He wants to defeat it.

So here we are again, rather than simply addressing the concerns that he has over the space architect issue, the Senator from New Mexico now is going after the entire program—all or nothing.

The truth is, this amendment circumvents the authorization and appropriations process totally. It allows the space architect to singlehandedly decide if the Pentagon spends the money that has been authorized and appropriated in both 1996 and 1997 for ASAT.

That is an assault on the jurisdiction of this committee, the Armed Services Committee, and the Appropriations Committee. There is a process in place, a correct process, to seek reprogramming or rescissions, and that works pretty well around here. But to say that the space architect, whose identity I would venture to say very few of my colleagues even know, can decide whether or not he wants to comply with the law, this represents an enormous erosion of the Senate's jurisdiction and particularly that of the Armed Services and Appropriations Committees.

We voted on this issue many times, both Republicans and Democrats, under Democrat control, under Republican control. The Senate has always gone on record in support of this program, and yet the assaults continue. The Armed Forces have testified that they need this capability. The Armed Forces have said they need this capability. The taxpayers have invested millions in its development. Now, when we are so close to completing the program, why kill it? You should not kill it on the money, because you have invested so much, but more important—much more important—you should not kill it because of the technology.

Let us talk a little bit about why it makes no sense to kill it and why it is a threat to our national security to do that.

The global spread of advanced satellite technology has made it possible for countries to obtain this high-definition imagery for satellites in low orbit or to buy that information. This data is crucial because in a future conflict, the United States has to be able to neutralize a hostile satellite. How are you going to do that? This is how you do it, with kinetic energy ASAT. But at present, we do not have that capability. We simply do not have the capability.

If you think back, during the gulf war, the Iraqi Air Force was destroyed or forced out of the air in the first few days of fighting, and Iraq had no reconnaissance capability. This lack of Iraqi overhead surveillance made it possible for the allies to mass their forces and sweep across the desert to bring a swift conclusion to a war that could have cost thousands—thousands—of American casualties.

Gen. Charles Horner, Desert Storm air commander, said that the diplomacy that we used convinced France and Russia not to sell reconnaissance data to Iraq. Suppose they had it? We had no way to stop them with that kind of reconnaissance. ASAT destroys those satellites, Mr. President. Why would anyone want to stop that technology?

Satellites that can be placed up in the air, over the Earth in low orbit with a capability to spy on the United States, spy on our forces, collect data, transmit data, what does ASAT do? What does this satellite do? It disables. It disables that satellite and keeps that

enemy from collecting that information.

Why would anyone want to deny the United States of America the capability to do that? It baffles me. I cannot understand it. Every year, year after year, we have to take the same position—for 6 years I have done it—defending this system, while those in this Congress and some in the administration try to kill it, try to kill the capability of the United States to take out a satellite that could destroy American forces.

Some say, "Well, nobody out there has any capability for satellites. What do we need ASAT for?" According to the U.S. Space Command, Argentina, Australia, Brazil, Canada, China, the Czech Republic, France, Germany, Great Britain, India, Indonesia, Iran, Israel, Italy, Japan, Korea, Luxembourg, Malaysia, Mexico, Norway, Pakistan, Portugal, Russia, Saudi Arabia, South Africa, Spain, Sweden, Thailand, Turkey, and Ukraine, to name 30. They do not have any capability? It is out there, folks.

You say some of those are friendly countries. That is right, and they sell this technology and there are a lot of people out there buying it.

"Why not just jam them?" they say. We do not have the capability to do that.

A U.S. antisatellite capability—and this is a very important point, I cannot emphasize this strongly enough to my colleagues—is a disincentive for a potential adversary to spend their resources on military satellites. A U.S. kinetic energy ASAT could help constrain the proliferation of such systems. Why would somebody want to spend hundreds of millions of dollars to develop satellites to put in space to spy on us or to use to collect data against our forces if they know we can disable them or disarm them? The chances are they will not. Yet, here we are, here we are, saying, "Let's kill the program."

Russia leads the world in space launches of military satellites.

Ukraine is building a series of radar satellites.

China is launching military recon satellites and have been doing it for 20 years. They are selling space launches and satellite technology all over the world.

United Arab Emirates reportedly has ordered a military reconnaissance satellite from a consortium of Russian firms.

On and on and on, and yet we stand here on the floor today having to defend attacks on us, those who support this system. I have had enough of it, Mr. President, to be very blunt about it. I have had enough of it. I am tired of it. I think it is outrageous that people come down on this floor and put our forces at risk to try to kill the technology that works, that protects us.

Let me repeat, had Saddam Hussein had the capability, had he had these satellites, we would have lost thou-

sands of Americans because we could not have disabled them. We have the technology. It works. Why are we not using it?

It does not make any sense, Mr. President, not to continue this technology. This technology was designed, developed, manufactured, and integrated under the Kinetic Energy ASAT Demonstration Validation Program from 1990 to 1993 and ground tested, and it works. Here we are having to defend it from these attacks.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 30 seconds remaining.

Mr. SMITH. The distinguished chairman, Senator THURMOND, has asked for a little of my time, so I will just conclude by saying, if we lose this vote and lose this technology and end this technology, ASAT, it, in my opinion, will be a direct threat to the thousands of American men and women all over the world who wear the uniforms of the Armed Forces of the United States.

It is an unprecedented erosion of our constitutional prerogative. When we take the oath to the Constitution, we take an oath to protect and defend America. This protects and defends America. I have been hearing a lot of this talk. I have heard some of it already, and we will hear a lot more, about how we are going to do this stuff with lasers, disable all these satellites with laser technology, that that is the thing of the future. It might be, but it is not here yet. What are we going to do here in between?

For those who might not care about the military application—or maybe you care about space junk—kinetic energy ASAT disables satellites. It does not break them up into hundreds of pieces and create space junk. It disables them. It is a very important point.

I would think the Senate would want to think long and hard before ending this technology because this amendment will do that. That is what it is designed to do.

There will be another amendment coming to cut the funding off just in case this one does not work. We face that every year.

I want to conclude on this point, Mr. President. I have been on the Armed Services Committee here in the U.S. Senate under Democrat and Republican leadership. We have fought this fight every year. And Democrats, when they were in the majority, were some of the strongest supporters on that committee of this program.

This is not a Republican-Democrat issue here. This is a national security issue. It deserves to be supported. Why some in the administration have taken the position that it ought not to be, and some in the Senate, I do not know. But I know this is dangerous. This is a dangerous amendment. I do not say that about very many amendments on this floor. This is a dangerous amendment. This could cost American lives,

and not too far in the distant future either. This could be very close in the immediate future. This could cost American lives.

We have the technology to disable satellites. We ought to use it. It is proven. We have expended roughly two-thirds of the money. It is in place. The military supports it. And those policy-makers who do not are ill-advised. They are wrong. They are absolutely wrong. We have an obligation to stand up and be heard on this, when these kinds of things happen.

So I am proud to say, Mr. President, that I support this program, not for any parochial reasons, but for national security reasons. I am standing here on the floor today because this system works. It is necessary for the security of the United States of America. It protects American lives. It ought to be funded fully. It ought not to be in any way diminished.

So I ask my colleagues, please, do not fall for this faulty line, this false information, and to support kinetic energy ASAT.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from South Carolina has 3 minutes, 20 seconds.

Mr. THURMOND. Mr. President, first, I want to commend the able Senator from New Hampshire for the excellent remarks he has made on this subject. He has made a very emphatic case for our side. I am very proud that he has done that today.

Mr. President. I rise in opposition to the amendment offered by the Senator from New Mexico. A similar variation of the amendment was offered in the committee during markup and it was not accepted.

The Congress has authorized and/or appropriated funds for the kinetic energy antisatellite technology program since 1985. For the past 3 years the administration has not complied with the law and obligated the funds for the program. Every year, as a result, we have to take actions to force the Department to comply with legislation to compel them to obligate the funds for this particular program.

Mr. President, the Under Secretary of Defense for Space, Bob Davis, has stated on many occasions that there is a need to develop systems to counter the space threat. The Congress has supported the kinetic energy antisatellite technologies for that purposes, as well as other technologies which are not ready for production or are years away from deployment. The KE-ASAT program is the only near-term program to meet a potential enemy satellite threat.

The U.S. military relies on space for surveillance, communications, navigation, and attack warning. It is important for the United States to ensure its freedom to use space. If our adversaries

achieve the ability to control space and the United States does not have the capability to turn this around, we will lose our military advantage.

Mr. President, I, again, oppose the amendment offered by the Senator from New Mexico and I urge my colleagues to vote against it.

Mr. President, I ask unanimous consent that a memorandum for Robert T. Howard, Deputy Assistant Secretary of the Army for Budget by Jay M. Garner, Lieutenant General, USA, commanding, be printed in the RECORD.

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

DEPARTMENT OF THE ARMY,  
SPACE AND STRATEGIC DEFENSE  
COMMAND,

Arlington, VA, January 3, 1996.

Memorandum for MG Robert T. Howard,  
Deputy Assistant Secretary of the Army  
for Budget.

Subject: Kinetic Energy Anti-Satellite  
(ASAT) Technology Funding Reduction.

1. USASSDC nonconcurs with action proposed by Program Budget Decision 719, which rescinds \$30M from the ASAT program in support of the Bosnia Supplemental. USASSDC believes kinetic energy technology will prove to be a vital capability for the future. In addition, the kill vehicle currently being tested may have applicability to other programs.

2. The total KE ASAT technology program encompasses four years (FY96-99) at a cost of \$180M, which includes the \$30M currently being considered for rescission. The program is structured to develop incremental technology improvements (and possible insertion into other programs), necessary kill vehicle and booster procurements, and testing. For example, in FY96, weapon control system integration, software upgrades, and kill vehicle refurbishment will be accomplished in support of a planned hover test. This hover test, along with kill vehicle qualification testing and hardware in the loop simulation planned for FY97 will facilitate full up flight tests during FY98. As in the past, we expect continued Congressional funding and support of this program to not affect Army's research and development account, or overall total obligation authority (TOA). Based on this level of funding a contingency deployment capability will be achieved by FY99.

3. The current contract with Rockwell will terminate on January 31, 1996. If allowed to do so, ASAT contingency capability will be delayed by a minimum of one year depending on when funding is made available.

4. Point of contact for this action is LTC Robert M. Shell at (703) 607-1934.

JAY M. GARNER,  
Lieutenant General,  
USA, Commanding.

Mr. LEVIN. Mr. President, I rise in support of the Bingaman amendment on ASAT programs. His amendment would simply remove two very onerous provisions from the bill and permit the Department of Defense "Space Architect" to complete a study we have required, and determine which anti-satellite technologies are most appropriate for the U.S. military.

His amendment would not kill the ASAT Program, as its opponents have charged. In fact, his amendment would leave in place \$75 million for U.S. ASAT programs, which was added by the committee majority, for the ASAT

Program. This is funding the administration did not request, but which was added by the majority.

I believe it would be appropriate to eliminate the funding as well as the two provisions in the bill, because I do not believe there is a need to fund this ASAT Program. But this amendment by Senator BINGAMAN is a compromise that would leave in place all the funding added by the Committee majority, but strip out the two provisions that were in the bill. It would leave the Department of Defense the option of pursuing the kinetic energy ASAT Program if it is considered appropriate technology. But the bill mandates that the Pentagon choose the KE ASAT, without even knowing the results of the current study being conducted by the "Space Architect."

So the amendment offered by Senator BINGAMAN is a very reasonable compromise that leaves open all ASAT options while keeping \$75 million that was not even requested by the Administration. Although I do not believe that this funding is justified, I think the underlying provisions in the bill are totally unjustified and should be rejected by the Senate.

I urge my colleagues to vote in favor of the Bingaman amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. At this time, not to interrupt the debate, I would like, if the Senator from New Mexico is finished, to move the amendment, or at least ask for the yeas and nays. Let me just ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SMITH. Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. BINGAMAN. Mr. President, I did want to conclude my debate.

The PRESIDING OFFICER. The motion to table is not in order at this point.

Mr. SMITH. I will withhold.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Mexico controls 10 minutes, 52 seconds.

AMENDMENT NO. 4058, AS MODIFIED

Mr. BINGAMAN. Mr. President, first, I am informed by the floor staff that I need to send a modification to the desk. It is a technical modification to make it clear as to which page and which line is being proposed for striking in this amendment. I send that modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

Beginning on page 33, strike out line 3 and all that follows through page 34, line 2, and insert in lieu thereof the following:

**SEC. 212. SPACE CONTROL ARCHITECTURE STUDY.**

(a) **REQUIRED CONSIDERATION OF KINETIC ENERGY TACTICAL ANTISATELLITE PROGRAM.**—The Department of Defense Space Architect shall evaluate the potential cost and effectiveness of the inclusion of the kinetic energy tactical antisatellite program of the Department of Defense as a specific element of the space control architecture which the Space Architect is developing for the Secretary of Defense.

(b) **CONGRESSIONAL NOTIFICATION OF ANY DETERMINATION OF INAPPROPRIATENESS OF PROGRAM FOR ARCHITECTURE.**—(1) If at any point in the development of the space control architecture the Space Architect determines that the kinetic energy tactical antisatellite program is not appropriate for incorporation into the space control architecture under development, the Space Architect shall immediately notify the congressional defense committees of such determination.

(2) Within 60 days after submitting a notification of a determination under paragraph (1), the Space Architect shall submit to the congressional defense committees a detailed report setting forth the specific reasons for, and analytical findings supporting, the determination.

(c) **REPORT ON APPROVED ARCHITECTURE.**—Not later than March 31, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the space control architecture approved by the Secretary. The report shall include the following:

(1) An assessment of the potential threats posed to deployed United States military forces by the proliferation of foreign military and commercial space assets.

(2) The Secretary's recommendations for development and deployment of space control capabilities to counter such threats.

(d) **FUNDING.**—(1) The Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager the funds appropriated in fiscal year 1996 for the kinetic energy tactical antisatellite program. The Secretary may withdraw unobligated balances of such funds from the program manager only if—

(A) the Space Architect makes a determination described in subsection (b)(1); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

(2) Not later than April 1, 1997, the Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager any funds appropriated for fiscal year 1997 for a kinetic energy tactical antisatellite program pursuant to section 221(a) unless—

(A) the Space Architect has by such date submitted a notification pursuant to subsection (b); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

Beginning on page 42, strike out line 15 and all that follows through page 43, line 9

Mr. BINGAMAN. Mr. President, let me just respond briefly. I do not think I will take the full 10 minutes. The Senator from New Hampshire says that this amendment that I have offered is an effort to kill the ASAT Program. That is clearly not true. There is nothing in the amendment that I have offered which in any way tries to delete or reduce or diminish funding for an ASAT Program. I made it very clear that I support that funding. The funding remains in the bill.

The Senator from New Hampshire is saying that the Pentagon is trying to

kill its own ASAT capability. I have real trouble understanding that logic or believing that that is a credible line of argument.

The real question we are trying to pose here, Mr. President, is, should we allow the Pentagon to come forward with their own recommendation on what makes the most sense, what is the best option for an ASAT capability, or should we prejudice that?

I remember a story that I heard when I was in school about how Henry Ford used to say, "You can have any color of Model-T Ford that you want as long as it's black." What we are saying here in the existing bill to the Pentagon is, "You can pursue any option you want to obtain ASAT capability as long as you take the one we want you to take." That is not a smart way for us to proceed. We do not have the technical capability here in the U.S. Senate to prejudge this study that the Pentagon is engaged in.

My colleague from New Hampshire says that the military supports this kinetic energy ASAT capability; they want to go ahead and fund it. If that is true, then why do we have to mandate in the bill that they have to fund it? Why do we have to mandate in the bill that they cannot spend any money for these other purposes unless they fund it, unless they choose that option?

I think clearly what the majority in the committee is trying to do in this bill is to take away the options of the Pentagon and say the Pentagon has to fight the way we say or else we will impose sanctions upon them.

My colleague from New Hampshire says that anyone who would support this amendment, the amendment I have offered, is trying to put our forces at risk. Why is it putting our forces at risk to let the Pentagon decide what makes the most sense, what is the most effective for protecting our forces? I have real difficulty understanding that kind of logic.

Mr. President, the amendment that I have offered is not an effort to kill the ASAT Program. It is not an effort to reduce funding for the ASAT Program. There is nothing in the amendment that does either of those things. What it says is, let us give them the money, let us give them the ability to come back and recommend to us the proper use of that money to gain the greatest capability for protecting our own forces. To me that is common sense. I have great difficulty seeing why we even have to argue about it.

I am reminded, as I hear the debate raging around here, that when I was practicing law, a more senior member of the bar early on in some of the trial practice I engaged in said there is a simple rule in trying a lawsuit. When the facts are on your side, pound away at the facts; when the law is on your side, pound away at the law; when neither are on your side, pound away at the table. That is what is happening here. Neither the facts nor the law nor common sense are on the side of those who put this provision in the bill.

We clearly should delete this provision. Let the Pentagon make its own recommendations as to what option is best for our troops. That is what I favor doing. I urge my colleagues to support the amendment. I yield the floor.

Mr. THURMOND. I yield the remainder of the time to the able Senator from New Hampshire, and I ask unanimous consent that 2 additional minutes be allowed the Senator from New Hampshire.

Mr. BINGAMAN. Mr. President, I have no objection to an additional 2 minutes, but I would like 2 minutes on my side.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered. The Senator from New Hampshire is recognized for up to 2 minutes and 58 seconds.

Mr. SMITH. I will respond to my friend from New Mexico. We worked very closely together on the Acquisition and Technology Subcommittee. I will not pound the table. I am not even going to raise my voice. The truth of the matter—and the Senator knows this full well—the administration did not request any funding in their budget for the ASAT Program.

Unless I am missing something in the logic here—I do not believe I am; maybe the Senator would like me to miss it and would like others to miss it—unless I misunderstand something, if the administration does not request it and the policy folks do not want it, if we send it back to the space architect, who is a policy person, to study it, you can pretty well conclude what the results will be. They will not fund it.

When I say this is a deliberate attempt to kill the Kinetic Energy ASAT Program, I mean what I say. It is true. It will kill it. The other thing that we need to understand here, the Army supports the Kinetic Energy ASAT Program. They objected to the rescission list. They objected to this being listed as a rescission item. They did not win the debate. The policy people won.

The Senator's amendment sends this back to the space architect. He will study it diligently over the next few weeks, months, whatever it takes, and then announce that we do not need it, and kill it. This is not an objective decision here. This person was not objective. This person made up his mind already. He does not want it. If he wanted it, he would have funded the remainder of it, which has already been—as we said earlier, we have already expended \$245 million on this program, and we have already proven that it works, and we already have the technology in place. All we are asking for is the completion. That is the reason why this is a killer amendment.

We should not be cute about the process here. When somebody opposes something, you give it back to them to make the decision, you can pretty well

guess what the decision is going to be. That is a little bit disingenuous. They did not fund it. The administration does not want this program. The administration is getting quite a reputation around here for not expending moneys that we have appropriated and authorized. They are getting pretty good at it, and they are doing it without legislation. They are just doing it. They are just saying, "We do not want this, so even though you authorized it and appropriated it, we are not going to spend it."

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

The Senator from New Mexico has 7 minutes 45 seconds.

Mr. BINGAMAN. Mr. President, again I will not take the full 7 minutes, but let me conclude by saying that I think there is clearly a failure to communicate here on this issue.

My colleague from New Hampshire says that the Army wants this program. Looking at the facts: The administration asked for a fairly healthy defense budget; the Armed Services Committee, in the bill that is before the Senate here, added about over \$12 billion to that—something in that range. In order to come up with that additional money, we went to each of the services and said, "What is on your wish list? Are there things you would like to have funded that we were not able to fund, or that the President did not request, or that the Pentagon did not request, the Secretary of Defense did not request?" The Army gave us over \$2 billion worth of those, more like \$3 billion. I am not sure of the exact amount.

Again, there was nothing in there for this ASAT capability. The argument that the Army wants this, they just never want us to give them any money for it, is a hard one for me to understand. I think, clearly, this is not a program I am trying to kill. We are not touching the money. The money has been added here, and we are saying, "Fine, let's go ahead and spend the money for whichever option the Pentagon wants to pursue." But let the Pentagon make the judgment. Do not try to prejudice the right technology in order to develop this ASAT capability. That is all we are saying.

The end of the amendment that I have offered, I think, makes it very clear that not later than April 1, 1997, the Secretary of Defense shall release to the kinetic energy antisatellite program manager any funds appropriated in 1997 for the Kinetic Energy Tactical Antisatellite Program pursuant to section 221(a) unless the space architect has by such date submitted a notification; or a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

What I am trying to do in my amendment is to protect the ability of the Pentagon to use the money in the most effective way. We are not in favor of mandating a result in an ongoing study

where they are trying to make a judgment as to what is the best use of this money to protect our own forces.

I have confidence that the Pentagon will make a judgment based on their honest and expert opinion as to what makes sense for the country and for our own forces. I do not think we need to prejudge that. Accordingly, I hope very much that my amendment will be agreed to.

Mr. President, I ask that Senator BUMPERS be added as a cosponsor to my amendment.

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

Mr. BINGAMAN. Mr. President, I have no additional debate.

Mr. THURMOND. Mr. President, I ask unanimous consent upon disposition of the Bingaman amendment, that Senator ASHCROFT and Senator KENNEDY be recognized to speak as in morning business for up to 10 minutes each.

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

Mr. THURMOND. Mr. President, I move to table this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS] would vote "no."

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

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—52

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Heflin	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	
Frahm	McCain	

NAYS—46

Akaka	Byrd	Ford
Baucus	Conrad	Glenn
Biden	Daschle	Graham
Bingaman	Dodd	Harkin
Boxer	Dorgan	Hatfield
Bradley	Exon	Hollings
Breaux	Feingold	Inouye
Bryan	Feinstein	Jeffords

Johnston	Lieberman	Reid
Kennedy	Mikulski	Robb
Kerrey	Moseley-Braun	Sarbanes
Kerry	Moynihan	Simon
Kohl	Murray	Strom
Lautenberg	Nunn	Wyden
Leahy	Pell	
Levin	Pryor	

NOT VOTING—2

Bumpers	Rockefeller
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The motion to table the amendment (No. 4058), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Senator FAIRCLOTH is recognized for 10 minutes.

Mr. FAIRCLOTH. I thank the Chair.

(The remarks of Mr. FAIRCLOTH, Mr. KENNEDY, Mr. HEFLIN and Mr. NUNN pertaining to the introduction of S. 1890 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that floor privileges be granted to Randy O'Connor, a defense fellow in my office for the duration of the consideration of the fiscal year 1997 Defense authorization bill.

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

Mr. NUNN. Mr. President, I believe the Senator from Washington would like to be recognized. I think there has been a unanimous-consent request. I believe the Senator from South Carolina will be asking unanimous consent that Senator MURRAY be recognized for the time agreement specified. I believe, also, the Senator needs to ask the amendments be set aside that are now pending.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that the time on the Murray amendment related to abortions in military hospitals be limited to 2 hours equally divided in the usual form, that no amendments be in order, and that following the use or yielding back of time, the Senate proceed to vote on or in relation to the amendment.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, I would like to include in the unanimous-consent request, if I might, that I be recognized to offer an amendment immediately upon the disposition of the Murray amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THURMOND. Mr. President, I suggest we begin debate on this amendment.

The PRESIDING OFFICER. There is a pending unanimous-consent request. Is there objection?

Mr. PRYOR. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I suggest we now proceed to debate.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, can I inquire, has the Senator from Washington been recognized to offer her amendment?

The PRESIDING OFFICER. Not at this point. There was an objection to the unanimous-consent request.

Mr. COATS. But that would not prevent the Senator from going ahead and offering her amendment; there would just not be a time constraint?

The PRESIDING OFFICER. That is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. NUNN. Mr. President, if the Senator from South Carolina propounds the unanimous-consent request, I believe it will be agreed to now. I know the Senator from Arkansas first would like to make his position clear, and perhaps if he is recognized at this point for that, he can make his brief statement and then the Senator from South Carolina can propound the unanimous-consent request, and I believe it will be agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished ranking member of the Armed Services Committee for allowing me to make a statement, and I will say to my distinguished chairman of the Armed Services Committee, my statement will be about just one moment, and then we will allow Senator MURRAY to go forward with her amendment.

Mr. President, the amendment that I am going to offer, and it may not be after the disposition of Senator MURRAY's amendment but it may be after the disposition of a subsequent amendment, is the so-called GATT Glaxo amendment. I have been attempting all of this year, during the entirety of 1996, to bring this amendment to the floor, to have it debated and have it voted on. I have asked for 1 hour of debate, 30 minutes on a side, and then let us vote up or down and dispose of this matter to see if we are willing or not willing to correct a massive abuse that we created by mistake in the GATT treaty.

This is allowing one drug firm to prevent other generic firms from coming in and competing fairly in the market. It is also allowing an extra \$5 million each day—each day—of profits that we hesitate and fail to correct.

It should be a matter of honor that we correct this matter, and I am going on the Department of Defense bill to continue attempting to find a slot where Senator BROWN, Senator CHAFFEE, and the Senator from Arkansas, Senator PRYOR, may offer this amendment and have the U.S. Senate go on record, once and for all, as to whether we are willing to correct this abusive flaw created by mistake.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Arkansas for taking the position he has. I will now proceed to make the request.

Mr. President, I ask unanimous consent that the time on the Murray amendment, relating to abortions at military hospitals, be limited to 2 hours, equally divided in the usual form, and that no amendments be in order; and that following the use or yielding back of time, the Senate proceed to vote on, or in relation to, the amendment.

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

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

#### AMENDMENT NO. 4059

(Purpose: To repeal the restriction on use of Department of Defense facilities for abortions)

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

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Ms. SNOWE, Mr. KENNEDY, Mr. ROBB, Mr. LAUTENBERG, Mr. SIMON, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 4059.

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

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

The amendment is as follows:

At the end of title VII add the following:

#### SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out “(a) RESTRICTION ON USE OF FUNDS.—”.

Mrs. MURRAY. Mr. President, the amendment that I am offering to the fiscal year 1997 Department of Defense authorization bill—and I am offering it

on behalf of myself, Senator SNOWE, Senator SIMON, Senator LAUTENBERG, Senator ROBB, Senator MOSELEY-BRAUN and Senator KENNEDY—is very simple. It strikes language adopted in last year's defense authorization and appropriations bills that would prohibit privately funded abortions from being performed at overseas military hospitals. This ban places women stationed overseas in an unsafe and unfair situation and blatantly restricts their constitutional right to choose.

Women in our armed services sacrifice each and every day to serve our country. They should receive our utmost respect, honor, and gratitude. They certainly do not deserve to be told they must check their constitutional rights at the door when they are stationed overseas. My amendment protects their precious rights and ensures their safe access to quality medical services.

Mr. President, let me just say a few things about my amendment to clear away any confusion that may exist.

First, this amendment simply restores previous DOD policy. From 1973 to 1988, a woman stationed overseas was allowed to obtain an abortion if she paid with private, nondefense funds. Likewise, this was DOD policy from 1993 till 1996. This is not some radical new idea. Quite the contrary, in fact. This law was in place for almost two full terms of the Reagan White House.

We have had many debates on the floor of this Senate over the past 2 years about abortion, about Federal funding, about Federal workers, about Medicaid. Let me be very clear, this issue is different. My amendment simply ensures the same rights for women in our armed services enjoyed by every other woman in this country.

This amendment is merely an effort to return us to the policy of the past which protected women stationed in a foreign country from having to seek medical care from inexperienced or inadequately trained personnel. It is dangerous and unnecessary and just plain wrong to put these women, who are serving our country overseas, at risk.

Furthermore, my amendment does not force anyone to perform an abortion at a military facility.

Currently, all departments of the military function under a conscience clause which states that medical personnel do not have to participate in an abortion procedure if they have a religious, moral, or ethical objection.

This amendment preserves that important conscience clause. Most importantly, Mr. President, it deals only with an individual's private funds. The 104th Congress has spent almost 2 years trying to return flexibility and authority to States. But under the fiscal year 1996 DOD bill, we have a fundamental inconsistency. We have a problem telling our States how to spend their money, but women in our own military are not afforded that privilege.

Mr. President, I remind my colleagues that a woman stationed overseas does not always have the luxury of access to safe and quality medical care other than at the military hospital on her base. It is dangerous to force her to seek medical care in the local area. We are sending our women in uniform to the foreign back alley. And that is wrong.

My amendment seeks to prevent our women in uniform from having to make a very difficult and potentially dangerous, life-threatening choice. My amendment seeks to restore our women in uniform, women stationed overseas, a right they have had for most of the last 23 years. My amendment seeks to protect the constitutional rights of our women in uniform. They sacrifice every day for every single one of us, and we owe them that much. I urge my colleagues to vote for this amendment. I withhold the balance of my time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Indiana.

Mr. COATS. Mr. President, in response to the Senator from Washington and the amendment that was just offered, it is true this is not some radical new idea. This is an issue that has been debated by this body on a number of occasions over the past several years.

Since 1979, the Department of Defense has had a policy of prohibiting the use of Federal funds to perform abortions except where the life of the mother would be in danger if the fetus were carried to term. The bill before us today carries that ban, which was enacted in last year's authorization bill, and it incorporates also the exceptions for rape and incest.

What the Congress has always debated are the two separate questions, both of which are legitimate questions and both of which need to be debated. The separate questions are, one, whether or not a legislative body ought to intervene in the decisions made in *Roe versus Wade* by the Supreme Court and enact restrictions or a constitutional amendment on the issue of abortion. The second issue, however, is a separate issue. That is whether or not a taxpayer ought to be coerced into supporting something that goes against his or her moral conscience or moral beliefs.

So in 1979, Congressman HYDE introduced the Hyde amendment, which essentially said that taxpayers' funds would not be used in support of abortion.

The amendment offered by the Senator from Washington attempts to address the situation as it applies only to military personnel and their dependents, under the argument that many of these individuals are deployed overseas and may find themselves in situations where performance of an abortion is either banned by the laws of that country or there are situations which are not of the quality or safety that women would seek.

But it ignores the fact that the Department of Defense has had in place a policy which allows women the opportunity to seek an abortion with their own funds at essentially a hospital of their choice. The Department of Defense makes military transportation available to these women.

What we are really dealing with here is the question of whether or not Federal funds should be used in the performance of abortions. It is also important to note that during the time that the policy prohibiting the use of Federal funds to perform abortions in military facilities, during the time that that policy has been in effect, there has been no difficulty in implementing the policy, there have been no formal complaints filed concerning the policy, there have been no legal challenges instituted concerning this policy, and no members of the military or their dependents have been denied access to an abortion as a result of the policy.

So it is simply not accurate to say that the policy currently in effect places women in an unfair situation and, to quote the Senator from Washington, "blatantly restricts their constitutional rights." This does not restrict the constitutional rights of women at all. Let me repeat that. This policy currently in effect does not restrict the constitutional rights of any woman in the service, or her dependents. That woman has full access to an abortion, to a legal abortion under the law. I do not condone that. I do not support that. But that is not the issue we are arguing.

The issue that we will be voting on is not whether you are pro-choice or pro-life. It is not whether you think a woman ought to have the right to choose. Military women have the right to choose. No one is denying their opportunity to have an abortion.

We are simply saying that the use of Federal facilities which are paid for, operated by the use of Federal funds, is violative of a policy that the Congress has adopted on numerous occasions, described as the Hyde amendment, which says that essentially no Federal funds will be used for the performance of abortions except in certain cases, life of the mother, and more recently life of the mother if the fetus were carried to term or in the cases of rape or incest.

There have been no recorded or official complaints, not only for women in uniform being denied access to an abortion, but their dependents being denied access to military transport for the purpose of procuring an abortion.

This, I believe, was a sound and a fair policy. It worked. If it had not worked, there would have been complaints filed, there would have been challenges issued concerning the policy, there would have been military personnel or their dependents denied access. That was not the case.

It remained in place until 1993 when President Clinton issued an Executive order reversing it. Under the Clinton policy, defense facilities were used for

the first time in 14 years, not to defend life, but to take life, and to do so with taxpayer funds.

Last year the House and the Senate reversed that policy when we voted to override the President and make permanent the ban on the use of Department of Defense medical facilities to perform abortions except in the case of rape, incest or to save the life of the mother. So today we are faced again with this issue, because this amendment would strike that ban and reinstate the former Clinton policy regarding military facilities.

Supporters of the Murray amendment will argue that this policy does not involve the use of taxpayer funds since women are required to pay for these abortions. But to maintain that fiction is simply to misunderstand the nature of military medicine. Unlike other medical facilities, military clinics and hospitals receive 100 percent of their funds from Federal taxpayers. Physicians in the military are Government employees, paid entirely by tax revenues. All of the operational and administrative expenses of military medicine are paid by taxpayers. All of the equipment used to perform the abortions are purchased at taxpayer expense.

So that is the issue that is before us. Are we going to require the taxpayers of America, whose fundamental religious beliefs or whose moral beliefs or values are such that they do not approve of the use of their tax dollars for the Government providing an abortion, to fund abortions?

It is true that the payment for this abortion will be made by the person seeking the abortion and not the taxpayer. But it is not true that taxpayers' funds are, therefore, not used in the procedure, because the procedure is being performed by employees whose entire salary is paid by the taxpayer, in a facility whose entire cost of construction is paid for by the taxpayer, whose entire operating costs are paid by the taxpayer, and which equipment used in the procedure is purchased at taxpayer expense.

It is therefore impossible to imagine that taxpayer money can be preserved from entanglement of abortion in military medicine. Any attempt to do so would present an accounting nightmare, according to the Defense Department's own analysis. The only way to protect the integrity of taxpayer funds is to keep the military out of the abortion business. We must not take money from citizens and use it to vandalize their moral values.

Mr. President, I suggest the Murray amendment is a solution in search of a problem. No problem has been identified. When the prohibition was in place, no one was denied access to an abortion.

I repeat that for my colleagues to consider: When this policy was in place banning the use of military facilities to provide abortions, no one was denied access to an abortion. If safe, acceptable facilities for elective abortion



were not available to military women based on where they were stationed or living, these women were permitted to use military transport, for whatever reason they chose, to go wherever they wanted to go to have that abortion.

Supporters of the Murray amendment have argued that in the past, women in the military have been stripped of their rights, but not a single case has been filed challenging this policy. The bottom line is that the need for the legislation or the President's policy has not been proven.

Therefore, I urge my colleagues to reject this amendment, to retain the present policy as enacted last year in the House-Senate conference, and now as part of current law, to retain that policy, because that policy makes imminent sense. To repeal that would violate what this Congress has adopted as policy many, many times over. That is, the intermingling of taxpayer funds for the provision of abortion.

I reserve the balance of my time. I yield the floor.

Mrs. MURRAY. I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want the Senate to support the amendment offered by Senator MURRAY to ensure that women in the armed services serving overseas can exercise their constitutional right to choose safe abortion services. It does not require the Department of Defense to pay for abortions. But it repeals the current ban on privately funded abortions at U.S. military facilities overseas. Our servicewomen should not lose their rights granted by the Constitution when they serve the country in foreign lands.

This is an issue of fairness to the women who make significant sacrifices to serve our nation. They go to military bases around the world to protect our freedoms, but when they get there, they are denied access to the kind of medical care available to all women in the United States. Military women should be able to depend on their base hospitals for all their medical services. This amendment gives them access to the same range and quality of health care services that they could obtain in the United States.

In many countries where our forces serve, that quality of care is not available. Without adequate care, an abortion can be a life-threatening or permanently disabling operation. In some countries, the blood supply may pose an unacceptable health risk for military personnel.

We have a responsibility to provide safe options for U.S. servicewomen in these situations. Those who oppose this amendment are exposing servicewomen to substantial risks of infection, illness, infertility, or even death. We can easily avoid such risks by making the health facilities at overseas bases available, and it is irresponsible not to do so.

In addition to the health risks of the current policy, there is a significant fi-

nancial penalty on servicewomen and their families. Round-trip travel costs for a woman stationed at our Air Base in Turkey to travel privately back to Washington for an abortion totals over \$2,500 and that figure does not include the cost of the medical procedure. For a young enlisted woman whose pretax monthly income is about \$1,400, that cost is a significant financial hardship that women serving in the United States do not have to bear.

If the enlisted woman does not have the financial means to travel privately to the United States, she could face significant delays waiting for space available military transportation. The health risks increase with each week. If the delays are too long, the servicewoman may well be forced to rely on questionable facilities in the country where she is stationed. For all practical purposes, she is being denied her right to choose.

The decision on abortion is very difficult and extremely personal. It is unfair and unreasonable to make this decision so dangerous for women who serve our country overseas.

Every woman in America has a constitutional right to choose to terminate her pregnancy. It is time for Congress to stop denying this right to military women serving overseas and to stop treating them as second-class citizens. I urge the Senate to support the Murray amendment.

Mr. President, I find it very difficult to follow the logic of those individuals who oppose abortions at overseas Government-supported medical facilities because tax payers' dollars are involved, and yet somehow distinguish that from the Government-supported air transportation required to fly individuals back to the United States to obtain abortion services. Who in the world pays for the air transportation, the aircraft, and the personnel that fly the aircraft?

The issue ought to be what is the best in terms of the health care for that individual. We insist on that for our military personnel. They are entitled to it—the very, very best. We are committed to make sure they get the best.

Why should we be able to say we are going to provide quality health care services with this one exception, with this one area, where a woman is going to have to roll the dice and take her chances, based upon availability of flights, based upon the particular location where the woman is stationed? Are we going to effectively wash our hands of any kind of responsibility? It makes no sense. It is cruel. It is inhumane. It is failing to meet the health care needs of military personnel. We should not be able to say we will provide the best in health care with the exception of this one procedure.

I think the amendment is commendable. I congratulate the Senator from Washington for offering it. I hope the amendment is carried.

Mrs. MURRAY. Mr. President, I ask the Senator from Maine how much time she desires.

Ms. SNOWE. I would like 5 minutes.

Mrs. MURRAY. I yield 5 minutes to the Senator from Maine.

Ms. SNOWE. Mr. President, I rise in support of the amendment offered by Senator MURRAY to repeal the ban on abortions in overseas military hospitals. I am very pleased to cosponsor this amendment as well.

In listening to the debate here this afternoon, I cannot help but think "here we go again" on this issue, on a woman's personal right to choose. We have this debate year in and year out. Congress revisits this issue of reproductive freedom by seeking to restrict, limit, and eliminate a woman's right to choose.

This ban on abortion in overseas military facilities, reinstated last year, represented just more of the same. I point out these efforts to turn back the clock on a woman's reproductive rights will never erase the fact that the highest court in the land reaffirmed a woman's basic and fundamental right to a safe and legal abortion time after time, again and again, in decision after decision.

Last year's successful effort to reinstate that ban was another frontal assault on the principle of reproductive freedom and the dignity of women's lives. We all know that this ban denies the right to choose for female military personnel and dependents. It denies those women who have voluntarily decided to serve our country in the Armed Forces safe and legal medical care, simply because they were assigned to duty in other countries.

What kind of reward is that? Why does this Congress want to punish those women who so bravely serve our country overseas by denying them the rights that are guaranteed to all Americans under the Constitution?

It did not occur to me that women's constitutional rights were territorial. It did not occur to me that when American women in our Armed Forces get visas and passports stamped when they go abroad, they are supposed to leave their fundamental constitutional rights at the proverbial door.

I think it is regrettable that in this debate we are talking about denying women their rights because they are serving in our military in overseas facilities. We are denying them their option to have a safe and legal medical procedure because they happen to be working for this country overseas. The taxpayers are not required to pay for this procedure. This procedure is paid for by the woman's personal fund. That is the way it was, under the law, between 1979 and 1988. And as we know, at that time, in 1988, the policy was reversed. It was reinstated to lift the ban in 1993.

I, frankly, cannot understand why we are suggesting that there should be a two-tiered policy for women if they happen to serve in the military overseas. We are saying, by virtue of that



fact, you will not have the same medical care in this legal procedure that is recognized under the law in this country, and has been reaffirmed time and again by the highest court in the land.

Military personnel stationed overseas still vote, they pay taxes, they are protected and, as well, are punished under U.S. law. Whether we agree about the issue of abortion, or not, we do not have the right to deny them their right to have access to a legal and safe medical procedure. What we are saying is that this ban, basically, forces women to put their health at risk. They will be forced to seek out unsafe medical care in countries where the blood supply is not safe, in many instances, where the procedures are antiquated, where their equipment may not be sterile. I do not believe it is appropriate, nor right, to force our military personnel to make additional sacrifices beyond the ones they are already making in serving their country.

Now, we are not saying that we should force any medical personnel to perform this procedure. There is a conscience clause for all three services in the Armed Forces. No one is required to perform this procedure. If they have a moral, religious, or ethical objection to abortion, they do not have to participate in this procedure. I think we all think that is reasonable. But what is unreasonable is saying to women: Sorry, we are not going to allow you to have the same medical rights if you serve in the military because you happen to be overseas. I do not see anything reasonable about that standard. It is unfair, and it is dangerous.

Last year, the New York Times, I think, expressed the bottom line on this ban when they said in an editorial: "They can fight for their country, they can die for their country, but they cannot get access to a full range of medical services when their country stations them overseas."

I really think that this becomes an extreme policy. It puts women in a crisis position, and we in this Chamber have to stand up and say enough is enough. Unfortunately, someday, it may be too late when we finally do.

So I hope that the Members of this Senate will support the amendment that has been offered by Senator MURRAY from Washington, because it is an appropriate, reasonable approach to a very difficult issue. I do not think that we want to be in a position of requiring women who serve in our military to be subjected to or be victim to unsafe medical procedures because we happen to differ with that procedure. This is their money, and it is their right to make this decision. It is a procedure recognized by the law of this country and by the Supreme Court. We owe it to them to have the right to make that decision and, obviously, they are going to pay for it. And now we are saying that we are sorry, we are going to deny them this option under very difficult circumstances.

There are not many options available to a woman stationed overseas, who

has to make this very difficult and personal decision to terminate a pregnancy. So I hope that we will consider this in the proper context. It is her right to make that decision under the law of this land. That should apply to them when they are serving this country overseas.

I yield the floor, Mr. President.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to join Senators MURRAY and SNOWE in offering an amendment to repeal the restrictions barring American women serving overseas from accessing abortion services in military hospitals.

This amendment simply grants women who have volunteered to serve and protect their country the same rights as every other American woman. This amendment allows them to pay their own funds to access medical care at a military hospital if they choose to terminate a pregnancy. This amendment allows women serving this country to avoid increasing military expenses by having to leave the host country to travel to the United States to seek medical care that is available in a nearby military medical facility.

Women in the military are fighting to protect the constitution of the United States. We should not deny these women their constitutional rights, rights enjoyed in every State in the Union. The right to choose to have an abortion is protected by our Constitution.

It would be unconscionable to force women serving overseas to seek the services of hospitals in host countries. We have no way of ensuring that these hospitals have sufficiently trained employees, standards of sanitation comparable to those in America, or adequate facilities. Our military hospitals maintain world class facilities.

Before 1974, hundreds of women died or suffered terribly because they had abortions outside of proper medical facilities. Women serving this country should not face that prospect again.

One of the reasons we have military hospitals is to ensure that our military personnel get the best medical treatment possible. Women serving overseas have already volunteered to risk their lives in order to protect this country. We cannot place an additional and senseless risk upon them by turning them away from military medical care.

This ban also affects women who are not even in the military themselves. Wives of military personnel also utilize military hospitals overseas. These women have sacrificed in order to move overseas to keep their families intact. Denying their access to quality care if they choose to terminate a pregnancy is no way to thank them.

I would like to point out that this amendment in no way forces anyone to abrogate their religious or moral beliefs. All three branches of the military have a "conscience clause" which will remain intact. The clause permits medical personnel who have any objection to abortion to not participate in the procedure.

There was never any Congressional consultation when, in 1988, the Department of Defense issued an administrative order prohibiting women from obtaining abortion services in military facilities overseas. Prior to 1988, women could obtain abortions in military facilities with private funds. President Clinton lifted the ban by Executive Order on January 20, 1993. This amendment merely upholds a policy that is currently in effect and was before 1988 as well.

We are here today to improve the safety of women serving in the military overseas. We are here today to protect wives living overseas with their military husbands. We are here today to uphold what has been confirmed as a constitutional right time and time again since Roe versus Wade in 1974. I urge my colleagues to support this amendment today.

Mrs. FEINSTEIN. Mr. President, I support Senator MURRAY's amendment to repeal the provision of current law that prohibits a woman in the armed services from using her own funds to pay for an abortion in an overseas U.S. military facility. I support this amendment for several reasons.

First, the Supreme Court has clearly established a woman's right to choose. That right is not suspended simply because a woman serves in the U.S. military or is married to a U.S. servicemember.

Second, women based in the United States and using a U.S.-based military facility are not prohibited from using their own funds to pay for an abortion. Having a prohibition on the use of U.S. military facilities overseas creates a double standard, and an undue hardship on women servicemembers stationed overseas.

Third, private facilities may not be readily available in other countries. For example, abortion is illegal in the Philippines. A woman stationed in that country or the spouse of a servicemember would need to fly to the U.S. or to another country—at her own expense—to obtain an abortion. We don't pay our servicemembers enough to assume they can simply jet off to Switzerland for medical treatment.

Fourth, if women do not have access to military facilities or to private facilities in the country they are stationed, they could endanger their own health by the delay involved in getting to a facility or by being forced to seek an abortion by someone other than a licensed physician.

We know from personal experience in this country that when abortion is illegal, desperate women are often forced into unsafe and life-threatening situations in back alleys. If it were your wife, or your daughter, would you want her in the hands of an untrained abortionist on the back streets of Manila or Cordoba, Argentina? Or would you prefer that she have access to medical treatment by a trained physician in a U.S. military facility?

Not only would these women be risking their health and lives under normal

conditions, but what if these women are facing complicated or life-threatening pregnancies and are unaware of the seriousness of their condition?

We are asking these women to risk their lives in the service of their country.

Current law does not force any military physician to perform an abortion against his or her will. All branches have a "conscience clause" that permits medical personnel to choose not to perform the procedure. What we are talking about today is providing equal access to military medical facilities, wherever they are located, for a legal procedure paid for with one's own money.

Abortion is legal for American women. U.S. servicemembers would pay with their own funds. To deny them access to medical treatment they can trust is wrong. It's that simple. I urge my colleagues to vote for this amendment.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Murray amendment.

This amendment will repeal the bill's ban on privately funded abortions at military medical facilities overseas.

Let's be very clear what we're talking about here today. It is a very simple question. Are women who are defending our Nation women who sacrifice every day in military service to our country going to be treated as second class citizens when it comes to the health care they receive?

The bill before us answers "yes" to that question. Mr. President, that is simply unacceptable. Our military women are not second-class citizens and we cannot treat them as if they were.

Mr. President, safe and legal access to abortion is the law of the land. It is a matter of simple fairness that our servicewomen, as well as the spouses and dependents of servicemen, be able to exercise that right when they are stationed overseas.

When people enlist in the Armed Services, they do not choose where they are to be stationed. They go where our military decides they are needed. They are often sent to remote locations where the only access to quality, safe medical care is in a military facility.

While they are sent all over the world to defend our freedoms, isn't the very least we owe them the right to exercise the same freedoms they would enjoy if they remained here at home?

By adopting this amendment we will enable military women to exercise their right to reproductive freedom. The amendment does not involve the use of any taxpayer funding. What this amendment will ensure is the right of women to obtain a safe and legal abortion paid for with their own funds. And, of course, under this amendment the conscience clause for military personnel who do not wish to perform abortions would be retained. So no military personnel would be compelled to perform abortions.

Adoption of this amendment will ensure that women in the Armed Services have access to safe medical care. Let's do the right thing. Let's not treat our servicewomen like second-class citizens. They give so much in service to our country. They deserve no less than to be treated fairly by us.

I urge my colleagues to join me in supporting this important amendment.

Mr. BINGAMAN. Mr. President, the language in this bill is an unsupportable effort to take away a fundamental, legal right from women in uniform and female military dependents overseas—the right to use their own funds to obtain a legal abortion.

The amendment we are considering today is simply a return to previous DOD policy that stood for many, many years.

It is, quite simply, about treating these women fairly and equitably, and giving them the same rights that women in this country have.

These women are in service to their country—our country—overseas, protecting our fundamental freedoms.

But this ban would deny them the same freedom that women in this country are granted—the right to safe, legal, and comprehensive reproductive services.

I urge my colleagues to support the Murray-Snowe amendment, and strike this offensive language from the bill. We have no right to ask these women to sacrifice more than they already have in service to their country.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the Senator yield 3 or 4 minutes?

Mrs. MURRAY. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would just like to inquire of the Senator from Washington. If I understand the situation correctly, if a woman were coming back to the United States, by and large she has to ask for leave, does she not, to be able to come back to the United States?

Mrs. MURRAY. Mr. President, it is my understanding that she would have to ask for leave to come back to the United States in order to have the medical procedure take place.

Mr. KENNEDY. It is my understanding that there may have to be reasons stated for the leave, in some circumstances, depending on the particular situation. I would call that sort of a violation of privacy. But in some areas, in some situations, as I understand it, they may very well have to reveal the reasons for that leave. Or if they were to return to the United States and have the procedure and develop complications and needed more time, they would have to request additional leave time and, more often than not, they would have to indicate their reasons for it.

Now, of course, if a woman made the decision here in the United States and then ran into complications, they would have to justify why they were

not meeting military requirements, in any event. But it seems to me that while imposing the requirements for leave, you are also stating, more often than not, as I understand it, that they have to give reasons or a justification, which is a privacy issue. If they run into any complications, there are additional issues both in terms of leave and additional privacy issues. It seems to me that this is another factor that might not make the greatest difference to some individuals. But I would think that adding this kind of emotional trauma that is being experienced through this whole kind of a procedure is particularly unfortunate, and I think probably unfair, certainly, to the women as well. I was just interested in the Senator's understanding about the situation.

Mrs. MURRAY. Mr. President, the Senator from Massachusetts is absolutely correct. With the language as it is currently written in the DOD bill, without my amendment, this will force women in the military overseas—in Bosnia, in Turkey, or in many other places—to go to their supervisor and request a leave. Most likely, they would be asked to tell them why, which would be a very difficult situation for many. They would be subject to their supervisor's decision about whether or not they would be granted leave. That would put women in a very awkward and unfair position.

I should add that, if the abortion is delayed, the woman's life becomes more in danger. In many circumstances, that would be delayed if she traveled to this country. If she is granted leave and traveled to this country, as the Senator has stated, if the complications arise, as they can, she would then be subject to having to go back to that supervisor again and ask for additional leave.

This is an extremely unfair situation. It can be rectified very easily by this amendment that would allow a woman to use her own private money. We are not asking for taxpayer dollars. We are saying that a woman can use her own money to go into the military facility where we have excellent personnel overseas to perform a safe medical procedure.

Mr. KENNEDY. Finally, the point was made here on the floor that the facility will have been built with American taxpayers' money and the doctors are going to be paid their salary with taxpayers' money. Does the Senator not find the distinction between that and having space available on a plane which is paid for by the taxpayers, piloted by the taxpayers—does the Senator find that the logic is failing in those who are opposed to the amendment to say that on the one hand it looks like it is being tax supported and on the other hand it is not? I have been singularly unconvinced about that part of the argument which we have heard time and time again this afternoon. I do not see how that logic holds up to the light of day.

I do not know whether the Senator had some additional insight that might be able to clarify that.

Mrs. MURRAY. I am really glad that the Senator asked about the taxpayers' funds being used to build a military facility. Frankly, I find those arguments very offensive because, as taxpayers in this country, we provide dollars for many facilities across this country. But we have singled out women who are overseas serving us in countries overseas, and have told them that they cannot use their own private dollars to pay for a medical service in those facilities. We pay for many other services in those facilities, but we will not provide an abortion for those women. Yet, the Senator is absolutely correct; she will have to fly back to this country in a military plane paid for by taxpayer dollars. She will eat meals on that plane paid for by taxpayer dollars. All of us use taxpayer dollars when we travel on the roads, when we use our public schools, when we go to our colleges, when we have the police come to our house, or when we have a firetruck come to the House.

Why are we singling out women who need a medical procedure and expanding the use of taxpayers' funds in that terminology? I find that very offensive.

Mr. KENNEDY. Does the Senator find offensive as well the fact that a woman who is in the service is paying taxpayer dollars and others who might want to use those facilities for this purpose are contributors and paying taxes? The last time I checked on it, they were. So here they are paying their fair share of the taxes into it. But in this particular time of medical need there is this arbitrary policy which would deny the best in terms of health care. It is being denied to them.

I thank the Senator. I think she has made a very powerful case, and others have added to it. I hope her position will be sustained.

Mrs. MURRAY. I thank the Senator from Massachusetts. I will add that not only is that woman paying her taxes but she is serving our country overseas. She is serving every single one of us; making us safe here at home. She deserves to have us take care of her when she has a medical need.

Mr. President, I ask unanimous consent to add Senator BINGAMAN and Senator INOUE as cosponsors to this amendment.

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

Mrs. BOXER. Will the Senator yield?

Ms. SNOWE. Will the Senator yield for a question?

Mrs. MURRAY. I yield for a question to the Senator from Maine.

Ms. SNOWE. I thank the Senator for yielding.

Would the present description of the law place an undue burden on women serving in the military overseas? In 1992, the Supreme Court decision about Planned Parenthood said that Government regulations may not constitute an undue burden on the right to an

abortion, and this ban would be an undue burden by placing an obstacle in the path of the woman seeking an abortion.

So would the Senator agree that this certainly would represent an obstacle in the path of a woman making this decision and having access to a safe medical procedure? Because certainly a combination of military regulations and the practical world would mean that someone who needs it, who made this decision, would face lengthy travel, serious delays, expenses, substandard medical options, restricted information, would have to fly home, and certainly in my opinion—I ask the Senator if she would agree—this ban appears to be unconstitutionally burdening the right of a woman to make this decision because it places a number of obstacles in the way of her making that decision and having access to the procedures that are available here in the United States which are legal under the law of the land.

Mrs. MURRAY. I would agree with the Senator. This places many undue obstacles in front of the woman who is serving in the military overseas such as asking through her supervisor for permission to leave. This is not something anyone here has to ask for who is serving here or who is not serving here. It means that a woman would have to fly home—sometimes hours of travel, sometimes weeks of delay in getting a flight out of some of the countries which we are asking our young women to serve in. It means a delay in the medical procedure, and it puts an undue burden on these women which is not faced by any other woman in this country.

Ms. SNOWE. I thank the Senator for answering that question. The bottom line is we are treating these people as second-class citizens if they do not have access to the procedures guaranteed constitutionally under the law of the United States simply because of the Supreme Court ruling.

Mrs. MURRAY. They are not only making a sacrifice, but these are women who are serving our country who are every day working for every single one of us to make our lives safe here. They should not be treated as second-class citizens. They should be treated as first-class citizens and be given the same right that every woman in this country has and the access to safe medical procedures that they deserve.

I thank the Senator from Maine.

Mrs. BOXER. Will the Senator yield to me?

Mrs. MURRAY. I yield to the Senator from California.

Mrs. BOXER. I thank my friend for her leadership on this. I am so pleased she has raised this issue for the Senate. As we know, this Congress is narrowing women's right to choose. But I think nothing would be more disturbing than what we have before us. As the Senator from Maine pointed out through her questioning and our friend brought out

through her answers, these are women who are risking their lives by joining the military; are they not?

Mrs. MURRAY. The Senator is correct.

Mrs. BOXER. They are risking their lives, just as the men do, to fight for their country, and indeed may die for this country. Why on Earth would this U.S. Senate put their health at risk? That is a major question.

I ask my friend. Is there any case that she knows of where a man is denied a particular medical procedure?

Mrs. MURRAY. I cannot think of any case where a man is denied a medical procedure who is serving in the military overseas.

Mrs. BOXER. I wonder what my friends of the male persuasion from both sides of aisle would be doing on this floor if suddenly it was the case that men could not get help when they were stationed abroad. They would say, "Well, regardless of what it is, we need our men in the military to be there. That is why we are sending them there." Yet, they would treat women in such a way.

I say to my friend, what happens if a woman cannot get on a plane and has to go to a hospital in a country that she is stationed in? I will half answer that. When I went to visit the troops in Saudi Arabia during the Persian Gulf war, I saw the incredible health facilities that they had there for our men and women in uniform. But what if such a woman was in pain, was in a situation where she really needed help, and she went to the facility and was told by a military doctor, "You have to go to a local hospital"? I ask my friend to talk about what that experience might be like in a place like Saudi Arabia where women cannot even drive their cars.

Mrs. MURRAY. The Senator from California brings up an excellent point. The way the current bill is drafted, without my amendment, it simply creates foreign back alleys for our women who are serving overseas—for those of us who were aware before *Roe v. Wade*, women got abortions in back alleys because they were not provided medical facilities. We have friends who are not able to have babies because of a procedure that was performed in a back alley. I cannot imagine this Senate and this Congress putting our women who serve in uniform overseas at risk as we did women many years ago in this country. It seems to me that is really disturbing—to create foreign back alleys as this current bill does.

Mrs. BOXER. I thank my friend. I say that of all of the issues that we face, where women's rights to choose have been narrowed dramatically—if she is a Federal employee, we know that right is narrowed. She cannot use her insurance. But at least she is in America and she is here. So she will have to make a financial sacrifice, if she exercises that right to choose, which is a legal right.

I think we need to understand what is going on here in this U.S. Senate.

There are those who want a constitutional amendment to completely outlaw a woman's right to choose. They want to make it a crime. You know they cannot do it because the people of America do not support that. So what they are doing instead is attacking us—one group at a time; Federal employee women over here one day, poor women over here the next day, and women who live in D.C. the third day. And today it is women who serve in the military overseas. They are the ones who will be subjected to, as my friend says, the foreign back alley. Let me tell you, the back alleys of America were not friendly. I lived in those days. I know those days. If there is anything I can do, and I know the Senator from Maine feels as strongly—this crosses party lines—we will make sure that we never return to the days of the back alley.

I think this is just one more attempt to harm the women of this country, the women who are sacrificing for their country. By supporting Senator MURRAY's amendment, we will go a long way in telling those women we respect they should not have to answer to another set of laws to put their health in jeopardy any more than they are put in jeopardy in the fact they are willing on a daily basis to lay their lives on the line.

I thank my friend. I yield back my time to her.

Mrs. MURRAY. I thank my colleague from California for a very eloquent statement and for her support of this extremely important amendment that sends a message to women who serve our country overseas that they will be treated equal to any other woman who is a citizen in this country today.

Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Washington has 26½ minutes.

Mrs. MURRAY. And how much time remains on the other side?

The PRESIDING OFFICER. Forty-eight.

Mrs. MURRAY. Mr. President I ask my friend from Indiana if he intends to use any more of his time?

Mr. COATS. I would like to respond to the statements that have been made, but I would tell the Senator from Washington that depending on whether or not she has more speakers on her side, I would be prepared to yield back a substantial amount of time if we could come to agreement on both yielding back time.

I have been approached by some Members who have some conflicts this evening and are looking for a little bit of a window. One Senator on your side asked if it would be possible to yield back some time. So I guess I would inquire of the Senator from Washington what her intentions are in this regard.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. COATS. Reserving the right to object, Mr. President, I am sorry. The Senator from South Carolina was asking me a question and I did not understand or hear what was propounded.

The PRESIDING OFFICER. The request was for a quorum call, the time to be equally divided.

Mr. COATS. That is fine. And then the Senator is going to check to see what she has on her side and I will do the same, and if we can come to an agreement we will yield back our time. That is acceptable, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. LAUTENBERG. I thank the Chair. I thank my colleague from Washington for giving me some portion of the time to support the Murray-Snowe amendment.

This amendment is so basic that it, frankly, kind of surprises me that we say to people who we have recruited to serve in our military that you leave your constitutional rights on the doorstep; that if you need medical services you are willing to pay for, we are not going to give them to you.

This amendment, as it is presented, will overturn the unreasonable, harsh Republican policy that prohibits servicewomen from obtaining abortion services in overseas military facilities, once again, even if they are willing out of their own pockets to pay for these health services.

Essentially, the current law that was passed by the Republican Congress forces servicewomen to leave their constitutional rights behind, at the water's edge.

I am familiar, Mr. President, with the struggle to protect constitutional rights of servicewomen. In 1991 and 1992, I led the fight to overturn this policy. I had an amendment pass the Senate twice to overturn this unfair restriction. Unfortunately, President Bush threatened to veto the entire defense appropriations bill over this provision and thus it was dropped in conference. But the 1992 election changed all of this. On the second day of the Clinton administration, President Clinton restored servicewomen's constitutional rights by executive authority.

Tragically, the Republican Congress reversed the Clinton policy. But they are not just reversing a Clinton policy. What they are saying to those individuals, who have every right under the

law to make a choice about whether or not they continue a pregnancy, is that they will not be able, practically, to do it; they will not be able to have an abortion if they choose.

I am not promoting abortion. I am saying every woman has a right under our law to make that decision. What they are saying is if you happen to be stationed in a country that prohibits abortion and you want, nevertheless, to have quality service, you are restricted. You can choose to go to a back alley someplace and take the terrible chance that involves, or else you can sometimes be standby on a flight out of that country to a friendlier place. The problem is these flights are often filled and you could wait for months—months that would, perhaps, put a pregnancy into a stage of development that no one would want to see terminated.

So this is a terrible imposition, I think. We are asking people to serve. We are telling them they will be rewarded for their loyal service. We tell them they may undergo danger, they may in fact lose their lives, but they do so on behalf of their country. I salute their bravery and their courage. But I think it would be terrible at the same time to say, if you need a medical service that is available, that you are not going to be able to get it because you are in the military.

So I hope our colleagues in the Senate will look at this realistically and say we are not encouraging any choice for anyone to make that is not totally their own. But we are also saying if you enlist, if you raise your hand, take the oath, promise to serve your country faithfully under virtually any condition, that you do not lose your rights as a woman to make a decision that is available to every other woman in this country.

I yield the floor and hope the Murray-Snowe amendment, a very thoughtful piece of legislation, will be agreed to and will amend what I think is an egregious violation of a right that belongs to every woman in this country, particularly those who join the service.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to oppose this amendment.

Last year, in both the National Defense Authorization Act and the Defense appropriations bill, the Congress spoke on this issue. Both of these bills included a prohibition on performing abortions in military hospitals and clinics overseas except in cases of rape, incest, and where the life of the mother is at risk. The President signed both of these bills.

Now, Senator MURRAY is proposing that we repeal the law enacted last year. I would suggest that more debate on abortion within the Senate is not going to change any Senator's vote. I

hope we can agree to limit the discussion and vote.

I just want to say this. There is a question here whether you are going to have abortions wide open for any purpose, any time, any place, or you are only going to have them in cases of rape, incest, and where the life of the mother is at risk. That is the issue here. I think Senators ought to understand it.

If you want to preserve life except in cases of rape, incest, and where the life of the mother is at risk, then you oppose the amendment of the Senator from Washington. But if you favor wide open abortions, as I said, at any time, any place, for any purpose, then, of course, you support her in this amendment.

Mr. President, I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. ROBB. Mr. President, I thank the Chair and thank the distinguished Senator from Washington. I thank her for her leadership on this particular amendment.

This is a matter that we have considered a number of times. We are all familiar with the arguments. I describe my position, not as pro-abortion, but as pro-choice. I believe that abortions ought to be safe, legal, and rare. But I do not think, under any circumstances, that we ought to deprive those people who happen to be stationed overseas from having the same legal and safe medical procedures that are available to those of us here in the United States.

I respect the very significant differences of opinion for ethical, moral, and religious reasons that many hold. This is not asking that the Federal Government provide any funds. It simply is allowing those folks who are stationed overseas to use the facilities.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. I have been discussing with the Senator from Washington the timing here. I have some responses I would like to make to statements that have been made. I do not anticipate that will take more than 10 minutes at the most, probably less. I know the Senator from Washington has indicated an interest in just taking a couple of minutes to wrap up the debate in support of her amendment, at which point, I believe, we would both be ready to go to a vote.

I say that to notify Members, who may be watching the debate who are interested in when we will vote, it appears we will vote earlier than the time originally projected, in terms of the 2-hour debate, maybe as early as the next 10 or 15 minutes. I just say that to alert Members.

I would like to respond to some of the things that have been said relative

to the Murray amendment. I sit here somewhat baffled by the remarks that I have heard, because it sounds to me as if a crisis situation exists that is in immediate search of solution, relative to female members of our armed services and their dependents obtaining the right to have an abortion if they so chose. But the problem described and the rhetoric used to describe the situation is totally at odds with the facts of the situation.

The picture that has been painted is a false picture. We are left with the perception, as presented by supporters of the Murray amendment, that we are placing women who serve in our military in extraordinarily dangerous situations; that the policy currently in effect is forcing them into foreign back alleys, that their health and perhaps even their life is in jeopardy if we do not immediately repeal a policy which has been in place for a very substantial period of time and has caused no problems.

There have been no complaints registered by women in the military. There have been no incidents of problems relative to women being unable to have an abortion. There has been no denial of constitutional rights. Yet we keep hearing about these terrible health risks that are being forced on women who serve in our military overseas. Terms were used: The cruel, indecent, inhumane policies; women have been victimized; it is extreme policy. I just wrote down some of the things that were said. "Placing huge obstacles in front of women."

That just simply is not the case, Mr. President. Those are not the facts. If those were the facts of the situation, there might be a basis for at least debating, in seriousness, the Murray amendment.

I would like to quote from a response to a letter that I sent to the Assistant Secretary of Defense to try to ascertain the facts of the case. I asked him several questions. I said:

Has the Department of Defense had any difficulty in implementing the current policy?

That is the policy in effect that basically said military facilities will not be used to perform abortions on the basis of an elective abortion, not an abortion in terms of a need for abortion, but an abortion which is simply elective, a woman wanting an abortion.

Has the Department had any difficulty in implementing the current policy?

Answer: No.

Have any formal complaints been filed concerning this policy, to the best of your knowledge and information?

The answer: No; no formal complaints have been filed.

Have any legal challenges been instituted concerning this policy?

The answer: No.

Have any members or their dependents been denied access to an abortion as a result of this policy?

I think that is a very important point here. I am not sure our col-

leagues are listening. But the question I posed to the Secretary of Defense is, have any members or their dependents been denied access to an abortion as a result of the policy that the Senator from Washington is seeking to overturn? And the answer was no.

I do not understand what the problem is. There has not been a denial of constitutional rights for women. There has not been a denial of access to abortion for women. The policy has been to enforce a policy that was adopted not just by Republicans but also by Democrats, I will state to my friend from New Jersey, that taxpayers' funds in the performance of abortions should not be used. That is a policy that has been upheld by the Supreme Court, which said simply because someone has a constitutional right to something does not mean the taxpayer has to fund that right.

That case is Harris versus McCray, which basically upheld the Hyde language.

What we are seeking to do here is uphold the Hyde language which has been adopted on numerous occasions by Republicans and Democrats, in both the House and in the Senate, as it applies to use of military facilities which are constructed, operated, paid for, doctors are paid for, equipment is purchased, all with taxpayer money.

Now, if it was a valid argument that we were forcing women into foreign back alleys, I think that is a legitimate question for us to address, because these women are serving in the interest of their country and they are being deployed to places that would not necessarily be a place of their choosing.

But that is not the case, because the Department of Defense will provide transportation back to whatever place that woman wants to go to, and I do not know of anybody who has to wait weeks for that transportation, because I asked that question also of the Assistant Secretary of Defense:

Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion?

The answer is no, none. Nobody has filed a complaint saying they have been denied access. Nobody has raised a question saying they have had to wait weeks. No one has said, "I have been forced into a back alley." They have had the opportunity to seek legal, safe abortions without risk to their health.

If there is a risk to their health in such a way that it endangers their life or potentially endangers their life, or the abortion is as a result of a rape or incest, then that woman can obtain an abortion from a military facility. We do not want to deny them that opportunity in that situation. That is an abortion that is needed.

But an abortion that is just simply wanted, for whatever reason, we are simply saying we do not believe the taxpayers should have to fund an abortion simply because a woman wants an abortion. Now, if that woman wants an

abortion and she has the right to get that abortion under the law, we are not denying her that right.

It is just difficult for me to understand the rhetoric that is used by people who say we are taking away the constitutional rights of women.

(Mr. GORTON assumed the chair.)

Mrs. BOXER. Will the Senator yield on that point?

Mr. COATS. I will be happy to yield for questions from the Senator from California.

Mrs. BOXER. I say to my friend, I thank you for yielding.

The issue here is equal treatment under the law, basically. You have a man who has to have a procedure performed that is a legal procedure. No one tells him he has to get on a plane. No one asks him all the details. No one puts him on a plane, takes him out of his duty station, flies him back. I tell you, if you did that to any one of these Senators here who might have been in the military, you would antagonize every man on this Senate floor.

You are not treating a woman who wants to get a medical procedure in the same fashion. You may not like it, my colleague, and I respect your view and others on the Senate floor who I see here who want to take away a woman's right to choose, who want to take women back to the old days, but the point is: How do you justify treating a woman who wants a legal medical procedure different than a man who wants a legal medical procedure?

I see my friend from Pennsylvania smiling about this. He may find it very amusing, but I might just say to my friend—

Mr. COATS. Mr. President, I ask the Senator from California what her question is.

Mrs. BOXER. Yes, I ask my friend, how does he justify treating a woman who wants to get a legal procedure in a different fashion from a man who wants to get a legal medical procedure?

Mr. COATS. Mr. President, in answer to the question of the Senator from California, I state to the Senator from California that there is a whole list of elective procedures that is not covered in military hospitals, not covered by military medicine, depending on the size of the facility, depending on the location of the facility, and, frankly, there are a series of things that are not covered, so men are denied elective procedures in a number of instances.

So it is not a question here of equal treatment under the law, that this is the only medical procedure not allowed to people who serve in the military. We are simply saying, and I think the Senator has not addressed the point, we are simply saying that in the question of the utilization—Mr. President, is the Senator interested in my answer?

Mrs. BOXER. I say to my friend, very seriously, if you look a woman in the eye who decides to exercise her legal right to choose, that she has a certain frame of time in which to make that painful, difficult, personal decision

with her God, with her doctor, with her family, you do not put her on a plane. That is not an elective procedure.

My friend can view it a different way, but I seriously question the fact that this is an elective procedure when a woman finds herself in this circumstance.

Mr. COATS. Mr. President, the Senator from California and I, obviously, have a difference of opinion on this. Let me see if I can refocus the debate.

The question here is not over a woman's right to choose. The question is not over whether a woman has the right to an abortion. While the Senator from California and I disagree on the current legal status of that question, the Supreme Court has granted a woman the right to an abortion. That is not the issue that we are debating. That is not what this amendment is about.

This amendment is focused on a fairly narrow question, and that is whether or not taxpayers' dollars ought to be used to provide abortion for women who serve in the military. There would be a problem here in denying a woman's access to abortion and perhaps impeding her constitutional rights if there were not alternatives available to that particular woman.

But there are alternatives available. And the Department of Defense has made sure those alternatives are available. There is no recorded case in the Department of Defense where there was ever a complaint raised. That is why I said this seems to be a solution in search of a problem. If we had a documented series of a list of problems—

Mrs. MURRAY. Mr. President, will the Senator from Indiana yield for a question? It is only to ask about time.

Mr. COATS. I do not wish to use a whole lot of time. But I was asked a fairly provocative question, and I thought I would give the answer.

Mrs. MURRAY. We want to give our Members a time agreement. How much more time does the Senator need?

Mr. COATS. I am hoping to wrap up very shortly.

But I hope when Members come over here we can separate fact from fiction. I hope Members will look at the facts of the case and make a decision on that basis, rather than look at the fiction that has been provided to us today by proponents of the amendment, because this is not a question of a woman's right to choose. That is a separate question. We can debate that. We are not debating that today, at least I did not think we were debating that today.

The issue here is simply whether or not a woman in the military should use a military facility for an elective abortion, paid for by her funds for the cost of the procedure, but impossible to separate from the use of taxpayer funds in constructing, operating, hiring doctors, purchasing equipment, and the other associated costs with taxpayer funds provided in military hospitals.

The military has no recorded evidence of anybody being denied access,

denied transportation, denied the opportunity to get the abortion that they seek. We can deal with the other issue at another time. But to characterize this policy as cruel, indecent, inhumane, the denial of women's rights, dangerous, back-alley foreign abortions simply, I think, does not characterize and should not characterize this debate because that is not what this issue is about.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. COATS. I will be happy to yield. Mr. LAUTENBERG. What happens if the woman wants to have the procedure done—the Senator has agreed that under present law she can request that—in a country that has a prohibition within their population? That eliminates medical service there.

The Senator further says that you cannot use the military medical facility because of the fungibility of funds. Would the Senator be willing to say to the military, that you must guarantee that a flight be made available within a 3-day period, a 5-day period, to a U.S. military medical facility that will accommodate her need and to make sure that that trip can be arranged within a 5-day period?

Would the Senator be willing to guarantee, since the Senator says he has no interest in stopping the procedure—his concern is about the fungibility of the funds—that we would guarantee that this individual would have access to an abortion, respecting the rights, by the way, of any conscientious objection by a physician who might not want to do it or medical personnel?

Mr. COATS. If that was a problem, it is something that we might want to consider. But according to the Department of Defense, it is not a problem, never been a problem. Again, it is a solution, a mandate, that is not necessary because there has never been a problem with that.

If a woman in the military is in a country that does not provide abortions by law, obviously that woman is free to travel to another country or back to the United States. In the case of—I am not even sure of what Italy allows, but if you are stationed in Italy, you usually travel to Germany to get an abortion or a neighboring country. It is just not a problem. I do not think we need to legislate something that is not a problem.

Mr. President, I am prepared to yield to anyone else that seeks time. But I think we are just replotting old ground here. If the Senator from Washington wants to wrap up, we can notify our colleagues that within a very short time we expect a vote. I am going to move to table as soon as the Senator from Washington is finished.

Mrs. MURRAY. Mr. President, if the Senator from Indiana is willing to yield back time, I will use 30 seconds.

Mr. COATS. Mr. President, I am more than willing to do that. I will yield back my time.

The PRESIDING OFFICER. The Senator from Indiana has yielded back his

time. The Senator from Washington is recognized for 30 seconds.

Mrs. MURRAY. Thank you, Mr. President.

Once again, I urge my colleagues to vote for this very simple amendment. It will allow our women who serve in our military overseas to use their own private funds to get a safe, legal abortion in our military facilities overseas.

We have talked a lot about the women in our military, but this also affects the wives and the daughters of our servicemen who serve overseas. They, too, should have the ability to have a safe, legal procedure.

I have heard that no complaints have been filed. But I tell my colleagues that this puts a woman in a very serious position, if she does complain, and she is in the military. It could have career implications. And it could have personal implications. It does not surprise me that the Senator from Indiana has not heard of any complaints. But I assure you, this does put women's lives in jeopardy. It puts obstacles in front of them that clearly violate their equal protection under the law. Mr. President, I urge my colleagues to support this amendment, and I yield back my additional time.

The PRESIDING OFFICER. All time is yielded back.

Mr. COATS. Mr. President, I move to table the pending amendment.

Mrs. MURRAY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment by the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Minnesota [Mr. GRAMS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS] would vote "no."

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

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—45

Abraham	Exon	Inhofe
Ashcroft	Faircloth	Johnston
Bennett	Ford	Kempthorne
Bond	Frist	Kyl
Breaux	Gramm	Lott
Burns	Grassley	Lugar
Coats	Gregg	Mack
Cochran	Hatch	McCain
Coverdell	Hatfield	McConnell
Craig	Heflin	Murkowski
DeWine	Helms	Nickles
Domenici	Hutchison	Pressler

Reid  
Roth  
Santorum

Shelby  
Smith  
Thomas

Thompson  
Thurmond  
Warner

NAYS—51

Akaka  
Baucus  
Biden  
Bingaman  
Boxer  
Bradley  
Brown  
Bryan  
Byrd  
Campbell  
Chafee  
Cohen  
Conrad  
Daschle  
Dodd  
Dorgan  
Feingold

Feinstein  
Frahm  
Glenn  
Gorton  
Graham  
Harkin  
Hollings  
Inouye  
Jeffords  
Kassebaum  
Kennedy  
Kerry  
Kohl  
Lautenberg  
Leahy  
Levin  
Lieberman

Mikulski  
Moseley-Braun  
Moynihan  
Murray  
Nunn  
Pell  
Pryor  
Robb  
Rockefeller  
Sarbanes  
Simon  
Simpson  
Snowe  
Specter  
Stevens  
Wellstone  
Wyden

NOT VOTING—4

Bumpers  
D'Amato

Grams  
Kerrey

The motion to lay on the table the amendment (No. 4059) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The amendment (No. 4059) was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 4060

(Purpose: To reduce the amount authorized to be appropriated for military construction in order to eliminate authorizations of appropriations for certain military construction projects not included in the Administration request for such projects for fiscal year 1997)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. GLENN, proposes an amendment numbered 4060.

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

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

The amendment is as follows:

At the end of title XXVII, add the following:

**SEC. 2706. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN MILITARY CONSTRUCTION PROJECTS NOT REQUESTED BY THE ADMINISTRATION.**

Notwithstanding any other provision of this division, the total amount authorized to be appropriated by this division is hereby decreased by \$598,764,000.

Mr. MCCAIN. First of all, I would like to say that I am perfectly agreeable to a time agreement to be entered into

immediately. I hope that the other side understands. There is an objection on the other side. But I do not believe this amendment should take too long. I would be glad to enter into a time agreement at any time during this discussion.

Mr. LEAHY. Will the Senator yield without losing his right to the floor?

Mr. MCCAIN. I ask unanimous consent to so yield to the Senator from Vermont without losing my right to the floor.

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

Mr. LEAHY. Mr. President, I do not have a particular position on this one. I would be delighted with whatever time agreement we might enter into. But I see the deputy Republican leader on the floor. I am just wondering with time agreements and all if we might have some idea. What is the schedule tonight? For those of us who have faint glimmers of family-friendly situations, I just wonder. I am perfectly willing to continue to vote for the rest of the evening, or stack votes. I am not the one to make that choice. I wonder if someone could give us an idea.

Mr. MCCAIN. I ask unanimous consent to yield to the Senator from Oklahoma for purposes of answering.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, there has been no formal agreement. I will tell my colleagues that we are trying to complete this bill. We have a lot of amendments. I understand the request of the Senator from Vermont. I think it is the intention of the majority leader to press on tonight, probably until—this time has not been announced but I will guess until about 9 o'clock and then probably continue later to stack votes for a later time. It is vitally important that we move forward.

I will consult with the majority leader and will report back very soon.

Mr. LEAHY. I thank my friend from Arizona for making it possible to make that inquiry of the Senator from Oklahoma.

Mr. MCCAIN. Mr. President, I ask unanimous consent to yield to the Senator from Illinois for 3 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, if I may suggest to the new leadership over there, as one who is not going to be around here too long, I think we ought to accommodate families as much as possible. So in the evenings when you can stack the votes I think it is desirable to do so. I just pass that along and suggest it to the new whip. I congratulate him publicly on that. I see that Senator CRAIG is here. I think to the extent that you can accommodate family life here it improves the United States Senate.

Mr. NICKLES. Mr. President, I appreciate the comments of my colleague from Illinois. I might mention the Senator from Arizona asked for a time limit on his amendment. If Senators



and opponents of amendments are willing to enter into time agreements, it makes it a lot easier to stack votes. So for us to be cooperative, I share the concerns to be more family friendly, and if it is possible for us to stack votes for this evening so there might be time for people to have dinner with their families, or something, but to do that it is really essential to have time agreements and have a couple of other amendments in order. So if we have maybe some more help in reaching those time agreements and ordering the next amendment, that would certainly be of help.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, if I might additionally comment, we are reaching the point in the process we go through where it is about time we get hold of all of the amendments and start trying to negotiate time agreements on them. Obviously, the gestation period is a couple of days. We need to move forward with that part of this process of getting this bill through the body.

Mr. President, I would like to say again to my friends on the other side of the aisle that I would be glad to enter into a time agreement on this amendment at any time during the discussion of this amendment. As far as I know, the Senator from Ohio is the only other speaker I have on this amendment; at least who is in favor of it. We would be glad to enter into a reasonable time agreement at any time.

Mr. President, I would like to describe the amendment and make a few comments on it.

The amendment would cut nearly \$600 million which was included in the bill for unrequested military construction and family housing projects. I am somewhat gratified to learn that the close scrutiny focused on military construction pork has at least forced a degree of control on the process. Most of the projects in this additional add-on of \$600 million meets four of our five criteria stated in the sense-of-the-Senate language.

These criteria are that the mission is essential for, in 11 instances, quality of life not inconsistent with the BRAC process in the future years defense plans except when only designed money is authorized and executed in fiscal year 1997. Twenty-five of the added projects do not meet some other criteria. However, 10 of these are quality of life improvements, and the balance received only planning and design funding. But, Mr. President, none of the projects that were added in this bill meet the fifth criteria; that is, there is an offset by a reduction in some other defense account.

These are simply \$600 million add-ons. I appreciate the fact that every effort was made to adhere to some credible criteria in selecting the projects for these add-ons. But my objection in principle to adding funds for unrequested military construction

projects remains the same. During the markup of this legislation in the Armed Services Committee the Readiness Subcommittee recommended a plus of \$100 million for high priority housing projects that the Secretary of Defense had come over and sought additional funding for. But the subcommittee allowed the Department of Defense to determine the allocation of these projects by military priority, not by location in any particular Senator's State.

Senator GLENN and I both voted against the addition of this \$600 million in unrequested military construction when the amendment was offered in our markup. Not surprisingly we lost that vote.

Mr. President, this is a very disturbing, unpleasant, and in some ways alarming situation that has been going on for some time. Since 1990, the Congress has added more than \$6 billion to the military construction accounts. I want to repeat—\$6 billion to military construction accounts. This bill adds another \$600 million for unrequested projects. At the same time the overall defense budget has declined by more than 40 percent despite our recent efforts to increase funding.

Mr. President, let me explain that again. While we have increased over the request of the Defense Department some \$6 billion in unrequested military construction projects—some of them the most outrageous, including, for example, a foundry at a base that is being closed; construction of a health care facility at a base where down the street is another health care facility where they could have put lifetime memberships for every member of that military base; to the addition of a runway at a base where not far away is a very large, one of the largest airfields in the world. The list goes on and on. We have added \$6 billion to the military construction accounts while the defense budget overall has decreased by some 40 percent.

Mr. President, we cannot do that for a whole variety of reasons, including maintaining credibility with the American people as to the need for their tax dollars which are earmarked for defense, to be spent on defense.

Let us look at the priority of these added projects in the overall budget of the military construction. Of the total of 115 added projects 72 of them were planned for the year 2000, or later. In fact, 14 of these projects were not anywhere in the future year defense plan; nowhere. Nowhere could 14 of these projects be found. Of the \$600 million added for the unrequested projects, almost \$350 million for these 72 projects was planned for the next century—were planned for the next century, not this century. Surely projects planned for the year 2000, 2001, 2002, or later are not as vital to the services as those that are planned to be included in next year's defense budget. Why did we not focus on fiscal year 1998 projects, if we are going to add these military con-

struction projects? I will tell you, Mr. President, the answer is simple. Because some of these 1998 projects were not in the State or district of powerful members. It is that simple. There can be no other reason. Instead, we are reaching 4 years out in the future years' defense plan, into the next century, to find 29 projects that are planned in the States of members of the Armed Services Committee.

Let me repeat. I will be very frank. We are reaching 4 years ahead in the future years' defense plan, into the next century, to fund 29 projects that are planned in States of members of the Armed Services Committee.

Let us be realistic. This bill is \$1.7 billion above the defense budget target set in the fiscal year 1997 budget resolution. That means we will have to cut out some of the programs added in this bill when we get to conference with the House.

Will military construction be part of those cuts when we reach our negotiations with the other body? I do not think so. Instead, we will probably end up cutting some of the high-priority adds for much needed modernization equipment that will enable our troops to fight and win in future conflicts.

With the authorizers and appropriators adding \$900 million to the military construction request, I predict the outcome of our conference will be an agreement to fund most of what is in either bill, or more than \$1 billion in unrequested projects. After all, that is the only way to keep everybody happy.

Mr. President, I am tired of seeing us acquiesce to a practice which only feeds on itself. Until we instill some discipline in our own markup process by resisting the temptation to add money simply because it serves our constituents, we cannot expect the Department of Defense to exercise discipline in resisting efforts to spend defense dollars on unnecessary non-defense projects.

Mr. President, we have made progress in reducing the total amount of pork-barreling in the defense budget. Last year, about \$4 billion of the total \$7 billion that was added to the defense budget was wasted on pork-barrel projects like new attack submarines, research project earmarks, medical education programs, and, of course, military construction add-ons. This year, we are only wasting \$2 billion. But \$2 billion is a lot of taxpayers' dollars to waste.

How do we explain to the American people why we need to spend \$11 billion more for defense this year when we are spending \$2 billion for projects that do little or nothing to contribute to our Nation's security?

For the sake of ensuring public support for adequate defense spending now and in the future, let us stop this practice now. I urge my colleagues to vote to cut out the \$600 million in unnecessary military construction spending.

Thanks to organizations such as the Citizens Against Government Waste,

Citizens for a Sound Economy, the National Taxpayers Union, and talk show hosts all over America, the American people are becoming increasingly aware of what kind of a process we are in. We might have had some rationale back in the 1980's when we continually increased the defense budget, when money for defense was quite readily available, but what we have experienced in the last 7 or 8 years is a dramatic cut in defense spending, and yet the spending on unnecessary and unwanted projects goes up. At some point, this is going to have to stop. I hope it is now. It probably will not be.

There are enough projects in here that there will be more than enough votes to defeat this amendment. But it is not fair. It is not appropriate.

Let me point out that we still have problems with our equipment. We do not have sufficient airlift and sealift and amphibious capability. According to the Chairman of the Joint Chiefs of Staff, we are underfunded as far as force modernization is concerned by some \$21 billion this year, and yet we are going to spend billions of dollars on these unwanted projects.

I do not expect to win on this amendment, but I want to inform my colleagues that I will not quit on this issue. I have an obligation to the men and women in the military and the taxpayers of America to continue to ventilate this issue.

I am also pleased that we passed the line-item veto this year, which will go into next year, and next year, in partnership with my colleague from Ohio, we are going to at least send a list over to the President of the United States for his consideration so we can cut out this practice which clearly the Congress of the United States does not have the courage to do.

With that, Mr. President, at this point I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, Senator MCCAIN and I usually are on the same side, but in this particular case we are on opposite sides.

I rise to oppose Senator MCCAIN's amendment to strike the funding for \$598 million for military construction projects added to the defense authorization bill during the Armed Services Committee markup. Senator MCCAIN has been persistent trying to eliminate defense spending that he believes is unnecessary and I applaud him for his persistence.

Mr. President, we have screened the projects that Senator MCCAIN is attempting to strike with the Department of Defense. They all meet the criteria that both Senator MCCAIN and Senator GLENN worked so diligently to set up. For the benefit of all Members that criteria are as follows: Is the project in the future year defense plan? Can construction on the project begin in fiscal year 1997? Is the project mission essential or a quality of life issue?

And, is the project consistent with base closure action?

The committee received requests from 62 members for construction projects totaling more than \$1.6 billion. Of the projects requested, \$730 million met the committee's criteria. However, because of the funding priorities, the committee agreed to fund only the highest priorities and those that would contribute to readiness and to the quality of life of our soldiers, sailors, airmen, and marines.

Mr. President, I want to point out that more than \$200 million of the \$700 million is dedicated to quality of life improvement projects such as barracks and family housing. Another \$170 million is dedicated to training and readiness facilities. These are projects that the administration could not fund because it chose to reduce the military construction budget by almost \$1.5 billion below the amount requested in fiscal year 1996.

Finally, I want to address the comment in the statement of administration policy regarding this bill. The administration states that projects for \$95 million are not in the services long-range plans. It included such facilities as the troop barracks in Germany and the family housing construction in England. These projects that amount to more than \$25 million were among the highest priorities on the list of unfunded projects submitted by services. The remaining projects were equally justified.

Mr. President, the \$700 million added by the committee are justified and are in the best interest of our national security. I urge the Senate to support the committee and vote against the McCain amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Ohio.

Mr. GLENN. Madam President, there is not a single Senator here who does not go back home and talk all the time about how we want a balanced budget. We want a balanced budget very badly. We have the President's plan we put forward in 1993, we have the Democratic plan, Republican plan, and we all take great pride in how we want to balance the budget. Yet, when it comes down to actually doing something practical, if it impinges just a little bit in our area, or if we are not able to bring home some of the pork we would like to bring home, pump up the way people look at us back home, then our talk about budget balancing gets pretty thin around here. That is what we are talking about and that is what Senator MCCAIN has been addressing.

This amendment would cut nearly \$600 million which was included in the bill for unrequested military construction. These are things the Pentagon did not say they needed. These were things the administration did not say we needed. We did not have to have this money in there. These are add-ons, strictly add-ons.

Granted, many of these are going to family housing projects and things like

that. But these were not the priorities that the administration established or the Defense Department established or the Army, Navy and Marine Corps established as what they would rather have if the \$600 million was available to be spent for whatever. These are things that Members of Congress just decided in their own wisdom to put in. As the Senator from Arizona has indicated, too many times it appears that these efforts to put good things in just happen to be in the home district or just happen to be in the home State. They just happen to be add-ons that all total up to \$600 million. So when we talk about balancing the budget down here, are we going to walk the walk as well as talk the talk? That is basically what we are talking about.

Some years ago here, I think it was 3 or maybe 4 years ago, this idea of the pork creeping into every defense authorization bill had become so rampant, had become so out of control, that the Senator from Arizona and I started a policy. We got this through as sort of sense-of-the-Senate language that any add-ons would have to meet some criteria. We would use these as a benchmark. That does not mean they should go in if they met these five criteria; it just means we had to make a compromise and stop some of the runaway pork that was put into this legislation every year.

So what did we do? We put in several criteria. It had to be mission-essential for the long term, the future; No. 2, it could not be inconsistent with BRAC, the base closure procedure; it had to be in the 5-year defense plan; it had to be executed in the next fiscal year or at least start the contract then; and, No. 5, it had to be offset by a reduction in some other defense account if you are going to make an add-on.

That does not mean if it met these five criteria automatically you should try to put it in and goody-grab in the budget or authorization bill if it meets those five criteria. We set these criteria because that stopped some of the even more rampant requests, things that were put in the budget back then that were even worse than the things we see right now.

What happened when we take this sense-of-the-Senate criteria and apply it this year? Madam President, 25 added projects do not meet some of the criteria. It does not mean they do not meet some of them; they do. Are any of them offset by our defense accounts? No, they are not. They do not meet that criteria at all. But the basic objection is just in principle, adding funds for unrequested military construction projects. Our objection to it remains the same.

During the Senate Armed Services Committee markup, as an example, our subcommittee, which Chairman MCCAIN chairs and which I am the ranking minority on, we recommended some additions in the subcommittee to be passed by the full committee. They were substantial increases in areas we

had discussed with the Pentagon. They thought they could use some more money in these areas so we recommended in the subcommittee some additions of about \$100 million, additions for high priority housing projects—we agreed on that. But the subcommittee allowed the Department of Defense to determine the allocation of those projects. We did not look around the room and say, “What Senator is here we can please? What Senator can we help get reelected? What Senator can we do a favor for?”

No, we put that money in because the Defense Department indicated they could use it, and they could make the choice, they could make the choice on where the greatest need was. That was our basic criteria in markup this year, and I think it was a very sound one. Let DOD decide where their greatest need is, not try to come back and do a favor for one or more of our Members.

Senator MCCAIN and I both voted against additions of the \$600 million in unrequested MilCon when it was offered in our markup. But we lost that vote, obviously. What is the cumulative effect of all this? Since 1990, it has added up to real money, as some would say here. This is not just peanuts anymore. Since 1990, we have added more than \$6 billion—\$6 billion—to MilCon accounts. Now we are going to add another \$600 million in unrequested projects with what we are doing here.

Our overall defense budget has gone down meanwhile, so, when we make add-ons like this, they assume a more important role than they would have even normally, because they become a greater percentage of what our total military expenditures are. The defense budget has gone down about 40 percent, yet we are going ahead with these things that benefit primarily our Members.

The priority of these added projects? Do we need them now? It is my understanding that, of the 115 added projects, 72 were planned for the year 2000 or later. That does not make them very necessary right now. In the unrequested projects, almost \$350 million out of the \$600 million was added for these projects that are planned for after the turn of the century. No wonder the Defense Department did not request things like this. No wonder there were higher priorities in the defense budget.

So, why do we put these in? Although we objected, they are put in mainly because particular Members want to do something in their States. They want to bring home the bacon. We must be realistic. This bill is \$1.7 billion above the defense budget target set in the fiscal 1997 budget resolution now. That means we have to cut out some of the programs added, and when we get to conference with the House, how are we going to do that? What is going to be cut? Will these be out of the procurement accounts? Is that what we are going to do? Will MilCon be cut when

Members just succeeded in getting something in for their States or their home districts?

MilCon is probably going to be the last thing that gets cut. So we will wind up, instead of spending some of this \$600 million for much-needed modernization equipment that we will really need if we get into any future conflict, we are going to spend it for these other things that were add-ons that people wanted for their particular area.

As I understand it, the House has already passed their bill. They added, in their bill, some \$900 million to the MilCon request, almost \$1 billion. You know what is going to come out of the conference. What usually comes out of the conference—not cutting back on those MilCon projects, because that would offend some members of the committee who were just successful in getting these projects in for their home State.

So we are looking forward to a conference committee which usually will not cut these accounts. So if we are going to cut them, it is going to have to be here, and it will have to be done with the proposal of the Senator from Arizona, his proposal that I support very, very strongly. It is not easy to be out on point, trying to do something like this. I will say that. He and I have both received a lot of flak over the past 3 or 4 years as we have tried to cut back some of these things. We have had Members come back to us and criticize us, criticize us for being unfair and all sorts of things. I do not have any problem at all standing for some of these cuts. We have been proud to make this effort.

I will say this: I think we have been somewhat successful with this in reducing the total amount, the total amount through the years that people have requested. I will not say we have scared people off, but let us say we have made some of them think twice, anyway, about some of these things. So the requests have been going down, and we can probably point to where, compared with last year, we probably have gone from about \$4 billion you can point to as questionable down to only about \$2 billion this year. Is that good? No, it is not very good. But it is better than we thought we might do last year, I will say that. So maybe we are having an impact. Maybe we are heading, really, in the right direction.

But what it comes down to is, are we going to talk about budgets and talk and talk about budgets and act as though we are doing something around here all the time and worry about little tiny amounts, comparatively speaking, in the budget? Or are we going to really do something about it?

Here is what we do when it comes to trying to get something for our own States, or Members of the House of Representatives trying to get something for their districts so they can point with great pride, make a headline when they are up for reelection: I brought back the park on this. I got

that road intersection, or I got something in there that is part of this \$600 million.

Are we doing this for campaign purposes or are we doing it because the Pentagon really needs this as a priority item to really fulfill our defense needs?

Most of these things, by that criteria, do not even deserve to be talked about as far as being necessary. Most of them are add-ons that are favors to particular Members, and we know it, and anybody who works on this legislation knows it also.

So I say, let us just keep after this. I know Senator MCCAIN is committed to keeping after it. I am, too. I believe he wants to call for a rollcall vote on this, and I certainly support that.

For all the reasons I have stated above, I support this. I urge our colleagues to put the budget ahead of their own parochial interests, perhaps. He and I have not added things in for our own State on this. I have not added a thing. There are things in here for Ohio, but not that I asked for. I think he is in the same status, as far as Arizona goes.

So we are walking the walk on this ourselves. We are not just talking about this and talking against someone else and goody grabbing ourselves. This is something we feel strongly about. We feel this \$600 million was not requested, and we think when you look at it that we can do without these things and, hopefully, get the Pentagon to prioritize what they want and support their budget, not what we can add on over here.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I certainly would never question the good intentions of my friend from Ohio or the Senator from the State of Arizona, but I think it is important to know that the chairman of this subcommittee, the junior Senator from the State of Montana, is not known for being a big spender. He came to the U.S. Senate with experience in the State of Montana working at the county level. There he was known for his frugality. He has acted the same way as chairman of this subcommittee.

Everyone should recognize that the amount that we are going to have marked up in our bill tomorrow is \$200 million less than what the House has, and I do not think the House is known for spending lots of money. Our subcommittee is coming with less money than has been requested and authorized and appropriated by the House.

All of our colleagues should understand that the money that is the so-called add-ons meet the so-called McCain criteria. The distinguished Senator from Arizona said that if there are going to be add-ons, they should meet certain criteria. If there is going to be money appropriated, they should meet certain criteria.

We have met every one of the criteria in every one of the matters being questioned.

What are those criteria? That there be a 5-year plan. Everything in our bill meets that plan. Every element in these so-called add-ons are within the 5-year plan.

Second is that they be the top priority of the base commander. We have met that criteria.

That the add-ons be mission essential. We met that criteria.

That the site has been selected for the construction. That criteria has been met.

Finally, it can be executed in this fiscal year. That criteria has been met.

We have met the McCain criteria, not in some instances but in every instance.

The examples cited by the distinguished Senator from Arizona, about the health club and all that, I respectfully say I do not know what he is talking about, but they would not meet the 5-year plan or the criteria generally. Everything we are talking about meets the McCain criteria.

We should also recognize that the bill we are talking about this year is 10 percent below last year's level; \$1.3 billion below last year's level. We are, of course, going to be within our 602(b) allocation.

If you look at what has happened, the moneys that we have been given by the administration suggested the grand sum for the Army National Guard of \$7 million for military construction all over the country. The Army National Guard would go out of business.

I stand in strong opposition to the amendment offered by the Senator from Arizona and the Senator from Ohio. I suggest that the Senator from Nevada and the Senator from Montana are proud of what we are doing for the military. We are proud of what we are doing for the Guard and Reserve.

The amendment would not allow for authorization of construction projects that are of immediate need to those who continue to serve us so well. I urge my colleagues not to support this amendment for these and other reasons.

The Senate Armed Services Committee used stringent criteria to ensure that all projects authorized were determined to have met these criteria. These criteria are known, as I indicated, to the members of the committee as the McCain criteria.

We, as members of the Military Construction Appropriations Subcommittee, chaired by the Senator from Montana, funded all the projects that had previously met these criteria and were recommended by the authorizing committee, of which the Chair serves as a member of that committee. The projects that have been authorized are necessary to maintain the stability of our National Guard and Reserve and to continue to enhance the quality of life for our soldiers, sailors, and our airmen and women.

Of the \$600 million talked about in construction projects that this amendment would eliminate, \$368 million, about 60 percent of this amount, is designated for construction of National Guard and Reserve projects. Remember, the administration requested the sum of \$7 million for the Army National Guard and military construction.

In addition to the \$368 million, about 60 percent, as I have indicated, for National Guard and Reserve, we have requested an additional \$189 million which is directly designated to build military family housing. Why? To improve the quality of life of our service members.

Nearly all of this \$600 million reduction directly attacks the projects that the administration always neglects. They do not put anything in there, knowing that we have an obligation to the Guard and Reserve.

We have a National Guard and Reserve Caucus in this Senate. We have 62 Members. Why? Because administrations in years gone by have neglected the Guard and Reserve. We need to become more dependent on the Guard and Reserve rather than less dependent, as a result of the build-down of our military forces.

It is our specific task to look independently at all the military construction needs of this country. Should we be a rubberstamp of the administration and say we are not going to ask for anything other than what they request for the Guard and Reserve and from the States of Ohio, Arizona, Montana, Texas, Nevada, California, Virginia? The answer is no, we have to look beyond what the administration suggests and recommends.

It is our specific task to do just that: to look independently at all the military construction needs of this country, not just what the President sends us.

We are not appropriating moneys for programs that have not been authorized. We are not appropriating moneys for programs that have not met the criteria of the McCain criteria. The list that we receive annually from the administration continues to overlook projects we are known to support and compelled to include in our bill in order to maintain the strength of our fighting force. The administration does not have the exclusive wisdom to determine the finality of this list. A rubber stamp by our committee would take away the legitimacy of its obligation, its oversight responsibility and obligation.

Without the \$600 million included in this bill, the Guard and Reserve will again be shortchanged. All over this country quality of life for our service members will be greatly deterred and the committee's need would be repudiated. We could just eliminate the subcommittee. We could just eliminate the armed services work that they have done.

I encourage my colleagues to strongly oppose this amendment. I repeat,

the chairman of this subcommittee has worked very hard, along with the members of the subcommittee, to come up with something that is fair. There is talk about if these add-ons were added on—people used the term "pork." Maybe, Madam President, what we need to do is talk about some of these so-called pork projects, projects that allow our Guard and Reserve to survive and allow the quality of life for our armed service members to be enhanced. If that is pork, then we have \$600 million of pork, because the \$600 million will allow our Guard and Reserve to survive and will enhance and improve the quality of life of the men and women who serve us in the military.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Madam President, I rise in opposition to this amendment. I guess whenever we start talking about appropriating and budgeting for certain needs of our military, we always hear the argument that there are things unrequested by the Pentagon or unrequested by the President. I am wondering if we as individuals in this body and the House do not have the same responsibility of taking a look and making up our own minds on the needs of our men and women in uniform.

In this bill that has been authorized, the greatest share goes to quality of life. Quality of life leads to retention, the retention of the good people who are now serving in our respective services.

The Senator from Nevada and I have worked—and I do not know of anybody who is easier or better to work with when we start going down through the priority list on military construction than Senator REID from Nevada. He understands what has to be done, understands that, no, the administration never sends any request down for projects or any support for the National Guard or sometimes even our Reserve units. In fact, if we would look at the backlog of construction for our Reserve units, it is in the billions of dollars, because it has been put away.

I want to remind my colleagues that this bill, this authorizing bill, and the appropriations that we are going to mark up tomorrow is cut \$1.3 billion from a year ago. So if the Senator from Ohio and my friend from Arizona say they are having an effect, they are having an effect. We are spending less money than we did a year ago in military construction.

But quality of life and readiness, because we have changed that since the cold war is over—in other words, money goes to the base closing and realignment, environmental cleanup of those bases; but for the retention of the people that we need, the biggest share of our thrust has been in the quality of life.

I will tell you that I have been in some barracks that were not very good. I would not ask my employees to live

there. Those projects have to be done if we are going to retain the people in our military. And as to the morale, it adds to everything.

But keep in mind that, yes, we are \$1.3 billion under a year ago. Then you have to sit down, like Senator REID and I did and our staffs, and set some priorities. But the Pentagon should not be the only one that has any kind of judgment on the needs of some of our military people, nor the administration. We have an obligation to our military people, too, just like anybody else.

So I think this is a pretty frugal bill when it comes to military construction. There is not very much in here that is not needed and requested by the military. With that, I say to my colleagues that this amendment should be defeated, and I ask for its defeat. I yield the floor.

Mr. BOND. Madam President, as co-chair for the National Guard Caucus I rise to object to this amendment.

The Senate, in the past years, has voted to appropriate necessary military construction funds to offset the neglect of administrations in order to make sure that the defense infrastructure would be adequately funded.

As we have discussed on the floor before, the National Guard has traditionally been the neglected stepchild of the executive branch and the Department of Defense. They neglect the Guard because they know we will take care of it. We must. Who do we look to for every disaster? Who receives the call in every domestic emergency? And who continues to serve and implement military and foreign policy the world over? The National Guard. The military construction bill funds these mission essential and housing projects which were designated as critical by each State's adjutant general. I ask Senators to support the men and women of the Guard and support the Guard's ability to carry out its missions and vote against this amendment.

Active Forces infrastructure has traditionally been adequately funded with the Guard forces traditionally underfunded. Why has it been this way, many have asked. And the answer which is whispered through the Halls of this building is that the Congressmen and Senators will take care of it. And we have and we do and we will because we care about the welfare and readiness of the National Guard and Air National Guard.

The administration this year funded the Army Guard to the tune of \$7 million; \$7 million for the entire Army Guard infrastructure. For all 50 States and Puerto Rico; \$7 million for the entire Army Guard force. If the Senators here respect our citizen soldiers, then they must rectify this shoddy treatment of those who protect us. My colleagues on the committee have done just that and they have done it with strict adherence to a rigorous set of standards for these necessary quality of life and readiness projects.

The committee considered each of the programs added to this year's mili-

tary construction bill for its executability in fiscal year 1997, its being of the highest priority for the base commanders and National Guard tags, its inclusion in the FYDP, and its overall criticality to quality of life and readiness.

To vote for this amendment is to turn your back on your National Guard personnel. Currently, this is the only venue we have to maintain infrastructure readiness and quality of life. We are trying to get the administration to acknowledge the Guard's requirements, but let us not hamstring our Guard for the administration's shortsightedness. Do not let this amendment pass.

Mr. FORD. Madam President, I stand in strong opposition to the Amendment offered by the Senator from Arizona [Mr. MCCAIN]. This amendment would not allow for the authorization of construction projects that are of immediate need to those who continue to serve us so well. I urge my colleagues not to support this amendment for these reasons.

The Senate Armed Services Committee used stringent criteria to ensure that all projects authorized were determined to have met these criteria. These criteria are known to the members of the committee as the McCain Criteria. We, the members of the Military Construction Appropriations Subcommittee funded all of the projects that had previously met these criteria and were recommended by the Authorization Committee.

The projects that have been authorized are necessary to maintain the stability of our National Guard and Reserve and to continue to enhance the quality of life for our soldiers, sailors, and airmen. Of the \$600 million in construction projects that this amendment would eliminate, \$368 million or over 60 percent of this amount is designated for the construction of National Guard and Reserve projects; and additional \$189 million is directly designated to build military family housing, to improve the quality of life of our service members. Nearly all of this \$600 million reduction directly attacks the projects that the administration annually neglects.

It is our specific task to look independently at all the Military Construction needs of the country. The list that we receive annually from the administration continues to overlook projects that we are known to support, and compelled to include in our bill, in order to maintain the strength of our fighting force. The administration does not have exclusive wisdom to determine the finality of this list. A rubber stamp by our committees would take away the legitimacy of its oversight.

Without the \$600 million included in this bill, the Guard and Reserve will again be shortchanged, quality of life for our service members would be greatly deterred, and the committee's need would be repudiated. I encourage my colleagues to strongly oppose this amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I do not want to cut off debate. I will move to table when everyone has completed talking.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, subject to the concurrence of my distinguished colleague from Georgia, it is the intention of Chairman THURMOND to have this matter voted on, but allowing sufficient notification to Senators of the time that that vote would commence.

I understand that the distinguished Senator from Georgia will address this issue for a period. If the distinguished Senator from Nevada wishes to move to table, of course, that is his prerogative. Then if it is agreeable to the Senator from Arizona, we would lay aside the amendment and delay the voting for a stipulated period of time and allow maybe other business to come in the intervening period. That would be the desire of this manager. I presume the distinguished Senator from Georgia concurs in that.

Mr. NUNN. That is fine.

Mr. WARNER. He has indicated his assent.

Is the Senator from Arizona agreeable?

Mr. MCCAIN. I say to my friend from Virginia, I am agreeable, but I think it should be made clear. Will we have further votes tonight? This issue will be voted on at some time tonight?

Mr. WARNER. Oh, yes. Let us say, hypothetically, if the Senator from Georgia would use 10 minutes, we would have the vote commence at 8:15. In the interim period, the Senator from Georgia and I would endeavor to get more business done.

Mr. MCCAIN. Reserving the right to object, I request 3 additional minutes for comments before we close out.

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, may I inquire of the Senator from Virginia whether he anticipates other rollcall votes tonight beyond this one?

Mr. WARNER. Mr. President, I am advised by Chairman THURMOND that is the desire of the majority leader.

Mr. REID. Reserving the right to object—

Mr. WARNER. I am not sure anything is pending, but that is the best I know at this time.

Mr. NUNN. The only suggestion I would make, unless we can get an amendment up that is one that is going to be debated as a rollcall vote, I would suggest—I could take no more than 30 seconds for my comments, and we could perhaps move that timeframe up a bit. That gives us a better chance of either one of two things: If we are not going to have other rollcalls, it would allow Members to be able to go back to their families earlier; if there are, we can get started on that debate. I do not know what other amendments are

going to come up requiring rollcalls tonight.

Mr. WARNER. Mr. President, if the Senator would yield, I am informed that the majority leader is agreeable to having this vote on the McCain amendment at the hour of 8 o'clock tonight.

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

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will take just about 1 minute. It is my understanding from all the information that I have been provided that every project here that is the subject of this amendment and the critique that has been laid down by our colleagues from Ohio and Arizona, each one of these projects is in the 5-year defense plan of the Department of Defense. Each project also can begin construction in fiscal year 1997. Each project is mission essential or quality-of-life related. And each project is consistent with BRAC actions.

I would like to see if there are any of these projects that are on closed military bases or ones being closed. I am informed that none of them is. That has been carefully screened. If they are, I certainly would like to have someone show me which one is on a closing military base, because that is contrary to all the information that we have.

A breakdown of the requested projects that have been added to the budget:

There has been \$206 million added for quality of life improvements—baracks, family housing, fitness centers, child care centers, dining facilities, family support centers, education centers, et cetera: \$169 million for training and readiness-related projects; \$81 million for maintenance shops and facilities; \$51 million for general infrastructure improvement projects; \$50 million for new mission-related projects; and \$41 million for health/safety/environment-related projects.

Mr. President, it is true that these projects were not requested by the Department of Defense. It is also true that there is \$12 billion in the bill that was not requested by the Department of Defense.

I have a very hard time understanding the distinction between the other \$11.5 billion that has been added and this \$500 million that has been added. The Department of Defense and the administration's official position is not in favor of any of the add-ons. The question is whether we are going to provide family housing, whether we are going to provide day care centers, whether we are going to provide fitness centers and other quality-of-life improvements, and training for our troops, or whether we are going to basically neglect them and simply add on weapon systems.

The argument about these projects not being requested, made by my good

friends from Arizona and Ohio, is absolutely right. You can say that about the other \$11.5 billion in this bill that has been added on. That is the reason the President says he may veto the bill. The question is, What are we going to add in terms of our judgment, because there is no request for this \$11 to \$12 billion that has been added on.

It has been added on because the Senate and the budget committees in the Senate and the House decided that defense was a priority and that defense was underfunded. That was a decision we made on the budget resolution. When we made that decision, by its very nature, it meant that the Congress was going to decide to add on the money, because the administration has not indicated that they favor that add-on.

I urge my colleagues to vote against this amendment or to vote to table it if the tabling motion is made.

Mr. McCAIN. Mr. President, with the greatest respect to my colleague from the State of Georgia, I just state the add-ons were not asked for.

Let me point out, in the future years' defense plan, specifically, Pohakuloa training area for \$1.5 million, is not in the future years' defense plan; the Lansing CSMS, not in the future years' defense plan; the Camp Ashland training site flood control, not in the future years' defense plan; the Nellis Air Force Base FHP-111, 100 units, not in the future years' defense plan; the Air National Guard in Ontario, OR, not in the future years' defense plan; the Dallas Armory, not in the future years' defense plan; the Eastover-Leesburg Multipurpose Simulator Center, not in the future years' defense plan, and so forth; the Wyoming Air National Guard, Camp Guernsey, not in the future years' defense plan.

I do not know where the Senator from Georgia gets his information, but I hope he corrects the CONGRESSIONAL RECORD, because they are not in the future years' defense plan.

I am glad to hear a response from the Senator.

Mr. NUNN. Mr. President, I am informed that what we have tried to apply here is the McCain-Glenn criteria, which is for construction projects. All the projects that were listed by the Senator from Arizona were planning and design money, which is not part of the McCain-Glenn criteria. We have followed those criteria, but there is no 5-year defense plan for planning and design money. That is lump-sum money.

Mr. McCAIN. I am glad to point out again, first of all, the criteria is they had to be in the future years' defense plan for any funding; but, second of all, there are also projects that are more than just planning and design.

We also asked the Department of Defense which of these projects were non-defense essential. They gave us a list of over 20 of these which were deemed by the Department of Defense as non-defense essential. That is their judg-

ment. It is hard for me to understand how that judgment could be overruled, but I also understand what we are talking about here.

Mr. President, I ask unanimous consent to have this list printed in the RECORD.

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

PROJECTS THAT DO NOT MEET SENATE CRITERIA

FOURTEEN PROJECTS THAT ARE NOT IN FYDP

1. Hawaii, Pohakuloa Training Area, Road Improvement, \$1.5 million.
2. Michigan, Lansing Army Natl Guard, combined support maintenance shop, \$1.3 million.
3. Montana, Billings Army Natl Guard, Armed Forces Resource Center, \$1.1 million.
4. Nebraska, Camp Ashland Army Guard, training site flood control project, \$665,000.
5. New York, Stewart IAP landfill cover, \$2.2 million.
6. Oregon, Ontario Army Guard, armory, \$226,000.
7. Oregon, Army Natl Guard, armory, \$210,000.
8. Pennsylvania, Ohldale Army Reserve, USAR Center, \$2.3 million.
9. Pennsylvania, Johnstown, Marine Corps Reserve, training center, \$590,000.
10. Pennsylvania, Johnstown, Marine Corps Reserve, maintenance hanger, \$690,000.
11. South Carolina, Eastover, Army Guard Multipurpose Simulation Center, \$224,000.
12. South Carolina, Eastover, Army Guard, Leesburg, infrastructure upgrade, \$280,000.
13. Virginia, Charlottesville DIA Facility, \$4.4 million.
14. Wyoming, Camp Guernsey, Army Guard, combined maintenance facility, \$935,000.

ELEVEN PROJECTS NOT "MISSION ESSENTIAL"

1. California, Travis AFB, two dormitories, \$7 million.
2. Delaware Dover AFB, visiting officers quarters, \$13.1 million.
3. Kansas, McConner AFB, dormitory, \$7.7 million.
4. Maryland, Andrews AFB, family support center, \$2.3 million.
5. Massachusetts, Hansuom AFB, family housing, \$5.1 million.
6. Nevada, Fاون Naval Air Station, Gymnasium, \$500,000.
7. Nevada, News AFB, dormitory, \$10.1 million.
8. Nevada, Faron Naval Air Station, bachelor enlisted quarters, \$16.1 million.
9. Nevada, Mevis AFB, family housing, \$150,000.
10. Ohio, Wright-Paterson AFB, family housing improvements, \$6.3 million.
11. South Dakota, Ellsworth AFB, CDC addition, \$4.5 million.

Mr. McCAIN. I believe that the States in which these military construction projects are located, when correlated with membership on the Senate Armed Services Committee and the Appropriations Committee, will give a better explanation of the point Senator GLENN and I are trying to make here.

I do not believe Senator GLENN or I are unappreciative of the need for quality of life and the absolute importance that we maintain qualified men and women in the military. My question is, do we have to maintain the quality of life in the States of members of the committee, or do we have to maintain

the quality of life in all 50 States in America?

Clearly, the RECORD indicates—and I will be submitting for the RECORD in the future—that there has been a dramatic, dramatic imbalance in the funding for military construction projects, which, very frankly, do not serve the men and women well who are stationed in States where there is not that membership. I do not think the men and women in the military deserve that kind of preferential treatment.

I have no illusions as to whether this amendment will succeed or not. I tell you what it does do. It makes me feel a lot better about the 10 years that I spent trying to get the line-item veto passed. It gives me enormous, enormous gratification to know that next year the President of the United States, no matter who he is, is going to take a list like this, and he is going to line-item veto it, and we will spend money on projects we need.

I want to point out again, we are short of sealift capability, Mr. President. We are short of airlift capability. We are short of amphibious capability. We do not have sufficient tactical aircraft to man our carrier decks and bases all over this Nation, including Nevada. We do not have the kind of modernization of our force that is necessary for us to fight and win battles in the next century, and our modernization force has dropped to practically zero.

There are other reasons besides military construction why that has been the case. We have had to spend such an enormous amount of money on operations, maintenance, and training in order to keep our present forces ready.

When we waste billions of dollars, as the Senator from Ohio points out—\$6 billion since 1990—on military construction projects, I do not think it is fair for us to ask young men and women to fight and die in equipment that is not the very best.

I will never forget the former Commandant of the Marine Corps who testified before the Readiness Committee, General Mundy. He said, "It is very, very, very important that our Marines have decent housing, but I don't want a Marine widow to be living in a wonderful house when she is notified by the CO of the base and the base chaplain that her husband was killed in combat because he didn't have the proper equipment with which to defend himself."

Mr. President, those are not my words. Those are not my words. Those are the words of the former Commandant of the Marine Corps, General Mundy.

If we were funding modernization of our forces and keeping up with the technological requirements that gave us the kind of technological edge that won the Persian Gulf war, I would not be nearly as vociferous in my opposition to the add-ons. The reality is—and you can talk to any objective military expert—that we simply do not have

the money. This is not the highest priority, although it is certainly very nice to have things for the men and women who happen to reside in the right States.

I will not inflame this debate any longer, except to say I realize it will lose. I do believe this is the last year for it because I believe the next President of the United States will exercise the line-item veto, and I will be one of the first, along with my friend and partner from Ohio, who will urge him to do so.

I yield the floor.

Mr. WARNER. Solely for the purposes of trying to clarify the parliamentary situation and to inform Senators, it is still the desire of the manager to have a vote occur on the McCain amendment, on or related to the pending order relating to the McCain amendment, at 8 o'clock.

The PRESIDING OFFICER. The Chair advises the Senator that the order was to have a vote at 8 p.m. If you want to change that, it takes a unanimous consent.

Mr. NUNN. I ask unanimous consent that we vote on the McCain amendment or on a motion related to the McCain amendment at 8 o'clock.

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

Mr. WARNER. Mr. President, further—I add this to the unanimous-consent request—that at the conclusion of this debate, I ask that the Kyl amendment and McCain amendment be laid aside so that the managers can proceed with other business. Could the Senator from Ohio tell me how much longer he wishes to debate?

Mr. GLENN. Not long.

Mr. WARNER. Let us say that at the hour of 7:50, debate on the pending McCain amendment will conclude, at which time the Senator from Virginia asks that the McCain amendment be laid aside for voting, as stipulated in the prior order, at 8 o'clock. If it is required to lay aside the Kyl amendment, I ask unanimous consent that the Kyl amendment be laid aside, and at the hour of 7:50, the Senator from Virginia be recognized for the purposes of sending to the desk an amendment, which would require immediate consideration, and that the Senator from Texas be recognized for such secondary amendments that she wishes to offer, and that there be no time agreement on the Warner-Hutchison amendment.

Mr. NUNN. Reserving the right to object, and I hope we will not have to object. We have not seen any of those amendments. I am not sure what the unanimous-consent request is.

Mr. WARNER. Merely a chance to get them in and get them up.

Mr. NUNN. Maybe we need to talk a moment.

Mr. REID. Reserving the right to object, I have a few words I would like to say after the Senator from Arizona has spoken and the Senator from Ohio.

Mr. NUNN. It sounds to me like the time between now and 8 o'clock will be used thoroughly.

Mr. WARNER. Mr. President, I would like to be recognized for 2 minutes prior to the hour of 8 o'clock. Let us say at the hour of 7:56, we could have recognition, once again, of the managers.

Mr. NUNN. I do not have any objection.

Mr. President, I add one other thing to the unanimous-consent request—that is, with the understanding that there be no second-degree amendments to the McCain amendment.

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

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I have some short remarks—not a rebuttal but a discussion regarding some of the comments that have been made.

Much has been made of this five-point criteria. Let me comment on that. Back some years ago, before we established the five-point criteria, the pork barreling that went on in the defense authorization bill was far worse than it is even now. The five-point criteria was never intended—and I think Senator MCCAIN would back this up—to be the final goal, and that anything that fit those five criteria could somehow automatically be approved and be OK, whether the Pentagon or the President's budget asked for them or not. It was not supposed to be an end-all and be-all itself. It was supposed to be a way station to get toward having a budget put together by the Pentagon and sent here, which really meant what it said and it did not need us to add on everything else under the Sun. Nobody questions for a moment the fact that some of these housing projects are needed. But are they as important as some other things that are needed if the Pentagon had the choice to make that decision.

So these five criteria, whether in the 5-year plan or future year plan, or whether mission-essential, or whether inconsistent with BRAC, when the contracts can be started or whether they are offset in some other defense account, all of these are things that were meant to tighten this up toward a way station toward getting control and budgeting the way we ought to. Whether the criteria apply or not does not mean to me they are automatically OK and that we should automatically approve them if they come in with a 5-year plan, which means we are stepping out of what the Pentagon might want to use the money for and projecting the money out to a 5-year future. So making so much out of this criteria was not meant to be the end-all or the final goal of this at all.

Now, another thing was mentioned in debate—that the Guard and Reserve are only getting \$7 million. We go through an annual ritual every spring on the Guard and Reserve. It does not make any difference what administration is in the White House. We have an annual ritual where they underfund,



through the Pentagon, the Guard and Reserve. I think it is done intentionally. It is done by Republican administrations and Democratic administrations. Why? Because they know good and well that we will put it in over here so the Members can take this coup back to benefit their local areas in the local armory, money to run the local armory, money to milk on it, money to rebuild the local armory, and these are things people were bringing back home, waving the flag that we did this for you in Washington.

Every administration knows that the Guard and Reserve have a big enough constituency out there that that will happen. It happens every single year. I think it is time we put a stop to it. That is the reason I think we should have honesty in budgeting. This should not be an annual budget that lets people just bring home the bacon to the local armories as a way of funding this year in and year out. It should be done on a basis of what the Guard's and Reserve's needs are. That should be established by the Guard Bureau, working closely with the Pentagon in determining what the budget will be.

So if we want to appropriate \$600 million, if we went back to the Pentagon and said, we know you need some things in MilCon, in housing; you need a lot of things, but we will put this in and let the Pentagon decide, let you prioritize where the greatest needs in the services are, then this might make even a little bit more sense. But it does not to me.

Let me comment on what the Senator from Georgia said a little while ago about the add-on of \$11.5 billion. I agree 100 percent with him on that. That is the reason I voted against this bill when it came out, and I will still do that if that \$11.5 billion add-on stays in. I have not voted against authorization and appropriations bills for the Defense Department—except for beginning last year—in all the 21-plus years that I have been here now. I agree with him on that. I do not think that add-on was needed. I disagreed with the purpose for which it was added on. Some of those have been addressed in amendments here today. We have had a chance to vote on them.

I think that what we are trying to do is get honesty in budgeting. That is the purpose of this. The five-point criteria was never meant to be the final goal of all of this. If anything came up and qualified under that criteria, we would say, that is all right, it is approved. That was meant to be a means of trying to get some control over budgeting, which we did have some years ago, in the amount of add-ons we would make, it seemed. This was a way station toward getting to more meaningful budgeting.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, you cannot have it both ways. We have been asked

to follow the McCain criteria. We do that with painstaking efforts. We meet every criteria that has been established. Every one of these add-ons meet that criteria.

Now we are being told, well, the McCain criteria really is not that important. There are other things. You cannot have it every way, both ways, or any way. I suggest that we have to stop and find out where we are. First of all, this bill is less than what the House has appropriated. Second, we are within our 602(b) allocation. Also, we are \$1.3 billion less than we appropriated last year. We are 10 percent below last year's level.

Now, there is talk here about the States, where there is somebody on the Armed Services Committee or on the Appropriations Committee, and they are the only ones that get anything. That is absolutely ridiculous. I have not had an opportunity to study who got what, but I can name a few States that I looked at quickly while the debate has been going on. Delaware. There is no one in Delaware that is in Armed Services or Appropriations. Indiana, the same. Kansas, South Dakota, and North Dakota are just a few where there are add-ons. There are add-ons because they meet the criteria set by Senator MCCAIN, and every one of them meet that criteria.

Mr. President, let us stop and understand what happens when the Pentagon makes a recommendation. The active military is prejudiced against the Guard and Reserve. Everybody who has been in the military knows that. They do not favor them. They want all the money to go to them, the active military. And so in the recommendations that come to us every year they neglect the Guard and Reserve. We are the ones that save the Guard and Reserve. That is our obligation. It may not be the right way to do things, but it is the only way to protect the Guard and Reserve. We work very hard to make sure they survive. Programs funded under this budget are programs that are essential to the survival of the Guard and Reserve.

If the Guard and Reserve had to depend on the active military to give them what they wanted, they would all be out of business. The active military, frankly, mostly do not want the Guard and Reserve to be even in existence because there is competition for their dollars. That is why we are where we are.

This is not a budget breaker. We are within all the budget constraints. We are not going outside of what has been authorized. We are only going not only with what is authorized but what is authorized under the very strict criteria set by the Senator from Arizona, Senator MCCAIN. These are in the 5-year plan. They are the top priority of the base commander. They are mission essential. The site has been selected, and we can execute within fiscal year 1997, the money that is being appropriated.

What more can we do? All Senators should recognize that this is not a

budget buster. I repeat, it is within all the budget constraints set by the Budget Committee. We are not going outside of the money, above what has been authorized.

I repeat, we are going one step further and following what has been set by the very strict McCain criteria. Mr. President, we believe that, if we step back and take a look at this, we find that the Armed Services Committee used very stringent criteria to ensure that all projects authorized were determined to have met the criteria that we have outlined.

The projects which have been authorized are necessary to maintain the stability of our National Guard and Reserve and to continue to enhance the quality of life of our soldiers, sailors, and airmen. Almost 60 percent of this amount that is attempted to be stripped from this bill is designated for construction of Guard and Reserve projects.

I say with all respect to the senior Senator from Arizona, these are not projects that are going to get any headlines because you strike them from the bill. These are projects that help the men and women who defend our country. The Pentagon simply did not put them in their request, knowing we would step forward and try to help them.

These projects help the Guard and Reserve from the State of Ohio. The Senator from Ohio did not ask for this money, but we felt it was important. We have two add-ons for the State of Ohio because the Ohio Guard and Reserve believe they are essential to their mission. We knew when we did this bill that the Senator from Ohio would be here with our friend from the State of Arizona complaining about these add-ons. But we felt it was important to the people of Ohio to have the Guard and Reserve strong there, as it should be all over the country.

With the downsizing of our military, we are going to have to become even more aware of the importance of the Guard and Reserve. Stories have been written and will continue to be written about how important the Guard and Reserve was in Desert Storm, how effective and important they have been in our situation in the Balkans.

So there is no apology for what we have done in the Military Construction Subcommittee. We have done what is really important, and we appreciate the direction and guidance given by the Armed Services Committee under the leadership of the senior Senator from South Carolina and the Senator from the State of Kentucky.

I move to table the McCain amendment.

Mr. MCCAIN addressed the Chair.

Mr. REID. I am happy to withhold that until the Senator from Arizona speaks.

Mr. MCCAIN. Mr. President, I thank the Senator from Nevada and the Senator from Montana. I think they have done a dedicated job. We have a disagreement, but I know for a fact that

the Senator from Montana and the Senator from Nevada are dedicated to improving the quality of life for the men and women in the military. We have an honest difference of opinion. But I appreciate very much their efforts. I appreciate the cooperative spirit in which we have worked over many years, along with the Senator from Ohio. I disagree, obviously, as I have pointed out, with this add-on, but that in no way diminishes the dedication and effort on the part of the Senator from Montana and the Senator from Nevada to try to provide a decent quality of life for men and women in the military.

I also want to point out again the reason I began with. The Senator from Nevada pointed out a very legitimate aspect of this whole process. The Guard and Reserve have now become dependent on the Congress to provide the funding that they need—the Senator from Nevada is exactly right—because they know that the Pentagon knows that, if they do not request it, it will be added on in the process that we go through here.

Mr. President, it is a stated reality, but it is wrong. It is wrong, and we have to fix this. We have to force the Office of the Secretary of Defense in the Department of Defense to come over here with legitimate needs and requirements that the Guard and Reserve have.

I look forward to working with the Senator from Montana and the Senator from Nevada in trying to fix this gross inequity which has become part of the system that we have today.

Mr. President, I understand my time has expired.

The PRESIDING OFFICER. May the Chair advise the Senate that under a previous order we have 2 minutes remaining for the managers to wrap up?

Mr. REID. Mr. President, I move to table.

The PRESIDING OFFICER. There are still 2 minutes for each manager.

Mr. WARNER. Mr. President, I yield back such time as is reserved for the purpose of the Senator from Virginia.

Mr. NUNN. Mr. President, if I could ask the Chair, would the proper motion be that we proceed immediately to a rollcall vote? As I understand it, we do not have any more time on this. We basically have an order for an 8 o'clock vote.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. We have an order for 2 minutes in behalf of the Senator from Virginia, which I yielded back.

Mr. REID. I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. NUNN. I believe we object to moving up of the time. I think we need to delay the clock.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I renew my motion to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Minnesota [Mr. GRAMS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMBERS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] are necessarily absent.

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

The result was announced—yeas 83, nays 13, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—83

Abraham	Ford	Mack
Akaka	Frahm	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihhan
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bond	Grassley	Nickles
Boxer	Gregg	Nunn
Breaux	Hatch	Pell
Bryan	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
Daschle	Kennedy	Snowe
DeWine	Kerry	Specter
Dodd	Lautenberg	Stevens
Domenici	Leahy	Thomas
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Thurmond
Feinstein	Lugar	Warner

NAYS—13

Bingaman	Harkin	Simon
Bradley	Kerrey	Wellstone
Brown	Kohl	Wyden
Feingold	Kyl	
Glenn	McCain	

NOT VOTING—4

Bumpers	Grams
D'Amato	Moseley-Braun

The motion to lay on the table the amendment (No. 4060) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The majority leader is recognized.

Mr. LOTT. Mr. President, we want to continue to move forward on this legislation. We have not made a lot of good progress, but the chairman and the ranking member are working on that, trying to get a list of amendments that can be agreed to.

I hope a block of those can be done tonight. After consultation with the Democratic leader, it is our intent at this time for the committee to take up another amendment and complete all debate on that, see what other issues can be agreed to and done tonight, and the first vote then be rolled over and occur in the morning at 9:15.

Mr. INOUE. 9:15?

Mr. LOTT. 9:15 in the morning.

Mr. DASCHLE. Will the majority leader yield?

Mr. LOTT. Yes, I yield.

Mr. DASCHLE. Mr. President, I know we have had the opportunity to discuss what will happen after the Federal Reserve debate is completed and the votes are taken at 2:15. We have been in consultation, and it is my understanding the Senator from Arkansas has been able to work out an agreement with the Senator from Utah with regard to his amendment. I think they have also agreed to a time limit within which that amendment can be taken up.

Is the majority leader at this time ready to enter into an agreement on that, or do we need to continue some consultation?

Mr. LOTT. I would like to have an opportunity to check with the Senators who have an interest in it from a committee jurisdiction standpoint and other interests.

I am under the impression that probably can be worked out, but if the Senator will allow me to check on it, because I would like to get things lined up to go forward. If it is going to be offered, let us get an arrangement to get it done and move forward. I would like to talk with two of the Senators I know who have a special interest in it.

Mr. DASCHLE. We will work with the majority leader to see if that can be accommodated, and we can lock that in perhaps tomorrow morning.

Mr. PRYOR. If the distinguished leader will yield for a comment.

Mr. LOTT. I will yield.

Mr. PRYOR. I have consulted two times in an hour and a half with Senator HATCH, the chairman of the Judiciary Committee. He has an intense interest in the issue. He has agreed to a time limit and hopes, like I do, that perhaps tomorrow after the Federal Reserve issues are decided, that we could then possibly go to this amendment.

Mr. LOTT. That sounds like what we all would like to do. Give me a chance to check with the Senator from Utah and one other, and I believe we can work that out.

Mr. PRYOR. I thank the Senator.

Mr. LOTT. I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that Marc Thomas, through the Congressional Fellowship Program, who has been assigned to my office for sometime now, be granted privilege of the floor during the discussion of the defense authorization bill.

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

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 4061

(Purpose: To authorize \$4,100,000 for the construction, phase I, of a combined support maintenance shop at Camp Guernsey, Wyoming)

Mr. SIMPSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to laying aside the pending Kyl amendment? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for himself and Mr. Thomas, proposes an amendment numbered 4061.

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

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

The amendment is as follows:

In section 2601(1)(A), strike out "\$79,628,000" and insert in lieu thereof "\$83,728,000".

Mr. SIMPSON. Mr. President, I rise to offer an amendment—

Mr. FORD. Mr. President, does the Senator have a copy of his amendment at the desk? We need a copy.

Mr. SIMPSON. The amendment can be read. That will save you trouble. It is one line.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read as follows:

In section 2601(1)(A), strike out "\$79,628,000" and insert in lieu thereof "\$83,728,000".

ORDER OF PROCEDURE

Mr. NICKLES. Will the Senator yield just for a moment? I just would like to clarify with the majority leader that there will be no more votes tonight; is that correct?

Mr. LOTT. Mr. President, if the Senator from Wyoming will yield for 1 second more, I would like to clarify there will be no more rollcall votes tonight. I felt that was clear when we said we would roll over to 9:15. I want to make it official.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that on Thursday, June 20, following the votes on the confirmation of the nominees to the Federal Re-

serve, when the Senate resumes consideration of the DOD authorization bill, the committee amendments be laid aside and Senator PRYOR be recognized to offer an amendment.

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

Mr. LOTT. I yield the floor. Thank you very much.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 4061

Mr. SIMPSON. Mr. President, I rise to offer an amendment to the Defense Authorization Act for myself and my friend, Senator THOMAS. This is a minor amendment in the greater scheme of legislative matters which we wrestle with in this body, but nevertheless, it is quite a very important matter for the Wyoming Army Guard and all Guard soldiers who train in Wyoming, and we train a good many soldiers in Wyoming from around the United States.

The amendment would authorize \$4.1 million in funding for the first phase of construction of a combined support maintenance shop at Camp Guernsey, WY. The existing critical facility is a 47-year-old, 26,000-square-foot multi-purpose repair building where all of the Wyoming Army National Guard wheeled and tracked vehicles and equipment, light trucks, the self-propelled howitzers are repaired and overhauled.

The primary problem with the existing facility is inherent electrical and ventilation deficiencies that have not been able to be adequately corrected, despite some \$270,000 in retrofits and repairs over the last 11 years.

Additionally, the National Guard Bureau and industrial hygiene team conducted an evaluation of this facility in March of 1995 and concluded that numerous hazards exist. Of seven discrepancies and hazards that exist, four have been assigned a Risk Assessment Code, or RAC, of 1, and the other three have been rated RAC 2.

These ratings reflect the severity of the conditions of the facility. RAC 1 indicates always a critical problem and has the possibility of causing permanent, severe, disabling, irreversible illness or even death. RAC 2 reflects a serious condition also.

Mr. President, the National Guard Association of the United States strongly supports this project. In a letter dated June 6, the executive director of the National Guard Association wrote:

Since 13 March 1990, the soldiers working in this shop have seen every day a warning on the front door that reads in part—

And here is what the warning says:

Unsafe or unhealthy working condition. Carbon monoxide level exceeds the OSHA ceiling limit.

The only solution to protect the health and life of National Guard soldiers in Wyoming is to replace this building. I ask unanimous consent that the letter be printed in the RECORD.

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

NATIONAL GUARD ASSOCIATION  
OF THE UNITED STATES,

Washington, DC, June 6, 1996.

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

DEAR SENATOR THURMOND: The National Guard Association of the United States (NGAUS) is respectfully submitting this endorsement of a MILCON authorization request from the Wyoming Army National Guard.

During the accelerated budget process this year, a critical military construction request was initially left off the MILCON project list. The request is for a Combined Support Maintenance Shop (CSMS) at Camp Guernsey, Wyoming.

According to information provided by the state, this 47-year old facility contains serious, inherent health and safety hazards. An industrial hygiene team from the National Guard Bureau has determined that the building has seven serious Risk Assessment Code (RAC) discrepancies. Four of the discrepancies are coded RAC 1: "a critical problem exists that has the possibility of causing permanent, severe, disabling, irreversible illness or death." The CSMS facility has inherent ventilation and electrical deficiencies that the Wyoming National Guard has not been able to adequately correct despite \$268,000 in retrofits and repairs over the last 11 years. Since 13 March 1990, the soldiers working in this shop have seen every day a warning on the front door that reads in part: "UNSAFE or UNHEALTHY WORKING CONDITION (DO NOT REMOVE NOTICE UNTIL CONDITION IS ABATED)". Carbon monoxide level exceeds both the OSHA 8 hour PEL . . . and OSHA ceiling limit . . ."

The only solution, to protect the health and lives of National Guard soldiers in Wyoming, is to replace the building.

The Wyoming Army National Guard, through its Adjutant General, Maj. Gen. Ed Boenisch, is requesting phased funding to alleviate this health and safety discrepancy. The phase 1 request for the current appropriations year (FY 97) is \$4.1 million. Phase 2 (FY 98) would be for \$4.0 million.

NGAUS respectfully urges favorable support of your Committee for a floor amendment to the National Defense Authorization Act for Fiscal Year 1997 (S. 1745) to include this MILCON authorization request from the Wyoming Army National Guard.

Sincerely,

EDWARD J. PHILBIN,  
Major General, ANGUS (Ret.),  
Executive Director.

Mr. SIMPSON. Mr. President, the secondary problem with the existing facility is the wholly inadequate amount of space, as I said. They need 70,000 square feet instead of the current 26,000. Clearly, this is a quality equipment repair facility and is critical to the function of the combined support maintenance shop that directly impacts the Wyoming Guard's top goal of military readiness and those who train there, and there are thousands from across the United States.

Finally, the number of specialized jobs in the combined maintenance shop, such as welding and fabrication operations, painting operations, brake shop, brake shoe rebuilding, small arms repair, and electrical and mechanical repairs, cannot be performed.

These other operational attitudes cannot be performed at smaller outlying maintenance facilities.

But, more importantly, you have health and safety as more of a concern. Since repeated efforts to repair the facility and correct the inefficiencies have been unsuccessful, closing the facility may be the only alternative. It is used, as I say, by thousands of people in the Guard units from all the surrounding States.

The Wyoming Guard have compromised and curtailed their request for military construction funding to include only this critical program. It is an urging I make to support this amendment for \$4.1 million in funding for phase 1 of the project, and \$4 million in funding for the next fiscal year.

I also cite to my colleagues, on May 6, 1996, in a letter from William A. Navas, Major General, U.S. Army, Director, the Army National Guard, in a letter to the chairman, it stated, "Thirty-three urgently required projects were inadvertently omitted from that list," which was received before the committee on March 21, 1996. "A listing of those projects is enclosed." One of those is the project for which we seek the funds this evening.

I yield to my friend from Wyoming.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. Did the Senator from Wyoming yield to the Senator from Wyoming?

Mr. SIMPSON. Yes, I did.

Mr. THOMAS. Mr. President, I will take a moment. I appreciate very much this opportunity. My senior Senator has described the issue. I just simply want to tell you that this Camp Guernsey is a very important part of the National Guard, not only for Wyoming, but it is also the training facility for a good many of the units surrounding Wyoming. It is an artillery unit with a range there.

So, as the Senator said, this was inadvertently left out of the accelerated budget process. It combines the support and maintenance shop. This is a very compelling need here.

Three tenants have occupied the same building since 1948. The building is environmentally in noncompliance, with problems of ventilation and electrical systems.

The National Guard Bureau has identified seven serious risk assessment discrepancies, as the Senator has pointed out. We have, as was mentioned, the letter from the National Guard Association, the letter from the Director of the Army National Guard, written in support of this funding.

The original funding actually was \$12 million. Now it is less than that.

Mr. President, as we downsize, of course, we call on the Guard and the Reserve to carry more of the load. Someone mentioned earlier in the debate that the Congress pretty much is responsible—the Senate—for supporting the Guard funds. This, I think, is part of that.

So, Mr. President, I will not take any more time. But I certainly ask for sup-

port from our colleagues for this important National Guard addition. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Second of all, Mr. President, it is a minor item, but when the Senator from Wyoming yielded the floor, he yielded the floor. He could not yield to the other Senator from Wyoming for him to receive next recognition. But it is not important.

The PRESIDING OFFICER. The Senator is correct. The Chair notes the mistake.

Mr. McCAIN. Mr. President, let me just say that right now, and for those few who may be listening or watching, if this amendment passes, then I encourage all of my colleagues who have a military construction project in their district or State, that they may want to come over and have an amendment, and we will have a vote—because this meets none of the criteria.

This has nothing to do with any priority. This is a violation, clear violation of the sense-of-the-Senate resolution, which I will read into the RECORD again. So if this passes, I want all of my colleagues to come over, and whatever military construction project you want in your State, put it up, and we will have a vote on it, because you should win. You should win because there is no reason why you should not, because if we pass this project, then everything meets the criteria, including the fact that there will be no requirement for any offsets.

So I hope my colleagues, after the vote tomorrow, if this amendment passes, will have lots of projects ready to vote for, because, as far as I am concerned, it is open season on the military construction situation.

This project does not meet the criteria established for the Senate's authorization of unrequested military construction projects. Mr. President, this project is not included in the services' future years defense program. In other words, the Guard does not plan to build this project until after the year 2000.

If the safety hazards at that location are as serious as stated today, then the National Guard Bureau should request emergency construction authority.

The Senate Armed Services Committee was asked to review this project during our markup of the bill. The committee did not include the project because it did not meet the established criteria.

The fact remains that the scarcity of defense resources requires that the Guard Bureau, the services, and the Department of Defense all make tough choices among priority projects. This project did not meet the test of ur-

gency when considered against all other priorities for the Guard, and it was not included in the initial priority list submitted by the Guard.

I think it is improper and counter-productive for the Congress to approve this. I hope my colleagues will not vote for the addition of several million dollars for another unrequested, low-priority project. However, let me emphasize, if this \$4.1 million project is approved, then I would strongly urge my colleagues to come over here with every project that they have, because they deserve equal consideration. I have no idea how many more hundreds of millions or even billions of dollars we could add on in military construction projects if this one is agreed to.

So, Mr. President, I guess we will find out tomorrow. But I hope all my colleagues will be ready with their own projects. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Let me reflect again, so the RECORD is clear, that I will have entered into the RECORD a letter from General William A. Navas, Jr., that this project was inadvertently omitted from the list. I restate that and ask unanimous consent that that letter be printed in the RECORD.

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

DEPARTMENTS OF THE ARMY AND THE AIR FORCE NATIONAL GUARD BUREAU, ARMY PENTAGON,

Washington, DC.

Re Installation, Logistics, and Environment Directorate.

Hon. JOHN McCAIN, Chairman, Subcommittee on Readiness, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During a hearing before the Senate Appropriations Military Construction Subcommittee on March 21, 1996, I was asked to provide a \$250 Million priority list of Army National Guard Military Construction projects. This list was sent to Congress by the Army Secretariat.

Thirty-three urgently required projects were inadvertently omitted from that list. A listing of these projects is enclosed.

Sincerely,

WILLIAM A. NAVAS, Jr., Director, Army National Guard.

Army National Guard Military Construction

	<i>Amount</i>
Alaska: Bethel—AASF Taxiway Upgrade .....	\$1.838
Alabama: Birmingham—Joint Med Tng Facility .....	4.600
California: Los Alamitos—JP-8 Fuel Fac, supplemental .....	1.092
Connecticut:	
Camp Hartell—CSMS/OMS ....	4.700
Camp Hartell—Armory .....	8,500
Groton—AVCRAD .....	5.647
Florida:	
Camp Blanding—Combined Support Maint Shops .....	8.068
Lakeland—Limited AASF .....	5.000
MacDill—AASF .....	4.248
Indiana:	
Camp Atterbury—Water System Upgrade .....	5.534

AMENDMENT NO. 4062

Marion—OMS .....	Amount	
Kentucky:	1.121	
Western KY Tng Site—Phase III .....	11.995	
Fort Knox—MATES .....	2.691	
Western KY Tng Site—Phase IV .....	11.000	
Western KY Tng Site—Phase V .....	18.024	
Massachusetts: Milford—USPFO Warehouse renovation .....	7.099	
Michigan: Fort Custer—Education Support Facility .....	3.497	
New Mexico: Taos—Armory .....	1.935	
North Carolina:		
Charlotte—Armory .....	5.994	
Charlotte—OMS .....	3.673	
Fort Bragg—Mil Ed Fac Ph I .....	15.844	
Fort Bragg—Mil Ed Fac Ph II .....	4.985	
Oregon:		
Salem—Armed Force Reserve Center .....	11.000	
Eugene—Armory .....	11.796	
Eugene—OMS .....	2.136	
South Carolina:		
Eastover—Readiness Center .....	5.994	
Eastover—Simulation Center .....	2.800	
Eastover—Infrastructure Upgrade .....	3.500	
Tennessee:		
Chattanooga—AAOF .....	3.414	
West Virginia:		
Camp Dawson—Mil Ed Fac .....	15.144	
Camp Dawson—Armory .....	6.954	
Wyoming: Camp Guernsey—CSMS/OMS/UTES .....	11.692	

Mr. SIMPSON. Mr. President, I have spent little time in my 18 years in the Senate wandering in here to talk about any project. In fact, I believe that this would be perhaps the first time because these things have usually been very well considered.

This is something that did not get considered properly. That is why we are here, to seek an authorization to place it before the Senate on a priority. I believe that I am told that there are not more than four or five amendments that are out here that have to do with adding money or add-ons.

So if the invitation is to come to the floor to bring in your favorite dog or cat, there have not been many people doing that. There are about five. That will not cause some breach in the diet that will create an onslaught on this measure. So I want that clear, if we can. And we have inserted the letter in the RECORD. I suggest to our colleagues that this is very necessary for one of the few Guard units in the United States that trains the rest of them from the rest of the United States.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. The Senator from Wyoming, Senator SIMPSON, is exactly correct on this matter. We have the letter in from William A. Navas, Jr., Major General, U.S. Army, Director, Army National Guard. The Senator from Wyoming has already read the letter. He basically says that 33 urgently required projects were inadvertently omitted from the list that was submitted.

The reason this project was not included to begin with was because it did not meet the criteria because it was not in the 5-year defense plan. This let-

ter says that was an error. So I just want to make it clear that what the Senator has said, from my perspective and the perspective from this side of the aisle, is exactly right. This would have been part of the list had it been listed as is now listed by General Navas, Major General, U.S. Army, Director, Army National Guard.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I just want to reiterate again, so others will understand thoroughly. When the Senator from Arizona said, come over, bring anything you have in mind, this is not in that category. The letter is here. It is entered. It was sent to the committee. And it was inadvertently left off the list. I think it is unfair to make that kind of a characterization.

Mr. REID. Mr. President, I ask unanimous consent the pending amendment be set aside.

Mr. MCCAIN. Reserving the right to object, I think we have completed debate on this amendment. The vote is set for 9:15 tomorrow. I think we can move off of it and on to whatever business the Senator from Nevada wishes.

The PRESIDING OFFICER. There has been no unanimous consent for a time set for the vote.

Mr. MCCAIN. Mr. President, I suggest there is no further debate on this amendment.

Mr. SIMPSON. Mr. President, in line with the Senator from Arizona, perhaps just a unanimous-consent request could be made that debate be concluded and the majority and minority leader set the time for the vote on the amendment tomorrow at a time certain.

The PRESIDING OFFICER. That is in order.

Mr. SIMPSON. I move that.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object, I think the leader said 9:15; does the Senator from Wyoming say 9:30?

Mr. SIMPSON. I leave it to the discretion of the leader.

Mr. NUNN. Perhaps a unanimous-consent request would reflect that.

Mr. SIMPSON. I incorporate that within it.

The PRESIDING OFFICER. Without objection, the request is agreed to.

Mr. NUNN. I add to that unanimous-consent request that no second-degree amendments be in order.

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

Mr. MCCAIN. I object to no second-degree amendments being in order.

The PRESIDING OFFICER. The Chair hears the objection.

Mr. NUNN. Mr. President, I object to the unanimous-consent request.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

(Purpose: To strike the authorization for the military construction project of the National Security Agency at Fort Meade, Maryland; to authorize \$1,400,000 for the construction of a ramp addition for C-130 aircraft at Reno International Airport, Nevada; and to authorize \$5,800,000 for the construction of a jet engine test facility/aircraft test enclosure at Fallon Naval Air Station, Nevada)

Mr. REID. Mr. President, I have an amendment I hope we can resolve in just a few minutes this evening, and I send that amendment to the desk.

The PRESIDING OFFICER. The pending amendments are laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 4062.

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

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

The amendment is as follows:

In the table in section 2201(a), in the amount column for the item relating to Fallon Naval Air Station, Nevada, strike out "\$14,800,000" and insert in lieu thereof "\$20,600,000".

Strike out the amount set forth as the total amount at the end of the table in section 2201(a) and insert in lieu thereof "\$512,852,000".

In section 2205(a), in the matter preceding paragraph (1), strike out "\$2,040,093,000" and insert in lieu thereof "\$2,045,893,000".

In section 2205(a)(1), strike out "\$507,052,000" and insert in lieu thereof "\$512,852,000".

In the table in section 2401(a), strike out the item relating to the National Security Agency, Fort Meade, Maryland.

Strike out the amount set forth as the total amount at the end of the table in section 2401(a) and insert in lieu thereof "\$502,390,000".

In section 2406(a), in the matter preceding paragraph (1), strike out "\$3,421,366,000" and insert in lieu thereof "\$3,396,166,000".

In section 2406(a)(1), strike out "\$364,487,000" and insert in lieu thereof "\$339,287,000".

In section 2601(3)(A), strike out "\$208,484,000" and insert in lieu thereof "\$209,884,000".

Mr. REID. Mr. President, this amendment encompasses two projects and is offered on my behalf and Senator BRYAN. These two projects are for the State of Nevada. The reason they were not included in the matter we voted on last is the fact that Top Gun just moved to Nevada. It is a very important project for the Navy. Fallon Naval Air Station is the premier naval air fighting station in the whole world. Top Gun has moved there.

This amendment meets all the McCain criteria of the Senate Armed Services Committee. This project we are talking about is for testing of Navy jet engine acoustics at Fallon Naval Air Station. This authorizes appropriation of \$5.8 million to move and complete a badly needed jet engine test facility at the Naval Air Station Alameda, which is due to close this fiscal year, to Fallon Naval Air Station, saving millions of dollars. If we wait to do

this, we will have to spend millions of additional moneys. This is an effort to save money.

We would still be within our 302(b) allocation. It is not a budget buster. If we cannot do this, we would be required to construct a new and a smaller test facility. This is extremely important for Top Gun and other projects.

Now, the other project, Mr. President. Fallon Naval Air Station, I have indicated, is rapidly becoming the Navy's premier pilot training site, including Top Gun, Top Dome, and training of the navy's elite pilots. If you want to have a Ph.D. as a naval fighter in airplanes, you have to go to Fallon and train. This project meets all the criteria I have mentioned.

Mr. President, the other is a \$1.4 million project that will add badly needed space to the aircraft parking area at the Reno Air National Guard for C-130's. This is a new mission they have. One thing I did not mention, Mr. President, for both of these projects, the money is offset. Both projects in the amendment are fully offset in moneys and for a project that is simply not usable anymore. It meets all the criteria. I do not need to dwell on it. I ask this amendment be approved.

Mr. NUNN. Mr. President, I urge support of the Reid amendment when we do get to a vote on it. This meets the committee's criteria that corrects potential problems currently in the Air National Guard.

Mr. REID. If I could say, the distinguished Senator from Arizona is going to object to this, but I think he would accept it on a voice vote. That is my understanding.

Mr. McCAIN. Mr. President, I understand the argument of the Senator from Nevada. There is not an offset in it. I understand it meets with all the other criteria. I oppose the amendment. I will not request a recorded vote.

Let me also say I will try and have the second-degree amendment to the amendment from the Senator from Wyoming very soon. As I understand the majority leader would have liked to have had a time certain.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 4062) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### STARSTREAK EVALUATION

Mr. INHOFE. Mr. President, I would like to engage Senators WARNER, SMITH, and KENNEDY, who are my colleagues on the Armed Services Committee, in a colloquy for the purposes of clarifying and correcting provisions in the committee's report with respect to the committee's funding of the air-to-air Starstreak missile evaluation, to be conducted by the Army.

Senator KENNEDY and I, along with other members of the committee, have supported continued evaluation of the Starstreak missile in an air-to-air role, to provide self-protection capability for the Apache helicopter. I understand that it has been the committee's intent to provide \$15 million in fiscal year 1997 for the completion of the air-to-air Starstreak live fire phase test, to be carried out by the Army's applied aviation technology directorate. This test phase is to be completed prior to conducting a side-by-side evaluation with the air-to-air Stinger missile. It is also my understanding that to achieve the committee's intent, these funds should be placed in program element 63003A, an account used in prior years for this program.

However, the committee report placed it in a different line item—PE No. 23801A—and contains language that suggests an alternate use of these funds. I would like to correct the record in this matter.

Mr. WARNER. Senator, you are correct on both accounts. As the chairman of the Air-Land Forces Subcommittee, I can attest that the committee's intent is to authorize \$15 million in program element 63003A explicitly for the continuation air-to-air Starstreak evaluation. The committee's report inadvertently implies that Starstreak would be evaluated alongside Stinger and placed the funds in the incorrect funding line. This was not the committee's intent and will be corrected during conference with the House.

Mr. KENNEDY. I share the concerns of the distinguished Senator from Oklahoma, and thank the Air-Land Subcommittee chairman for his support. These actions would be inconsistent with the authorization conference report for fiscal year 1996 and with actions taken last year by the Army to move Starstreak funds into this line for the continuation of the air-to-air Starstreak evaluation. The Army has indicated a clear need for helicopter self-defense, and is completing necessary documentation of that requirement. To best meet this requirement, there must be a fair shoot-off competition between Starstreak and Stinger. Providing this funding is necessary to fully evaluate the Starstreak missile prior to any shootoff, to ensure a level playing field.

Mr. SMITH. I concur with Senator WARNER's earlier statement, that the \$15 million for the Starstreak evaluation should be placed in PE 63003A and be provided for the purpose of continuing the Starstreak evaluation. As chairman of the Acquisition and Technology Subcommittee, I am pleased to join my colleagues in working to bring this development program to a successful conclusion. The position and legislative intent of the committee as articulated in this colloquy will supersede that expressed in the committee report. Appropriate corrections will be made during conference on this bill with the House of Representatives, and

the Army will be notified of our position on this issue.

Mr. INHOFE. I thank my colleagues for their assistance in clarifying this important matter.

#### AMENDMENT NO. 4049

Mr. PELL. Mr. President, I oppose strongly the amendment on nuclear testing offered by the Senators from Arizona and Nevada, Mr. KYL and Mr. REID. The United States is currently in the forefront of nations seeking a comprehensive ban on nuclear explosions. Members of the administration have worked assiduously to remove obstacles to such a ban both in the United States and among the other nuclear powers. Currently, we are in the final stages of an effort that could culminate an agreement on the text by June 28, with the opening of the text for signatures occurring this coming September.

Getting us to this point, at which a comprehensive treaty ban is almost in hand, has been both slow and tortuous. I recall well that President John F. Kennedy hoped to bring about a complete ban on nuclear testing. By building upon the positive aspects on both sides, he was able to bring about the breakthrough that produced the Limited Test Ban Treaty of 1963, which limited nuclear testing to the underground environment and spared the world further exposure to radiation and fallout from the tests by the three signatories, the United States, Great Britain, and the Soviet Union.

In 1974, President Nixon achieved the Threshold Test Ban Treaty, and President Ford accomplished the Peaceful Nuclear Explosives Treaty in 1976. In 1990, while I was chairman of the Committee on Foreign Relations, the committee and the Senate approved ratification of those two treaties. The complete ban has been an oft-stated goal of the United States for more than three decades and it has been pursued with varying degrees of enthusiasm. In recent years, as some questions of safety and reliability of nuclear weapons have been resolved and as our scientific community has, with methods of ensuring the safety and reliability of the stockpile without resort to nuclear testing, it has become increasing clear that nuclear testing is no longer an imperative and that national interests of the United States would be served by an end to nuclear testing.

When the administration succeeded last year in securing the unconditioned and permanent extension of the non-proliferation treaty, we were successful largely because many nations who have foresworn nuclear weapons trusted us and the other nuclear powers to move expeditiously to a complete end of nuclear testing. That goal appears now to be within both reach and grasp.

As a result of legislation sponsored by Senators HATFIELD, EXON, and Mitchell in 1992, the United States has been operating under a moratorium on nuclear testing that will extend through this September. According to

that legislation, the United States can only resume nuclear testing if another nation does so. Russia has not tested since 1992 and indicates it does not intend to resume nuclear testing. Earlier this year, France finished its latest and controversial series of nuclear tests in the Pacific and declared its commitment to achievement of a comprehensive ban. That leaves only China, which has indicated that it will conduct only one more test before September and then will join the other nuclear powers in stopping testing.

The Kyl-Reid amendment would revoke the Hatfield-Exon-Mitchell language, under which the United States has been engaged in the moratorium and moving toward a complete ban. It is correct that the amendment does not require testing, but it does open the way to renewed testing and send a completely wrong signal at this final stage of the negotiation on a complete ban. It would serve to undermine U.S. commitment to success in the negotiation. It could serve to disrupt the negotiation completely, and it could precipitate an end to prospects for a complete ban for years to come.

Mr. President, in January, John Holum, the director of the U.S. Arms Control and Disarmament Agency, delivered a message from the President to the delegates negotiating the test ban at the conference on disarmament in Geneva. The President made the point: "A Comprehensive Test Ban Treaty is vital to constrain both the spread and further development of nuclear weapons. And it will help fulfill our mutual pledges to renounce the nuclear arms race and move toward our ultimate goal of a world free of nuclear arms."

The President concluded: "I pledge the full and energetic support of the United States to conclude promptly a treaty so long sought and so long denied. Let us, now, take this historic step together."

The last several weeks in Geneva have been marked by heated negotiations as delegates attempt to remove final roadblocks. The next few days will be similarly hectic as delegates try to meet the June 28 deadline for success. John Holum told us today, "We are close to achieving our goal in Geneva. This window of opportunity is the best, and perhaps the last, chance to achieve this goal."

Mr. President, the Senate has had the wisdom to agree to the SALT I interim agreement, the 1972 Anti-ballistic Missile Treaty, START I and the START II Treaty. These treaties first capped the arms race, and ensured the viability of strategic deterrence. Through the START I Treaty which is now in force and the START II Treaty which awaits Russian ratification, the world's two superpowers will have reduced their nuclear arsenals by approximately two-thirds. If we are wise and prudent we will move beyond that level still further to substantially lower levels of nuclear armament. A

complete ban on nuclear testing will help to reinforce and invigorate that process.

I hope very much that the Senate will decide today to keep the United States on the course it so wisely chose in 1992 in deciding to initiate a moratorium on nuclear testing.

HOUSE PROVISION ON ANTIPERSONNEL  
LANDMINES

Mr. LEAHY. Mr. President, last year an amendment to the Fiscal Year 1996 Defense Authorization bill which I sponsored with 49 other senators, both Democrats and Republicans, to impose a 1-year moratorium on the use of anti-personnel landmines, except along international borders and in demilitarized zones, passed the Senate on August 4 of last year by a vote of 67 to 27. It was signed into law by President Clinton on February 12 of this year. Support for the moratorium has broadened in the Congress since then, due to the extraordinary media attention this issue has received and the experience of our troops in Bosnia.

Recently, it came to my attention that the House National Security Committee included a provision in its version of the fiscal year 1996 Defense authorization bill, which would effectively nullify my amendment. This provision is identical to a provision the House included last year, but which was deleted in the conference.

While I do not question the motives of the authors of that provision, I have communicated my concerns about it to Chairman THURMOND, as well as Senators WARNER and NUNN. I have made clear that not only does this provision undermine the position of two-thirds of the Senate, it is totally unnecessary and premature since the moratorium would not take effect until February 1999. It also contradicts the Pentagon's considered judgment that it can manage with the Leahy moratorium, and ignores the administration's own position that it will not seek to modify or repeal the amendment.

Mr. President, on May 16, President Clinton announced the administration's long-awaited policy on landmines. While I was disappointed that the administration did not use this opportunity to renounce the use of an indiscriminate weapon that is responsible for horrendous suffering of civilians, the President did commit to vigorously negotiate an international agreement to ban antipersonnel mines. Over the next 2 years, we will have ample opportunity to judge the seriousness of the administration's efforts. With 41 nations already on record in support of an immediate, total ban, including many of our NATO allies, it is crucial that we preserve the Leahy amendment intact in order to reinforce our support for strong U.S. leadership in this global effort.

I am very pleased and appreciative that Chairman THURMOND has, like last year, answered my concerns by reaffirming his intention to defend the Senate position in conference. He was

successful in doing so last year, and nothing has changed since then to weaken the Senate position. In fact, the official opinion of the Pentagon that it can live with the Leahy moratorium, the administration's policy to vigorously negotiate an international ban as soon as possible, and the growing number of countries that support a ban, should significantly strengthen it.

I hope the House will reconsider its position on this. There is no reason for an issue that has such broad public support, from veterans organizations to the Catholic Bishops to the American Red Cross, to become an issue of contention between us. If necessary, there is more than enough time to revisit this when the effective date of the moratorium approaches.

Mr. President, I ask unanimous consent that excerpts from a May 16 Pentagon press briefing describing the Pentagon's opinion of my amendment, and my correspondence with Chairman THURMOND, be printed in the RECORD.

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

NEWS BRIEFING

OFFICE OF THE ASSISTANT SECRETARY OF  
DEFENSE—PUBLIC AFFAIRS

Senior Defense Official #2: The President signed it into law. I mean, we have not been happy with it with regard to its provisions compared to this broader policy. The President did accept it. And we believe we can live with it, but we don't think it's an adequate—I didn't say we didn't support it—I mean, we don't think it's an adequate answer to the problem. And so, this policy is meant to answer the problem in a broader way. If the moratorium stays in place, we can live with that one year moratorium given the exceptions that are written into it.

Q: All anti-personnel mines?

Senior Defense Official #2: Anti-personnel landmines.

U.S. SENATE,

Washington, DC, May 12, 1996.

Hon. STROM THURMOND,  
Chairman, Committee on Armed Services, Wash-  
ington, DC.

DEAR STROM: It has come to my attention that the House National Security Committee has included in its FY 1997 Defense Authorization bill the same certification provision concerning my anti-personnel landmine moratorium amendment that was deleted last year.

Not only is this provision unnecessary since the moratorium does not take effect until February 1999, it also would nullify the effect of the amendment which was supported by over two-thirds of the Senate in a bipartisan vote.

If necessary, I will take whatever measures are necessary to prevent this attempt by the House to undermine the Senate's position on my amendment. However, your help was instrumental in getting this same provision deleted from the bill last year. Before I make any decision on this, I would appreciate knowing whether I can count on you to prevent this provision from being included in the final version of the FY 1997 Defense Authorization bill.

I look forward to hearing from you soon.

With best regards.

PATRICK LEAHY,  
U.S. Senator.



U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, December 18, 1995.

Sen. PATRICK J. LEAHY,  
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: Pursuant to our discussion on the floor this morning concerning consideration of the National Defense Authorization Act for Fiscal Year 1996, I would like to recap our agreement.

We have agreed that: You will control 20 minutes of debate on the landmine provision and I will control the same amount of time; you will not filibuster the defense authorization conference report and will not object to a unanimous consent for a time certain to vote on the defense authorization conference report; and if the current version of the FY 96 Defense Authorization bill does not become law, I will do everything in my power to ensure that section 1402(b) (concerning a certification in relation to the moratorium on landmine use) is deleted from any subsequent version of the bill. If the current version of the FY 96 Defense Authorization bill is signed into law, I will do everything in my power to ensure that section 1402(b) is reversed in the next Defense Authorization bill.

Sincerely,

STROM THURMOND,  
Chairman.

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, June 11, 1996.

Sen. PATRICK LEAHY,  
U.S. Senate, Washington, DC.

DEAR PAT: Thank you for your recent correspondence regarding the anti-personnel landmine moratorium. I appreciate your bringing to my attention the provision in the House defense bill regarding a requirement for a certification prior to the imposition of a moratorium.

As the Chairman of the Senate Armed Services Committee, I will support the Senate position on any issue that comes before the conference on the defense authorization bill. However, as you know, it is impossible for me, or any other member of the Senate, to predict or guarantee the outcome of any particular provision during the conference of a bill. As always, I would support the Senate position with the House in the conference on the defense authorization bill.

As I recall our agreement last year it was that I would not offer any language to the fiscal year 1997 defense bill that would undermine your provision, and you would not offer language regarding the anti-personnel landmine moratorium to the fiscal year 1997 defense authorization bill. I have kept that agreement—there is no language in the fiscal year 1997 Senate defense authorization bill regarding the anti-personnel landmine moratorium.

With kindest regards and best wishes,  
Sincerely,

STROM THURMOND,  
Chairman.

Mr. CRAIG. Mr. President, there are a few issues which I think must be considered during what I expect will be complicated and controversial deliberations on the 1997 Defense authorization bill. First and foremost, this bill defines national security—the Government's primary obligation to its citizens.

The United States military is the greatest military power in the world. In a time of rapidly evolving technology, sufficient yet judicious funding authority is absolutely essential to maintain the status quo. The commit-

tee budget is \$12.9 billion higher than fiscal year 1996 levels. However, adjusting this figure for inflation, the Department of Defense will actually see spending levels reduced by \$5.5 billion from last year.

The administration in 1994 and 1995 promised outyear funding would increase to recover the shortfalls driven by deep cuts in earlier budgets. Yet, for the second straight year, the Presidential budget is less than projected in previous years. I am confident that DOD will meet its assigned mission, but I am concerned at what cost.

If we are to continue sending our soldiers into harm's way, this Nation has a responsibility to provide them with the highest level of technology. I often overhear comments that since the fall of the Iron Curtain, America has no significant enemy. However, since 1989, America has deployed more forces than at any time since 1964. Yes, the Soviet Union is no more, but renegade factions continue to threaten our Nation's security and vital economic interests. While we are the only remaining super power, our armed forces shouldn't be used in the role of the world's police force.

In the past 7 years, American forces have deployed to Panama, Grenada, and Saudi Arabia to protect our National interests. Additionally, peace-keeping operations have sent our troops to Haiti, Somalia, and most recently Bosnia. This Nation has a responsibility to scrutinize each mission carefully and send American Forces only when absolutely necessary. The threat is still there, but its face has changed. America will continue to send her young soldiers and sailors to foreign shores to protect our peace, but we must be judicious in those assignments.

As we examine the 1997 authorization, we must consider that the Defense budget has decreased to the lowest spending levels in 40 years. As we debate these issues, we must strive to produce a budget which defines national security and guarantees the Department of Defense has the necessary funding to complete all assigned, carefully chosen missions, obtain all training vital to success, and secure the best technology available. When this is finished, our military forces will continue to be the most influential military in the world and this Nation's security unquestioned.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NUNN. Mr. President, it is my understanding that the pending amendments would have to be set aside by unanimous consent before considering

this block of amendments that have been consented to on both sides.

I ask unanimous consent that the pending amendments be set aside for the purpose of taking up these amendments. I believe there are 19 amendments that we will be presenting, which have been agreed to.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

AMENDMENT NO. 4063

(Purpose: To specify funding and requirements for research, development, test, and evaluation of advanced submarine technologies)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator COHEN, I offer an amendment that would include a provision in the Senate bill that would provide for explicit guidance on the intended use of funds that are authorized for submarine technology. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. COHEN, proposes an amendment numbered 4063.

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

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

The amendment is as follows:

At the end of subtitle B of title II add the following:

**SEC. 223: ADVANCED SUBMARINE TECHNOLOGIES.**

(a) AMOUNTS AUTHORIZED FROM NAVY RDT&E ACCOUNT.—Of the amount authorized to be appropriated by section 201(2)—

(1) \$489,443,000 is available for the design of the submarine previously designated by the Navy as the New Attack Submarine; and

(2) \$100,000,000 is available to address the inclusion on future nuclear attack submarines of core advanced technologies, category I advanced technologies, and category II advanced technologies, as such advanced technologies are identified by the Secretary of Defense in Appendix C of the report of the Secretary entitled "Report on Nuclear Attack Submarine Procurement and Submarine Technology", submitted to Congress on March 26, 1996.

(b) CERTAIN TECHNOLOGIES TO BE EMPHASIZED.—In using funds made available in accordance with subsection (a)(2), the Secretary of the Navy shall emphasize research, development, test, and evaluation of the technologies identified by the Submarine Technology Assessment Panel (in the final report of the panel to the Assistant Secretary of the Navy for Research, Development, and Acquisition, dated March 15, 1996) as having the highest priority for initial investment.

(c) SHIPYARDS INVOLVED IN TECHNOLOGY DEVELOPMENT.—To further implement the recommendations of the Submarine Technology Assessment Panel, the Secretary of the Navy shall ensure that the shipyards involved in the construction of nuclear attack submarines are also principal participants in the process of developing advanced submarine technologies and including the technologies in future submarine designs. The Secretary shall ensure that those shipyards have access for such purpose (under procedures prescribed by the Secretary) to the

Navy laboratories and the Office of Naval Intelligence and (in accordance with arrangements to be made by the Secretary) to the Defense Advanced Research Projects Agency.

(d) FUNDING FOR CONTRACTS UNDER 1996 AGREEMENT AMONG THE NAVY AND SHIPYARDS.—In addition to the purposes of which the amount authorized to be appropriated by section 201(2) are available under paragraphs (1) and (2) of subsection (a), the amounts available under such paragraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the "Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB), and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine", dated April 5, 1996, for research and development activities under that memorandum of agreement.

Mr. COHEN. Mr. President, this amendment would add a provision to title II of the Senate bill that reflects the markup position on advanced submarine technology that is now reflected in report language and the funding tables that accompany the bill. This position was developed as a result of testimony provided at a hearing on submarine procurement and development and on the Secretary of Defense Report on Nuclear Attack Submarine Procurement and Submarine Technology that was submitted to Congress on March 26, 1996 in compliance with section 131 of last year's defense authorization bill.

The hearing and report both indicate that the approach used by the Navy to invest in submarine technology should be revised to accommodate the low rate of future production for attack submarines relative to cold war levels and the much higher rate of technology turnover that is occurring in the civilian sector. The previous focus on incorporating new technologies into new designs that occurred with much greater frequency than can be expected in the future and then reducing technology funding to subsistence funding until time for a new design will no longer suffice to maintain the technological edge that our submarine force enjoyed during the cold war. A more promising model would be the creation of a single, stable research and development program under a single product manager and funded at a steady state level that supports, matures, and incorporates new technology on a continuing basis. In other words a process of continuous rather than cyclical evolution. A far greater emphasis would be placed on involvement of civilian industry, particularly the shipyards involved in submarine construction, than has occurred in the past. The Report accompanying the Senate bill provides guidance that the Secretary of the Navy is to use these funds to carry out high priority research on advanced submarine technology that is identified in the Secretary of Defense's report.

The House also concluded that additional funding for submarine technology was needed. However, consistent with the fascination with submarine technology reflected in last

year's conference negotiations, the House bill would make over \$200 million available for it in fiscal year 1997 and pursue initiatives such as the development of six different design alternatives at a cost of at least \$500 million before settling on a design for series production no earlier than fiscal year 2003. The House provision also makes very detailed allocations on how submarine technology funds would be spent by the Navy without providing any objective analysis or documented justification to support this allocation.

It is clear that the House and Senate have developed divergent views on how the course of future research and development for advanced submarine technology should proceed. It appears prudent, based on the magnitude of funding increases in the House bill and its micromanagement of them, to establish in the Senate bill a provision in law that articulates, with more force than can be achieved with report language, the Senate's view on how the Navy should proceed with a program to develop submarine technology. This provision will provide stronger guidance to our conferees when they negotiate a final outcome in the fiscal year 1997 defense authorization bill. I encourage my colleagues to join me in voting in favor of this amendment.

Mr. KEMPTHORNE. Mr. President, again, I point out there is no objection from the other side.

Mr. NUNN. Mr. President, I urge support of this amendment. It would clarify the Senate's intention on how the Navy should spend funds and implement recommendations of the DOD's report on nuclear attack submarine procurement and technology. This is an important effort to begin to address inefficiencies that have been identified in previous attack submarine R&D programs.

Mr. KEMPTHORNE. Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The amendment (No. 4063) was agreed to.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 4064

(Purpose: To ensure that the annual report from the Reserve Forces Policy Board is submitted as a report that is separate from the annual report of the Secretary of Defense on the expenditures, work, and accomplishments of the Department of Defense)

Mr. NUNN. Mr. President, on behalf of Senator BYRD, I offer an amendment that would make technical corrections to the references to the annual report required to be submitted by the Reserve Forces Policy Board and establish that the annual report be a separate report submitted in conjunction with the annual report of the Secretary of Defense. This has been cleared on the other side of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, proposes an amendment numbered 4064.

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

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

The amendment is as follows:

At the end of subtitle E of title X add the following:

#### SEC. 1054. ANNUAL REPORT OF RESERVE FORCES POLICY BOARD.

Section 113(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (1), (2), and (4) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting "(1)" after "(c)";

(4) by inserting "and" at the end of subparagraph (B), as redesignated by paragraph (2); and

(5) by adding at the end the following:

"(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense and on any other matters that the Reserve Forces Policy Board considers appropriate to include in the report."

Mr. KEMPTHORNE. This amendment has been cleared.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4064) was agreed to.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 4065

(Purpose: To provide for managed health care services to be furnished under the health care delivery system of the uniformed services by transferees of Public Health Service hospitals or other stations previously deemed to be uniformed services treatment facilities that enter into agreements with the Secretary of Defense to provide such services on an enrollment basis)

Mr. KEMPTHORNE. Mr. President, on behalf of Senators GORTON, COHEN, and GLENN, I offer an amendment which would establish the integration of the uniformed services treatment facilities in the Department of Defense TRICARE health care program.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. GORTON, for himself, Mr. COHEN, and Mr. GLENN, proposes an amendment numbered 4065.

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

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

The amendment is as follows:

After the heading for title VII insert the following:

**Subtitle A—General**

Strike out section 704.

Redesignate section 705 as section 704.

Redesignate section 706 as section 705.

Redesignate section 707 as section 706.

At the end of title VII add the following:

**Subtitle B—Uniformed Services Treatment Facilities**

**SEC. 721. DEFINITIONS.**

In this subtitle:

(1) The term "administering Secretaries" means the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(2) The term "agreement" means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term "capitation payment" means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term "designated provider" means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 603) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term "enrollee" means a covered beneficiary who enrolls with a designated provider.

(7) The term "health care services" means the health care services provided under the health plan known as the TRICARE PRIME option under the TRICARE program.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

**SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.**

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider, under which the designated provider will provide managed health care services to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed

upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) Notwithstanding paragraph (1), the designated provider whose service area includes Seattle, Washington, shall implement its agreement as soon as the agreement permits.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1587) until the agreement required by this section takes effect under subsection (c).

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

**SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.**

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1996.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

**SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.**

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary deter-

mines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year after fiscal year 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care program of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—Other covered beneficiaries may also receive health care services from a designated provider, except that the designated provider may market such services to, and enroll, only those covered beneficiaries who—

(1) do not have other primary health insurance coverage (other than medicare coverage) covering basic primary care and inpatient and outpatient services; or

(2) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

**SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.**

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section

after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

**SEC. 726. PAYMENTS FOR SERVICES.**

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for services provided by a designated provider shall be full risk capitation. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received their care through a military treatment facility, the TRICARE program, or the medicare program, as the case may be.

(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program.

(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

**SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.**

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal year 1991 (Public Law 101-510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 42 U.S.C. 248c note).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Mr. GORTON. Mr. President, today I am offering an amendment which defines the future for Uniformed Services Treatment Facilities [USTFs] in order to ensure that these hospitals and clinics can continue to provide high-quality care to thousands of military beneficiaries throughout the country. Senators SARBANES, MOYNIHAN, and MURRAY have joined me as cosponsors of this amendment. I appreciate the accommodation of the Committee leadership for clearing my amendment for inclusion in the Senate version of the National Defense Authorization Act for fiscal year 1997.

USTFs are former Public Health Service hospitals that were transferred to private, not-for-profit ownership during the Reagan administration. The late Senator from Washington State, Scoop Jackson, sponsored legislation in 1981 that completed this transition by deeming these hospitals and clinics facilities of the Uniformed Services

and authorizing them to provide health care to military beneficiaries, including retirees and family members of active-duty personnel and retirees. I was proud to join as a cosponsor of that amendment during my first year in the Senate.

USTFs have performed well over the past 15 years as providers of cost-effective and quality military health care. There are currently 9 USTFs operated by 7 organizations serving about 120,000 military beneficiaries in nine States: Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Texas, and Washington. These facilities have a loyal base of beneficiaries who have come to rely on them as their primary care providers.

USTFs have also pioneered new innovations in military health care, including full at-risk managed care. I sponsored an amendment in 1992 that required the Department of Defense [DOD] to enter into agreements with USTFs to carry out a managed care delivery program. The USTFs managed care program, called the Uniformed Services Family Health Plan, I am told, has further reduced costs and has consistently received a favorable beneficiary rating in excess of 90 percent.

The USTFs are now at a crossroads. With their current participation agreements expiring next year, USTFs and DOD entered into negotiations late last year aimed at integrating the USTFs program into the overall military health care system. The negotiations resulted in a set of "guiding principles" which both DOD and USTFs accepted. My amendment implements these "guiding principles" by clarifying how the USTF program will be integrated into the TRICARE program. With one exception concerning the date for the application of TRICARE enrollment fees and increased co-payments, my amendment is identical to the provisions of the House-passed National Defense Authorization Act for fiscal year 1997.

My amendment reflects a careful compromise reached between the USTFs and DOD to protect the interests of the military beneficiary and the taxpayer. In addition to integrating the USTFs into TRICARE, my amendment limits the growth of the USTF program and implements a recommendation of a new GAO report by disenrolling USTF beneficiaries who receive benefits under Medicare. A more detailed section-by-section summary of my amendment will follow this statement.

Mr. President, this amendment is a true compromise which serves the interest of American servicemen and women. It not only has the support of the Health Affairs Office at the Defense Department, but except for the one difference already mentioned, the entirety of my amendment has been included in the House-passed bill. I thank the Committee leadership for agreeing to include this amendment in the Senate bill as well.

I ask unanimous consent that the summary I mentioned be printed in the RECORD.

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

SECTION-BY-SECTION SUMMARY OF THE GORTON AMENDMENT

The amendment adds a new subtitle B to title VII dealing with the Uniformed Services Treatment Facilities.

Section 721 defines nine terms in subtitle B.

Section 722 reauthorized the USTFs as "designated providers" of health care to military beneficiaries. DOD is directed to negotiate and enter into new agreements with each USTF on a sole source basis. Although the competitive requirements of the Federal Acquisition Regulations (FAR) would not apply, the FAR would apply to USTF agreements as "acquisitions of commercial items." The new USTF agreements would be required by the later of October 1, 1997 (when the current agreements expire) or when TRICARE is implemented in the region served by the USTF. The Seattle USTF, however, could begin their agreement sooner than October 1, 1997. USTFs which will not have TRICARE in their regions until after 1997 will automatically have their current participation agreement extended. The USTFs shall comply with "necessary and appropriate" administrative requirements established by DOD for other health care providers. USTFs would be exempt from state health maintenance organization licensure requirements. A USTF could not contract out more than 5% of its primary care enrollment without DOD's approval, except for contracts in effect on the date of enactment.

Section 723 established the process for applying the uniform benefit to the USTFs. The USTFs would be required to apply the TRICARE Prime enrollment fees and increased co-payments the later of October 1, 1996 or when TRICARE is implemented in their region. DOD has the discretion to prescribe a later date or reduce the cost shares.

Section 724 establishes two enrollee caps to limit the growth of the USTFs. For FY-1997, the enrollee cap consists of the total number of those enrolled in the program (even those for which no funding was provided) as of October 1, 1995 plus new active-duty dependents that DOD could waive into the program. For FY-1998 and beyond, the program enrollee cap is 10% higher than the previous year. This section also requires that all existing enrollees continue to receive care under the new agreements unless the beneficiary disenrolls. The USTF can also enroll additional beneficiaries, but can only market to those who do not have other non-governmental primary health insurance coverage or are participating in the TRICARE program. This section also authorized DOD to automatically disenroll any beneficiary over 65 who unlawfully receives benefits under Medicare. This provision reflects the recommendations of a new GAO report and should prevent double payments.

Section 725 applies the CHAMPUS payment rules to the USTFs. DOD could modify the payment rules as appropriate and could authorize a lower rate than the maximum rate if agreed to by the USTF and the primary health care provider facility.

Section 726 states that the form of payments for the USTFs will be full-risk capitation negotiated and agreed upon by DOD and the USTFs. The capitation payments must be based on utilization experience of enrollees and "competitive market rates" for equivalent health care services for a comparable population in the area served by the

USTF. The total capitation cannot exceed the amount incurred had the beneficiary received care from a military hospital or under TRICARE. The capitation payments will be established on an annual basis and subject to periodic review to reflect actuarial soundness and adverse selection. The USTFs and DOD may mutually agree upon a new basis for calculating capitation payments after September 30, 1999.

Section 727 repeals much of the existing, now superseded USTF provisions, including the statutory status, the authority for managed care agreements, and the application of the FAR and the TRICARE cost shares. The repeals take effect on October 1, 1997.

Mr. KEMPTHORNE. Mr. President, I believe this amendment has been cleared.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4065) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4066

(Purpose: To authorize the Secretaries of the military departments and the Secretary of Transportation to carry out a food donation pilot program at the service academies)

Mr. NUNN. Mr. President, on behalf of Senator SARBANES, I offer an amendment which would authorize the Secretaries of the military departments and the Secretary of Transportation to carry out a food donation program at the service academies, under their respective jurisdiction. I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The Senator from Georgia [Mr. NUNN], for Mr. SARBANES, for himself and Ms. MIKULSKI, proposes an amendment numbered 4066.

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

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

The amendment is as follows:

At the end of subtitle F of title X, add the following:

**SEC. 1072. FOOD DONATION PILOT PROGRAM AT THE SERVICE ACADEMIES.**

(a) PROGRAM AUTHORIZED.—The Secretaries of the military departments and the Secretary of Transportation may each carry out a food donation pilot program at the service academy under the jurisdiction of the Secretary.

(b) DONATIONS AND COLLECTIONS OF FOOD AND GROCERY PRODUCTS.—Under the pilot program, the Secretary concerned may donate to, and permit others to collect for, a nonprofit organization any food or grocery product that—

(1) is—

(A) an apparently wholesome food;

(B) an apparently fit grocery product; or

(C) a food or grocery product that is donated in accordance with section 402(e) of the National and Community Service Act of 1990 (42 U.S.C.A. 12672(e));

(2) is owned by the United States;

(3) is located at a service academy under the jurisdiction of the Secretary; and

(4) is excess to the requirements of the academy.

(c) PROGRAM COMMENCEMENT.—The Secretary concerned shall commence carrying out the pilot program, if at all, during fiscal year 1997.

(d) APPLICABILITY OF GOOD SAMARITAN FOOD DONATION ACT.—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) shall apply to donations and collections of food and grocery products under the pilot program without regard to section 403 of such Act (42 U.S.C. 12673).

(e) REPORTS.—(1) Each Secretary that carries out a pilot program at a service academy under this section shall submit to Congress an interim report and a final report on the pilot program.

(2) The Secretary concerned shall submit the interim report not later than one year after the date on which the Secretary commences the pilot program at a service academy.

(3) The Secretary concerned shall submit the final report not later than 90 days after the Secretary completes the pilot program at a service academy.

(4) Each report shall include the following:

(A) A description of the conduct of the pilot program.

(B) A discussion of the experience under the pilot program.

(C) An evaluation of the extent to which section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) has been effective in protecting the United States and others from liabilities associated with actions taken under the pilot program.

(D) Any recommendations for legislation to facilitate donations or collections of excess food and grocery products of the United States or others for nonprofit organizations.

(f) DEFINITIONS.—In this section:

(1) The term "service academy" means each of the following:

(A) The United States Military Academy.

(B) The United States Naval Academy.

(C) The United States Air Force Academy.

(D) The United States Coast Guard Academy.

(2) The term "Secretary concerned" means the following

(A) The Secretary of the Army, with respect to the United States Military Academy.

(B) The Secretary of the Navy, with respect to the United States Naval Academy.

(C) The Secretary of the Air Force, with respect to the United States Air Force Academy.

(D) The Secretary of Transportation, with respect to the United States Coast Guard Academy.

(3) The terms "apparently fit grocery product", "apparently wholesome food", "donate", "food", and "grocery product" have the meanings given those terms in section 402(b) of the National and Community Service Act of 1990 (42 U.S.C. 12672(b)).

Mr. SARBANES. Mr. President, I am pleased to offer this amendment which would establish a voluntary food donation pilot program at the service academies. The amendment would provide the academies with the necessary authority to donate surplus foods to nonprofit organizations for hunger relief efforts in their local communities.

With the need for food assistance escalating, especially among our working poor, this additional source of food which might otherwise go to waste, could help to alleviate hunger in these surrounding communities. I look for-

ward to the academies' voluntary participation in and the overall success of this program.

Mr. KEMPTHORNE. This amendment has been cleared on our side.

Mr. NUNN. Mr. President, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4066) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4067

(Purpose: To provide for the designation of a memorial as the National D-Day Memorial)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator WARNER, I offer an amendment that would designate a memorial to be constructed in Bedford, VA, to be known as the "National D-Day Memorial."

The PRESIDING OFFICER. The clerk will report.

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. WARNER, proposes an amendment numbered 4067.

At the appropriate place in title X, insert the following:

**SEC. . DESIGNATION OF MEMORIAL AS NATIONAL D-DAY MEMORIAL.**

(a) DESIGNATION.—The memorial to be constructed by the National D-Day Memorial Foundation in Bedford, Virginia, is hereby designated as a national memorial to be known as the "National D-Day Memorial". The memorial shall serve to honor the members of the Armed Forces of the United States who served in the invasion of Normandy, France, in June 1944.

(b) PUBLIC PROCLAMATION.—The President is requested and urged to issue a public proclamation acknowledging the designation of the memorial to be constructed by the National D-Day Memorial Foundation in Bedford, Virginia, as the National D-Day Memorial.

(c) MAINTENANCE OF MEMORIAL.—All expenses for maintenance and care of the memorial shall be paid for with non-Federal funds, including funds provided by the National D-Day Memorial Foundation. The United States shall not be liable for any expense incurred for the maintenance and care of the memorial.

Mr. WARNER. Mr. President, I rise today to urge my colleagues to support the designation of the memorial to be constructed in Bedford, Virginia as the National D-Day Memorial.

The Normandy Invasion of June 6, 1944—more commonly known as D-Day—was the largest air, land, and sea invasion ever undertaken. The sheer magnitude of the invasion, which included 4,870 ships, 7,200 planes and 250,000 soldiers was unprecedented. By the battle's end, casualties for the Allied forces numbered 9,758, including 6,603 Americans. As the turning point in World War II, D-Day will forever be remembered as the decisive battle that spelled the beginning of the end for Hitler's dream of Nazi domination of the world.

Remarkably, there is no memorial in the United States commemorating this

important battle. My amendment would rectify this oversight by designating the memorial to be constructed in Bedford, Virginia as the National D-Day Memorial.

Bedford is the ideal location for a National D-Day Memorial for several reasons. Most important, Bedford, VA—home base for Company A of the 116th Infantry Regiment—sustained the highest per-capita loss of any single community as a result of the D-Day invasion. In addition, the 88-acre scenic site is easily accessible via the interstate highway system and overlooks the beautiful Blue Ridge Mountains.

It is important to realize that this designation is not exclusively granted to the memorial in Bedford, and obligates no federal funds for construction or operation of the memorial now or in the future.

When completed, this memorial will serve as a lasting tribute to all who took part in D-Day, as a reminder of the price paid for freedom and peace, and as a resource to educate future generations about the significance and sacrifice of D-Day.

Mr. KEMPTHORNE. Mr. President, this has been cleared by the other side.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4067) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4068

(Purpose: To increase authorizations of appropriations for the Air National Guard by \$8,700,000 for support of 10 primary authorized C-130 aircraft for each airlift squadron in the Air National Guard of Kentucky, West Virginia, North Carolina, Tennessee, and California; and to increase various personnel end strength authorizations by 385 for support of such aircraft)

Mr. NUNN. Mr. President, on behalf of Senator BYRD, for himself, Senators FORD and FEINSTEIN, I offer an amendment which would authorize the Air National Guard to retain 10 C-130 aircraft in each of the five National Guard C-130 squadrons. I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, for himself, Mr. FORD, and Mrs. FEINSTEIN, proposes an amendment numbered 4068.

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

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

The amendment is as follows:

In section 301(11), strike out "\$2,692,473,000" and insert in lieu thereof "\$2,699,173,000".

In section 411(a)(5), strike out "108,594" and insert in lieu thereof "108,904".

In section 412(5), strike out "10,378" and insert in lieu thereof "10,403".

In section 421, strike out "\$69,878,430,000" in the first sentence and insert in lieu thereof "\$69,880,430,000".

In section 201(3), strike out "\$14,788,356,000" and insert in lieu thereof "\$14,783,356,000".

In section 301(4), strike out "\$17,953,039,000" and insert in lieu thereof "\$17,949,339,000".

At the end of subtitle B of title V add the following:

**SEC. 518. MODIFIED END STRENGTH AUTHORIZATION FOR MILITARY TECHNICIANS FOR THE AIR NATIONAL GUARD FOR FISCAL YEAR 1997.**

Section 513(b)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 305; 10 U.S.C. 115 note) is amended to read as follows:

“(3) Air National Guard:

“(A) For fiscal year 1996, 22,906.

“(B) For fiscal year 1997, 22,956.”.

Mr. BYRD. Mr. President, this amendment which I am offering on behalf of myself and Senators FORD and FEINSTEIN enables Air National Guard units in North Carolina, Tennessee, West Virginia, Kentucky, and California to maintain their full complement of 12 C-130's. Without \$6.7 million in operations and maintenance funds and \$2.0 million in personnel funds, these units would be forced, prematurely and perhaps unnecessarily, to reduce their airlift capacity to 10 aircraft per unit.

The President's budget for Fiscal Year 1997 reduces the Air National Guard inventory of C-130's in these five states from 12 aircraft per unit to 10 in accordance with earlier Air Force program decisions. However, subsequent to the FY 1997 budget submission, the Air Force initiated an airlift analysis which, together with congressionally-directed C-130 Master Stationing Plan, would provide the Air Force with a comprehensive look at long-term airlift requirements. Therefore, it is premature to reduce the number of aircraft in these units until the total force requirements analysis is completed. If these aircraft and personnel are eliminated from the force, it would be difficult to replace them, should the ongoing study demonstrate an ongoing requirement for them.

Mr. President, airlift has long been the ugly duckling of aircraft programs, drab and utilitarian next to the swans that are fighter and bomber aircraft. But airlift is essential to every military operation, delivering the supplies that keep our military going. Air National Guard units are critical to maintaining the supply pipeline, and I am confident that the Air Force study will recognize the value of retaining the maximum number of C-130's in the inventory.

Mr. FORD. This amendment is very simple, and as I understand, is acceptable to both sides. During the 1997 Fiscal Year budget deliberations at the Pentagon, a decision was made to reduce the Air National Guard C-130 fleet by ten aircraft. Two aircraft would be taken from each of the five units in the States of Kentucky, West Virginia, California, North Carolina and Tennessee. However, the Air Force has ini-

tiated an Inter-theater Lift Analysis to determine the impact of the C-17 on the C-130 requirements. Furthermore, the Air Force has not yet completed its C-130 Master Stationing Plan.

My colleagues and I believe it is premature to reduce the Air National Guard C-130 fleet below current levels until both of the studies have been completed and the comprehensive Total Force airlift requirements have been approved by Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Adjutant General of Kentucky, Gen. John R. Groves, Jr. General of the Kentucky National Guard immediately following my remarks.

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

COMMONWEALTH OF KENTUCKY,  
DEPARTMENT OF MILITARY AFFAIRS,

Frankfort, KY, April 18, 1996.

The Adjutant General  
100 Minuteman Parkway  
Frankfort, KY.

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

DEAR SENATOR FORD: The upcoming congressional action concerning Defense Authorization Bills is one of great importance to the Commonwealth of Kentucky and the Nation. We in Kentucky ask for you and your colleagues' support of the following facts as they relate to the Air National Guard's role in National Defense.

The Kentucky Air National Guard has proven to be one of the most cost-effective means of maintaining the Nation's Total Air Force capability within the constraints of a shrinking defense budget. This has never been more evident than with our Air National Guard C-130H aircraft and unit personnel constantly being involved in worldwide contingencies.

Our Kentucky Air National Guard units as well as those of other C-130 states like; West Virginia, North Carolina, Tennessee and California are more involved today than ever before. Recently, I watched Kentucky C-130's fly out of Louisville International Airport for destination like Honduras and Germany in support of Operation Joint Endeavor. The men and women of the Kentucky Air National Guard perform these and many other missions in support of national policy with a high degree of experience and an even higher degree of professionalism.

For years the Congress has provided funding to maintain several Air National Guard C-130 units at 12 primary authorized aircraft (PAA). Secretary Perry has indicated the Air National Guard's participation in airlift will continue to increase, as I am sure is based on the great record of Total Force support by Air National Guard C-130 units like Kentucky. If the Air National Guard's support of national defense initiatives continues, then so should the funding of twelve primary authorized aircraft and its associated personnel package. Reduced funds in the FY 97 Defense budget and further reductions in the out years of defense budgets will impact the Air National Guard's ability to step up to increased operations tempo.

We in Kentucky feel strongly that the Air National Guard force structure should remain constant until a new National Security Review is completed and that the C-130 airlift units in the five states mentioned above



should retain their current primary authorized aircraft of twelve. This would most assuredly be more cost effective than any reduction of authorized aircraft necessary to meet near term total Air Force requirements.

The stabilization of these five states C-130 units at 12 (PAA) would require Congressional restoration of \$8.7 million in Air National Guard accounts for operations, maintenance and military personnel. Additionally, authorized manpower increases of 25 AGR's 310 drill, and 50 military technician positions are necessary to support maintaining these units.

If my office can be of any assistance to you in this concern of great importance to the Commonwealth, please call me at (502) 564-8558. Thank you.

JOHN R. GROVES, JR. BG, KYNG,  
*The Adjutant General.*

Mr. KEMPTHORNE. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4068) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4069

(Purpose: To modify the specification of the source authorization of appropriations for certain submarine program contracts)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator COHEN, I offer an amendment that would properly identify the appropriation that will be used to fund the transfer of design information for the next nuclear attack submarine from the lead design shipyard to the second building shipyard, under the terms of an agreement that has been negotiated between the Navy and the two building yards.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. COHEN, proposes an amendment numbered 4069.

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

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

The amendment is as follows:

In section 123(a), strike out paragraph (2), and insert in lieu thereof the following:

(2) In addition to the purposes for which the amount authorized to be appropriated by section 102(a)(3) is available under subparagraphs (B) and (C) of paragraph (1), the amounts available under such subparagraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the "Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB) and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine", dated April 5, 1996, relating to design data transfer, design improvements, integrated process teams, and updated design base.

Mr. COHEN. Mr. President, this amendment is intended to properly identify the resources that will be used

to carry of the transfer of design information for the fiscal year 1998 nuclear attack submarine from the lead design shipyard, Electric Boat, to Newport News Shipbuilding and Drydock, the shipyard that will build the fiscal year 1999 submarine. In its present form section 123 would direct that design transfer be funded from the Navy's Research and Development account. Subsequent to markup and referral of the bill, I have been informed by the Navy that the correct account to fund this activity should be the Shipbuilding and Conversion, Navy appropriation.

This amendment will require no change in funding levels in the bill that is under consideration. Sufficient resources have been proposed in the bill to carry out design transfer activities for the fiscal year 1999 submarine. The amendment is simply a bookkeeping change that will properly align funding sources with intended activity.

I encourage the other members to join me in voting in favor of this amendment.

Mr. KEMPTHORNE. This amendment has been cleared.

Mr. NUNN. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4069) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4070

(Purpose: To improve the National Security Education Program)

Mr. NUNN. Mr. President, on behalf of Senator SIMON, I offer an amendment which would revise the National Security Education Program by revising the service requirement for award recipients and making other improvements in the program. I believe this amendment has also been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SIMON, proposes an amendment numbered 4070.

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

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

The amendment is as follows:

On page 311, between lines 9 and 10, insert the following:

**SEC. 1072. IMPROVEMENTS TO NATIONAL SECURITY EDUCATION PROGRAM.**

(a) **REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.**—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104-61; 109 Stat. 650), is amended under the heading "NATIONAL SECURITY EDUCATION TRUST FUND" by striking out the proviso.

(b) **GENERAL PROGRAM REQUIREMENTS.**—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

"(A) awarding scholarships to undergraduate students who—

"(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

"(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;" and

(2) in subparagraph (B)—

(A) in clause (i), by inserting "relating to the national security interests of the United States" after "international fields"; and

(B) in clause (ii)—

(i) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(2)(B)"; and

(ii) by striking out "work for an agency or office of the Federal Government or in" and inserting in lieu thereof "work for, and make their language skills available to, an agency or office of the Federal Government or work in".

(c) **SERVICE AGREEMENT.**—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out ", or of scholarships" and all that follows through "12 months or more," and inserting in lieu thereof "or any scholarship".

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

"(2) will—

"(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

"(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

"(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

"(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period



shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

“(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and”.

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.”.

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting “, including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities” before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out “Make recommendations” and inserting in lieu thereof “After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations”;

(B) in subparagraph (A), by inserting “and countries which are of importance to the national security interests of the United States” after “are studying”; and

(C) in subparagraph (B), by inserting “relating to the national security interests of the United States” after “of this title”;

(3) by redesignating paragraph (5) as paragraph (7); and

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

“(5) Encourage applications for fellowships under this title from graduate students having an educational background in disciplines relating to science or technology.

“(6) Provide the Secretary on an on-going basis with a list of scholarship recipients and fellowship recipients who are available to work for, or make their language skills available to, an agency or office of the Federal Government having national security responsibilities.”.

(f) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall also include an assessment of the contribution of the program, as

so improved, in meeting the national security objectives of the United States.

Mr. SIMON. Mr. President, the National Security Education Program has been temporarily suspended. The consequence is that an estimated 324 U.S. graduate and undergraduate student finalists are anxiously waiting to hear whether they will be able to study and conduct research in critical national security areas of the world. These students are waiting because a change in the service obligation was attached to the FY 1996 Defense Appropriations Bill to require NSEP award recipients to “be employed by the Department of Defense or in the Intelligence Community.” Previously, students could fulfill this requirement by working in any branch of the federal government or higher education.

The current service obligation is unworkable. However, I agree that there should be a return of investment to the Department of Defense for its support of the National Security Education Program. To this end I am offering an amendment that will improve this program by better targeting the service obligation to meet national security needs and to increase program accountability. The continuation of the National Security Education Program is vital to fill the existing gap in America for linguists and country specialists in critical areas of national security.

I would like to call the attention of my colleagues to a letter that I received from the Honorable Walter Mondale, Ambassador of the United States to Japan, about the importance of the National Security Education Program.

As Ambassador Mondale’s letter points out, we have only 1,700 American students studying in Japan, compared with 45,000 Japanese students in the U.S. The National Security Education Program has made the largest number of awards to American undergraduate and graduate students to learn the language and culture of Japan. This is only one example of over 100 countries in which NSEP recipients have studied. The continuation of this program makes sense because it is in America’s long-term national security and economic interests to educate our students in foreign languages and cultures.

I urge my colleagues to read Ambassador Mondale’s letter and to work with me to support improvements to the NSEP and the continuation of other federal programs that support international educational and cultural exchange.

I ask unanimous consent that Ambassador Mondale’s letter be printed in the RECORD.

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

AMBASSADOR OF THE  
UNITED STATES OF AMERICA,  
*Tokyo, May 30, 1996.*

Hon. PAUL SIMON,  
*U.S. Senate, Washington DC.*

DEAR PAUL: I wanted to write you about a matter that has come up to give you my per-

spective. I am worried by the present threat to the future of the National Security Education Program (NSEP). This has been a great success over here. The new service requirements that mandate future service in the Defense Department of “the intelligence community” will, I fear, dry up the pool of applicants, alienate the American scholarly community, and undermine the ability of awardees to operate comfortably in foreign countries.

U.S. Japanese language students have been the largest single group of NSEP grantees. Therefore, the impact here of these new provisions will be particularly severe. Is there any chance that the existing provisions could be retained?

Increasing the numbers of American students learning about Japan must be a major of our efforts here. The goal of having more Americans learning about this very different society is in our long-term national security, as well as economic, interests. Currently, we have only about 1,700 American students in Japan, compared to 45,000 Japanese students in the U.S.

Since it started a couple of years ago, the NSEP program has been a welcome contributor to the in-depth training of Americans. Thanks to NSEP scholarships, 100 undergraduates have already studied in Japan, and some 36 more are slated to come this year.

I write you personally because I believe the NSEP program has been very helpful and I hope we can keep it going as presently constituted. We would be glad to provide any further information that you may want.

I hope you will have a chance to give this matter your attention. Normally I wouldn’t write, but I believe the program as presently written is very much in our interests.

Best wishes from Tokyo.

Sincerely,

WALTER F. MONDALE.

Mr. KEMPTHORNE. Mr. President, this amendment has been cleared.

Mr. NUNN. I urge its immediate adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4070) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4071

(Purpose: To require a modification of a plan for development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine in order to advance by three years the earliest fiscal year in which a design for a next submarine for serial production may be selected.)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator COHEN, I offer an amendment that deals with serial production of New Attack Submarines. It has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. COHEN, proposes an amendment numbered 4071.

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

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

The amendment is as follows:

At the end of section 123 add the following:

(e) NEXT ATTACK SUBMARINE AFTER NEW ATTACK SUBMARINE.—The Secretary of Defense shall modify the plan (relating to development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine) that was submitted to Congress pursuant to section 131(c) of Public Law 104-106 (110 Stat. 208) in order to provide in such plan for selection of a design for a next submarine for serial production not earlier than fiscal year 2000 (rather than fiscal year 2003, as provided in paragraph (3)(B) of such section 131(c)).

Mr. COHEN. Mr. President, this amendment would restore the planning date for serial production of the next class of nuclear attack submarine to the fiscal year 2000, the date reflected in last year's Senate defense authorization bill. The amendment is intended to resolve a flaw in congressional direction regarding serial production of the next class of nuclear attack submarine that, if left standing, could have a devastating impact on the Nation's submarine industrial base. This flawed direction, contained in the section 131 of the National Defense Authorization Act for Fiscal Year 1996, mandates a delay in design competition for the next class of nuclear attack submarine until fiscal year 2003. It was identified in the Secretary of Defense Report on Nuclear Attack Submarine Procurement and Submarine Technology that was submitted to Congress on March 26, 1996 in compliance with section 131 of last year's defense authorization bill.

Under the assumption that no suitable design could be available until the first decade of the next century, section 131 directed the Secretary of Defense to plan to commence serial production of the next class of nuclear attack submarine no earlier than fiscal year 2003. Let me emphasize that the Senate conferees did not share this view, but accepted this proviso in section 131, and others with which they disagreed, in order to reach conclusion of a conference that had lasted far too long.

The Secretary of Defense's report makes clear the Department of Defense's disagreement with the premise that the design being developed for the next nuclear attack submarine, now called the New Attack Submarine, that is to be first authorized in fiscal year 1998 will be inadequate for the requirements set for it by the Joint Chiefs of Staff. This view is strongly supported by an independent Submarine Technology Assessment Panel that was commissioned by the Secretary of the Navy to assist in preparation of the Secretary of Defense's report.

The approach recommended by the report and the panel is to: utilize the New Attack Submarine design as the basis for serial production; fund a continuing level of effort for submarine research and development; and incorporate new technologies that emerge from this research effort into the base design as they mature. These findings

are consistent with the position of the Senate during last year's conference.

This year's House version of the defense authorization bill provides extensive direction of how it would pursue development of the next class of submarine. Included is direction to the Navy to develop six independent designs that would be completed in fiscal year 2003. The winning design would then become the basis for serial production of the next class of nuclear attack submarine. Aside from the cost implications of pursuing six independent designs, the consequences of delaying a design competition until fiscal year 2003 and the ensuing delay of up to two years before actual authorization of the first submarine would be a gap of four to five years between submarine contract awards no matter which shipyard, Newport News or Electric Boat, wins the competition for serial production. Such a lengthy production break could not be tolerated by either shipyard. The Secretary of Defense's Report points out the disruptive effect of such a lengthy delay and notes the need for additional authorizations in order to maintain a viable construction base for nuclear attack submarines.

By accepting the Secretary of Defense's proposal for incorporating new technology into future nuclear attack submarine and setting fiscal year 2000 as the year in which serial production can begin, the future of the submarine industrial base can be preserved. The Senate bill, as modified by this amendment would accomplish that objective. I strongly encourage my colleagues in the Senate to join me in supporting the amendment.

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

Mr. McCAIN. Mr. President, I would like to know what the amendment is. I would like an explanation of the amendment.

Mr. NUNN. I believe the Senator from Idaho has the explanation.

Mr. KEMPTHORNE. Mr. President, this amendment would restore the planning date for serial production of the next class of nuclear submarines to fiscal year 2000, the date reflected in last year's Senate defense authorization bill.

Mr. McCAIN. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4071) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4072 TO AMENDMENT NO. 4061

Mr. McCAIN. Mr. President, with the indulgence of the managers, I have worked out an agreement with Senator SIMPSON. I would propose a second-degree amendment to the Simpson amendment. I believe we can dispose of it by voice vote. Mr. President, I have

a second degree amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 4072 to amendment 4061.

The amendment is as follows:

At the end of the amendment add the following:

Notwithstanding any other provision of this Act, none of the funds authorized for construction, Phase I, of a combined support maintenance shop at Camp Gunnson, Wyoming may be obligated until the Secretary of Defense certifies to Congress that the project is in the Future Years Defense Plan.

Mr. McCAIN. Mr. President, I have discussed this amendment with Senator SIMPSON. I have explained to him and to Senator THOMAS that the reason this amendment was in violation of the sense of the Senate criteria for MILCON, for military construction projects, was that it was not in the future year defense plan. Both Senator THOMAS and Senator SIMPSON pointed out that it was an inadvertent absence from the military future year defense plan. If it was inadvertent, then clearly the Secretary of Defense can come over with a letter and say this is in the future year defense plan. And I believe that Senator SIMPSON and Senator THOMAS are confident that will happen especially since they were assured that there is a safety and health problem here which they are very cognizant of, and that this is a very important project.

I believe that it is sensible to ask for the funds to be not authorized until the Secretary of Defense comes over with a letter saying that it is included in the future year defense plan which I think could happen in a matter of days.

Before I yield, I am fully aware that this is the last period of time here in the Senate for my dear friend from Wyoming, Senator SIMPSON. I am equally appreciative of his continuing commitment to the people of Wyoming, and to the Guard in his State. He has never—as he and I have discussed—come over for an additional project in the 10 years that I have here—an unauthorized project. He has never pork barreled. He has never sought special favors for his State. I do not believe he is doing so now.

I am grateful that he accepts this second-degree amendment so that we can get it done in the future year defense plan and get the much needed project for the State of Wyoming and for the men and women who serve there.

Mr. SIMPSON. Mr. President, I thank my friend from Arizona for helping us to resolve this issue. I appreciate his good faith assistance. It was important to resolving it.

I am going to say that I am going to miss my friend from Arizona because we do communicate at the most earthy levels of discussion. Both of us have

been trained in different fields. But there is no one I respect more and admire more. And I have said that. Sometimes this is but a sparrow in the midst of a typhoon compared to what the Senator from Arizona and I have been into in years past, especially with regard to senior citizens. But we will not go into that.

So I thank him. I very much appreciate it. I thank Senator NUNN and Senator KEMPTHORNE. This is a good resolution of an issue which was very tough for us on behalf of my colleagues. But I thank the Senator from Arizona very much.

Mr. NUNN. Mr. President, has the second-degree amendment been accepted?

The PRESIDING OFFICER. No. It has not.

The question is on agreeing to the second-degree amendment.

Mr. McCAIN. I ask unanimous consent to vitiate the request for the yeas and nays which I made earlier.

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

The amendment (No. 4072) was agreed to.

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

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4061) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4073

(Purpose: To waive a limitation on use of funds in the National Defense Sealift Fund for purchasing three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator SMITH and Senator SANTORUM I offer an amendment that would reaffirm in law the authority of the Secretary of the Navy to acquire ships that are needed to improve the capability of the Marine Corps Maritime Prepositions Force.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. SMITH, for himself and

Mr. SANTORUM, proposes an amendment numbered 4073.

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

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

The amendment is as follows:

At the end of subtitle C of title I add the following:

**SEC. 125. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.**

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

Mr. SMITH. Mr. President, since fiscal year 1995 the Senate has annually sponsored in its defense authorization bill a program for enhancement of the Marine Corps maritime prepositioning force by the purchase and conversion of three ships from the world market. An additional ship for each of the three Marine Corps prepositioned squadrons will allow them to carry extra materiel, including an expeditionary airfield, a fleet hospital, a Navy mobile construction battalion equipment set, Marine Corps command element equipment, and additional sustainment supplies. The lessons learned from the Marine Corps' experience in Desert Storm demonstrate that having this additional equipment afloat on a continuing basis will provide our warfighting commanders with much greater flexibility when they choose to employ Marine Corps units.

For 3 years the Senate Armed Services Committee has intensively studied various options for providing MPF enhancement for the Marine Corps. The objective has been an affordable program that will deliver an adequate capability at the lowest cost to the taxpayer. The committee has consistently concluded that a program for purchase and modest conversion of existing ships represents the best means to achieve this goal. However, the committee has avoided any temptation to foreclose possible alternatives. Consequently, section 345 of the Senate bill, which would authorize additional funds for the MPF Enhancement program, leaves open the option to satisfy its requirements by construction of new ships, if this option can compete based on cost and timeliness. The Senate approach is supported by the Marine Corps, the Navy, and the Joint Chiefs of Staff, and by the vast majority of United States shipyards.

Although the House supported the Senate program for MPF Enhancement in both the fiscal year 1995 and 1996 defense authorization bills, it has now included a provision in its version of the defense authorization bill that would exclude the purchase and conversion of existing ships for the MPF Enhancement program. This action is yet another in a series of exclusionary provisions proposed by the House that seek to limit competition, no matter what the cost to the taxpayer and the ship construction and repair industry as a whole.

My amendment would reaffirm in law an authorization for the purchase and conversion of the ships needed to provide MPF Enhancement for the Marine Corps by the most cost effective means. It will also provide a strong Senate position for use by our conferees that stands in stark contrast to the exclusionary one contained in the House bill. I strongly encourage my fellow Senators to join Senator SANTORUM and myself in supporting this amendment.

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

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4073) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4074

(Purpose: To revise and improve the authority for research projects under transactions other than contracts and grants and for certain cooperative research and development agreements)

Mr. NUNN. Mr. President, on behalf of Senator BINGAMAN, for himself and Senator SMITH, I offer an amendment which would revise the legislation governing the use of cooperative agreements and innovative transaction authorities under section 2371 of title X, United States Code.

The revisions are supported by the Department of Defense. And I believe this amendment has also been cleared by the Republican side of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, for himself and Mr. SMITH, proposes an amendment numbered 4074.

The amendment is as follows:

At the end of title VIII add the following:

**SEC. 810. RESEARCH UNDER TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.**

(a) CONDITIONS FOR USE OF AUTHORITY.—Subsection (e) of section 2371 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting “and” after semicolon at the end of subparagraph (A), as so redesignated;

(3) by striking out “; and” at the end of subparagraph (B), as so redesignated, and inserting in lieu thereof a period;

(4) by inserting “(1)” after “(e) CONDITIONS.—”; and

(5) by striking out paragraph (3) and inserting in lieu thereof the following:

“(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.”

(b) REVISED REQUIREMENT FOR ANNUAL REPORT.—Section 2371 of such title is amended by striking out subsection (h) and inserting in lieu thereof the following:

“(h) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on Department of Defense use during such fiscal year of—

“(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and

“(B) transactions authorized under subsection (a).

“(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:

“(A) The technology areas in which research projects were conducted under such agreements or other transactions.

“(B) The extent of the cost-sharing among Federal Government and non-Federal sources.

“(C) The extent to which the use of the cooperative agreements and other transactions—

“(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and

“(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

“(D) the total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).”.

(c) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—Such section, as amended by subsection (b), is further amended by inserting after subsection (h) the following:

(i) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—(1) Disclosure of information described in paragraph (2) is not required, and may not be compelled, under section 552 of title 5 for five years after the date on which the information is received by the Department of Defense.

“(2) Paragraph (1) applies to the following information in the records of the Department of Defense if the information was submitted to the department in a competitive or noncompetitive process having the potential for resulting in an award, to the submitters, of a cooperative agreement that includes a clause described in subsection (d) or other transactions authorized under subsection (a):

“(A) Proposals, proposal abstracts, and supporting documents.

“(B) Business plans submitted on a confidential basis.

“(C) Technical information submitted on a confidential basis.”.

(d) DIVISION OF SECTION INTO DISTINCT PROVISIONS BY SUBJECT MATTER.—(1) Chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the last subsection of section 2371 (relating to cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980) the following:

“§2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980”;

(B) by striking out “(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—”; and

(C) in the table of sections at the beginning of such chapter, by inserting after the item relating to section 2371 the following:

“2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.”.

(2) Section 2358(d) of such title is amended by striking out “section 2371” and inserting in lieu thereof “sections 2371 and 2371a”.

Mr. BINGAMAN. Mr. President, the amendment which I have offered on behalf of myself and the Senator from New Hampshire makes a series of changes in section 2371 of title 10, United States Code, that are designed to make this authority more useful to the military services and defense agencies.

Earlier this year, the General Accounting Office submitted a report to the Armed Services Committee entitled “DOD Research: Acquiring Research by Nontraditional Means.” I was very encouraged by the findings of this very constructive report. The report concluded that cooperative agreements and other transactions carried out under the authority of section 2371 of title 10, United States Code, have provided DOD a tool to leverage the private sector’s technological know-how and financial investment and have attracted firms that traditionally did not perform research for DOD to carrying out such research.

Mr. President, in light of the significant declines projected in defense research spending and the continued rapid growth of private-sector research investments, Senator SMITH and I believe that it is going to become even more important for DOD to leverage commercial research investments and attract commercial firms to working on service requirements. Innovative military leaders such as the Marine Corps Commandant, General Krulak, and the former Vice Chairman of the Joint Chiefs, Admiral Owens, fully recognize this and are taking steps to insure the services leverage, and don’t duplicate private sector efforts.

However, the report also points out that DARPA has been the primary utilizer of this innovative transaction authority thus far and that there has been some confusion on the use of this instrument among the services. Since DOD is preparing new guidance on this matter, the Armed Services Committee in its report on the pending legislation sought to clarify several points. First, the committee intended in creating other transactions authority to maximize flexibility on intellectual property negotiations with private sector entities. In particular, the committee did not intend that such transactions be subject to the provisions of Public Law 96-517, as amended. The GAO report points out that this additional flexibility has been important in attracting commercial firms to carry out cost-shared research with the Pentagon. Second, the committee intended that the sunk cost of prior research efforts not count as cost-share on the part of the private sector firms. Only the additional resources provided by the private sector needed to carry out the specific project should be counted. Finally in the committee’s hearings DOD officials testified that the reluctance of the services to use other transactions authority derived in part

from the requirement that standard contract, grant or cooperative agreement first be found not feasible or appropriate for carrying out any given project. The committee did not intend that this requirement unduly restrict use of the other transactions instrument. DARPA has properly interpreted Congress’ intent that if the goal of a research project is to leverage the capabilities of firms who will not accept a standard grant, contract or cooperative agreement to conduct defense research, then it is not feasible or appropriate to use such instruments and the use of other transactions authority is warranted. The committee intended that program managers in DARPA and the services be given the discretion to make these judgments within a framework provided by overall defense guidance. The committee urged that these issues be clarified by the Office of the Secretary of Defense as soon as possible so that the services can gain the benefits which the GAO report demonstrates DARPA has received from use of other transactions.

Mr. President, since the committee’s markup, Dr. Kaminski, the Under Secretary for Acquisition and Technology, has provided additional information to the committee about the changes which the Pentagon would like to see in the other transactions authority in order to spur its use by the military services. I ask unanimous consent that has written response to a question posed at our March hearing be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. BINGAMAN. Our amendment makes the changes requested by Dr. Kaminski with one exception. We have preserved an annual report on the use of other transactions authority, but we have changed the entire tone of that reporting requirement. The reporting requirement in our amendment would essentially ask DOD to continue to update the GAO report on an annual basis so that we can judge how the services are doing in making use of this flexible authority to leverage the commercial sector to meet DOD’s needs for dual-use technologies.

Mr. President, I believe that it is important to give the Pentagon the authorities it needs to make the best use of its limited R&D resources. One of the great achievements of the past two Congresses and Secretary Perry’s Pentagon is that we have really changed the Pentagon’s acquisition system for the better. We have done this on a bipartisan basis, and I am glad to continue to work with the Chairman of the Acquisition and Technology Subcommittee, Senator SMITH, to bring about needed reforms in that system. Our amendment is a modest step in helping the Pentagon to leverage the private sector’s \$100 billion annual R&D investment and to broaden the industrial base that supports the Pentagon to include truly commercial firms. I urge my colleagues to support it.

## EXHIBIT I

EXCERPT FROM SENATE COMMITTEE ON ARMED SERVICES, SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY HEARING ON DOD TECHNOLOGY BASE PROGRAMS, WEDNESDAY, MARCH 20, 1996

## FLEXIBLE INSTRUMENTS FOR SCIENCE AND TECHNOLOGY

First, I would like to mention that we are taking actions to encourage increased use of flexible instruments, which include cooperative agreements and "transactions other than contracts, grants, or cooperative agreements" (commonly known as "other transactions" or OTs). Cooperative agreements, like OTs, can have provisions designed to involve commercial organizations that haven't traditionally received Government awards, thereby helping to increase DoD access to the portion of the U.S. technology and industrial base that serves the needs of the commercial marketplace. Both cooperative agreements and OTs therefore can be responsive to the policy intent of 10 U.S.C. 2371. To encourage increased use of flexible instruments, we are:

Preparing to advise the Military Departments that the authority to use OTs should be delegated to at least the level of the major commands that have responsibility for making awards under DoD Science and Technology programs. In conjunction with that action, I have asked the Director of Defense Research and Engineering to issue updated guidance on when it is appropriate to use flexible instruments. Feedback that we've received indicates that improved guidance will help to increase comfort levels with the use of the instruments.

Seeking to remove factors that may unnecessarily discourage potential users of the instruments from using them. For example, there is a requirement to report to Congress each OT, as well as any cooperative agreement that uses the funds-recovery authority in 10 U.S.C. 2371. It was suggested that this reporting requirement is a potential disincentive to use the instruments. Therefore, section 805 of the Administration-proposed, national defense authorization bill would repeal the requirement, and I ask that you give the proposal favorable consideration.

It should be noted that use of flexible instruments already is increasing. In Fiscal Year 1994, the first year in which they used the instruments, the Military Departments entered into 19 cooperative agreements with provisions designed to involve commercial firms that hadn't traditionally received Government awards. The number of those flexible agreements increased to 41 in Fiscal Year 1995. With that experience as a foundation, I think that we can expect a continued increase in the use of such instruments in the future, because I don't believe that we've exhausted the areas of opportunity for flexible instruments to help us meet our objectives.

Second, I want to provide an answer to the question about the provision in 10 U.S.C. 2371 that requires a judgment before using an "other transaction," that standard grants, cooperative agreements, and contracts are not feasible or appropriate. 10 U.S.C. 2371 is a very powerful authority, but it should not be totally open-ended. Creative people in the DoD will continue to use the authority to invent different and improved types of agreements; we can't predict today what those innovations might be. In the context, this provision helps to provide assurance that the powerful authority will continue to be used in a disciplined manner.

However, there are some indications that the provision may be impeding use of OTs, in situations where they are appropriate. The problem appears to be that some people have the impression that the provision sets a

standard so high that it is almost unattainable. I think that one could revise the provision slightly to change its tone in a way that alleviates this problem, while retaining the benefits the clause provides. The provision currently says that the Secretary of Defense shall ensure that an OT is used for a research project *only* when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate. With minor restructuring of the subsection that contains the provision, one could restate the condition without the severe term "only." I think that would require thoughtful analysis before using an OT, but remove the impression of an unattainable standard. Paragraph (e) of 10 U.S.C. 2371 then would read as follows:

"(e) CONDITIONS.—(1) The Secretary of Defense shall ensure that—

"(A) to the maximum extent practicable, no cooperative agreement containing a clause under subsection (d) and no transaction entered into under subsection (a) provides for research that duplicates research being conducted under existing programs carried out by the Department of Defense; and

"(B) to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) or a transaction entered into under subsection (a) do not exceed the total amount provided by other parties to the cooperative agreement or other transaction.

"(2) A cooperative agreement containing a clause under subsection (d) or a transaction entered into under subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate."

Third, I'd like to respond to your suggestion that Congress might amend section 2371 of title 10 of the U.S. Code, to clarify that the intent was to exempt agreements under that authority from the Bayh-Dole requirements (chapter 18 of 35 U.S.C.). There is no need to amend the law; the Bayh-Dole statutory requirements, by the terms of the statute, do not include OTs.

Finally, I would like to mention one point about the need for maintaining good stewardship. The development and use of flexible instruments to involve firms that have not traditionally performed research for the Government has tremendous potential benefits, but it is not without risk. The goal is to find the right tradeoff or balance—one must develop approaches with sufficient oversight to ensure the appropriate use of federal funds but without excessively intrusive requirements that drive commercial firms away and deny DoD access to some of the best and most affordable technology. That is both the opportunity and the challenge.

Mr. KEMPTHORNE. Mr. President, this amendment has been cleared on this side. I urge its adoption.

The PRESIDING OFFICER. Without objection, the agreement is agreed to.

The amendment (No. 4074) was agreed to.

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

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

The motion to lay on the table was agreed to.

## AMENDMENT NO. 4075

(Purpose: To make reimbursement of Government contractors for costs of excessive amounts of compensation for contractor personnel unallowable under Government contracts)

Mr. KEMPTHORNE. Mr. President, on behalf of Senators GRASSLEY, BOXER and HARKIN, I offer an amendment which would place a limitation of \$200,000 on the amount of annual individual compensation that may be reimbursable under contracts with the Department of Defense.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], FOR MR. GRASSLEY, for himself, Mrs. BOXER, and Mr. HARKIN, proposes an amendment numbered 4075.

The amendment is as follows:

On page , between lines and , insert the following:

**SEC. . REIMBURSEMENT FOR EXCESSIVE COMPENSATION OF CONTRACTOR PERSONNEL PROHIBITED.**

(a) ARMED SERVICES PROCUREMENTS.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following:

"(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds \$200,000."

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 356(e)(1)) is amended by adding at the end the following:

"(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds \$200,000."

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)) is amended by adding at the end the following:

"(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds \$200,000."

Mr. GRASSLEY. Mr. President, I am proud to cosponsor this amendment with my friend from California, Senator BOXER.

Over the years, she has helped me watchdog the Pentagon.

That is not an easy thing to do.

Whether Republicans or Democrats are running the place, it's always tough to tangle with the Pentagon.

It is an unpopular thing to do.

She has always been a reliable defense reform ally.

In today's political environment, dependable defense reform allies are hard to come by.

They may be an endangered species.

So I am happy to team up with her on this measure.

It is another effort to chip away at the Pentagon culture.

This is a culture that is literally blind to waste.

It tolerates waste and sometimes even encourages waste.

What we want to do is change that culture.

In trying to change that culture, we hope to strengthen our military capabilities.

When we add \$12 billion for defense—like in this bill, we want to make sure we buy more capability.

We want to make sure that we are not buying more waste and more cost.

Our amendment would place a permanent cap on individual executive compensation allowable under Government contracts.

It would set the cap at \$200,000 per year.

The cap would apply to salaries, bonuses, and other incentives.

It would be a permanent cap.

There is a temporary, short-term cap in effect today.

The temporary, short-term cap was imposed by the DOD Appropriations Act for fiscal year 1996.

It applies only to fiscal year 1996 contracts.

I will discuss the existing cap in greater detail later in the debate.

Mr. President, I would like to make one point crystal clear right off the bat.

This is not an attempt to tell private companies how much they should pay their top executives.

Instead, it would restrict what Government bureaucrats are allowed to pay top executives in industry.

Mr. President, executive salaries in private industry should be determined in the marketplace.

And not by a bunch of bureaucrats in the Pentagon.

But that is what is going on.

Right now, bureaucrats decide what is fair and reasonable and pay it.

Our amendment would put a lid on Government payments only.

I underscore Government payments only.

That is the driving force behind this measure.

The Grassley-Boxer amendment would not limit the amount of money a defense contractor could pay its executives.

If, for example, a defense company wants to pay one of its top executives working on military contracts \$6,332,000.00 a year—as one did, then so be it.

Under Grassley-Boxer, the company could continue to do it—no questions asked.

Mr. President, Loral Corporation's top executive, Mr. Bernard L. Schwartz, received a pay and bonus package in 1995 that totaled \$6,332,000.

But that's not the whole enchilada.

Mr. Schwartz will also receive a \$36 million bonus for agreeing to sell his company's defense business. The buyer is the Lockheed Martin Corp.

Mr. President, I ask unanimous consent to place a recent newspaper arti-

cle about Mr. Schwartz's pay in the RECORD.

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

[From the Washington Post, Jan. 16, 1996]

LORAL CHAIRMAN TO GIVE \$18 MILLION OF MERGER FEE TO 40 EMPLOYEES

(By John Mintz)

Loral Corp. Chairman Bernard L. Schwartz will receive a \$36 million bonus for agreeing to sell his company's defense business to Lockheed Martin Corp., but will give \$18 million of it to a group of Loral employees, according to documents filed with the Securities and Exchange Commission.

The money Schwartz is giving up will reward 40 people in Loral's Manhattan headquarters who may lose their jobs or be demoted in the merger, according to the documents. The employees, including some secretaries and mid-level executives, could receive money equivalent to as much as twice their annual salary and bonus.

Loral's New York headquarters likely will close and be folded into Lockheed Martin's Bethesda offices, industry officials said.

"Their lives could be affected by the merger, and I decided it would be appropriate to recognize their efforts," Schwartz said yesterday. "There are some smiling faces here today. . . . If I'd had enough resources, I would have spread it among all 38,000 Loral employees."

Giving such a gift to employees is extremely rare in mergers, investment bankers said. Schwartz, the only liberal Democrat among chief executives of large defense firms, has often expounded on his views of corporate empowerment, and for years has offered generous stock options to Loral employees to make them what he calls "stakeholders" in his company.

The \$18 million bonus Schwartz will collect from Loral is in addition to approximately \$27 million he has made on paper in the value of his Loral stock due to the proposed merger. He owns about 3.6 million shares, and each has increased in value by approximately \$7.50 following the announcement last week.

Schwartz's regular annual compensation and bonus from the company in 1995 totaled \$6,332,000.

The proposed merger with Lockheed Martin was announced last week. If Loral pulls out of the transaction, it must pay Lockheed Martin a termination fee of \$175 million, according to the SEC filings.

Meanwhile, the Pentagon has largely sided with Lockheed Martin and against a group of critics in a bitter controversy involving a previous merger that created Lockheed Martin from Lockheed Corp. and Martin Marietta Corp. in March last year.

In a report, a Defense Department accounting office called the Defense Contract Audit Agency (DCAA) did not support allegations by Rep. Bernard Sanders (I-VT.), some congressional colleagues and the newspaper Newsday that Lockheed Martin was improperly seeking a Pentagon payment of \$31 million in connection with the merger. The critics called it a taxpayer rip-off.

The DCAA recommendations, which still must be reviewed by the Pentagon, were first reported in the industry publication Defense Week.

The company has asserted for months that its foes are confusing two sums of money. One is a \$61 million payment to 460 former Martin Marietta executives because of the merger. The military won't reimburse firms for such payments, and Lockheed Martin is not asking for that.

But the firm is asking the military to reimburse it \$31 million that it has already

paid those 460 executives. These sums had nothing to do with the merger, the company has said.

The military pays contracts on a "cost-plus" basis, meaning the companies tell the Pentagon about their expenses, including overhead, cost of labor and materials, and executive compensation. The military decides which requests are "reasonable," computes the profit and pays the appropriate amounts.

The company has said the \$31 million was part of its long-standing executive compensation package and not, as Sanders asserted, a cozy Pentagon pay-off to high-ranking executives for arranging the merger.

Now the Pentagon's DCAA has concluded that \$16 million of the firm's \$31 million in reimbursement requests was proper, has deferred consideration on \$9 million and raised questions about \$6 million of the requested amount. The questions, however, focused on complex government accounting issues and did not directly track with Sanders' objections.

Congressional offices were closed for the holiday. Calls to Sanders' office seeking comment were not answered.

Mr. GRASSLEY. Mr. President, that is a big bundle of money going to Mr. Schwartz.

But I am not questioning whether he earned or deserved it.

Under Grassley-Boxer, he would get it.

I owe it to my colleague to point out that Mr. Schwartz is at the high end of the defense executive wage scale.

The others' salary and bonus packages are not quite so generous.

They ranged from about \$1 million up to \$2,500,000 in 1995.

Some are slightly lower.

Mr. President, I ask unanimous consent to place the latest data on defense executive compensation in the RECORD.

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

#### REASONABLENESS TEST FOR EXECUTIVE COMPENSATION

Made in accordance with FAR 31-205-6, compensation for personal services.

Considers same relevant factors, i.e., We check for conformity with firms of: same size/industry/geographic area and gov't/non-gov't business.

Includes all remuneration paid although elements also individually assessed.

In sync with fact that FAR places burden of proof on company (i.e., upon challenge, company must demonstrate reasonableness).

On balance, experience has shown process to be generally fair/not arbitrary.

#### BASIC AUDIT STEPS FOR REASONABLENESS TEST

1. Identify exec positions, comp amts, sales volume data, & industry.

2. Use multiple survey sources to compare cash comp amts by exec positions & gain mkt consensus of avg pay levels.

3. Calculate mkt avg of surveys with 10% range of reasonableness.

4. Similarly judge reasonableness of other comp elements (FRINGES/PERQS/LTIs).

5. Challenge amounts over 110% of "market consensus" survey averages.

6. Ask contractor to demonstrate reasonableness.

7. Evaluate contractor's justification/rebuttal including proposed offsets.

8. Exit with contractor. Report results.

#### EXEC COMP SURVEYS NOW IN USE

1. Officer compensation report (panel pubs)



2. Dietrich exec engineering survey
3. Ernst & Young exec comp surveys
4. Wyatt Data Services—ECS
5. TPF&C MGMT COMP HIGH TECH SURVEY
6. CD EXECSURV—MID/ATL's SEC-BASED TOP 5.

Mr. GRASSLEY. Mr. President, Grassley-Boxer would not restructure or reinvent the defense executive wage scale.

This is what Grassley-Boxer would do: it would change the way the money is dished out.

It would come out of a different pocket.

Instead of coming right off the top of a defense contract, most of it would have to be taken out of profits.

Instead of being taken directly out of the pockets of hard-working American taxpayers, most of the money would come from the company's earnings.

The source of the money would change.

Under Grassley-Boxer, most of Mr. Schwartz's pay, for example, would have to be taken out of profits.

In Mr. Schwartz's case, \$6,132,000 would come out of profits.

The balance, \$200,000, could be charged to Uncle Sam.

Mr. President, Pentagon bureaucrats should not be put in the position of having to decide how much to pay industry executives.

The Government should get out of that business entirely.

Those decisions should be made in the marketplace.

This amendment will start us down the road in the right direction.

With a cap in place, we can reexamine the issue next year and decide how to proceed.

Mr. President, I feel sure that some of my Republican colleagues will howl about this amendment.

They will complain that Grassley-Boxer will eat into corporate profits and slash corporate benefits.

We will undermine initiative and morale.

In response, I say to my colleagues: Our defense industry is health.

That is what the latest report on corporate earnings shows.

Mr. President, I ask unanimous consent to place a report on corporate profits in the RECORD.

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

THE LEADERS IN 1995 SALES AND PROFITS

THE TOP 25 IN SALES

	1995 sales in millions	Percent change from 1994	1994 rank
1 General Motors	\$168,829	9	1
2 Ford Motor	137,137	7	2
3 Exxon	109,620	8	3
4 Wal-Mart Stores	90,525	15	4
5 AT&T	79,609	6	5
6 Mobil	74,879	11	6
7 IBM	71,940	12	7
8 General Electric	70,028	17	8
9 Chrysler	53,200	2	11
10 Philip Morris	53,139	-1	10
11 Dupont	42,163	7	12
12 Chevron	37,082	4	13
13 Texaco	36,792	10	15

THE TOP 25 IN SALES—Continued

	1995 sales in millions	Percent change from 1994	1994 rank
14 Sears, Roebuck	34,925	6	9
15 Procter & Gamble	34,923	11	16
16 Kmart	34,572	4	14
17 Hewlett-Packard	31,519	26	20
18 Persico	30,421	7	18
19 Citicorp	28,128	-3	17
20 Amoco	27,066	4	19
21 Motorola	27,037	22	25
22 Conagra	24,637	3	21
23 Kroger	23,938	4	23
24 Lockheed Martin	22,853	0	NR
25 United Technologies	22,802	8	28

THE TOP 25 IN EARNINGS

	1995 profits in millions	Percent change from 1994	1994 rank
1 General Motors	\$6,932	23	2
2 General Electric	6,573	11	1
3 Exxon	6,470	27	4
4 Philip Morris	5,478	16	5
5 IBM	4,178	38	9
6 Ford Motor	4,139	-22	3
7 Intel	3,566	56	16
8 Citicorp	3,464	1	8
9 Merck	3,335	11	10
10 Dupont	3,293	21	11
11 Coca-Cola	2,986	17	13
12 Procter & Gamble	2,835	17	15
13 Wal-Mart Stores	2,828	12	12
14 BankAmerica	2,664	22	17
15 GTE	2,538	4	14
16 Hewlett-Packard	2,433	52	23
17 Johnson & Johnson	2,403	20	21
18 Mobil	2,376	35	26
19 Fannie Mae	2,156	1	20
20 Chrysler	2,025	-45	7
21 Ameritech	2,008	72	47
22 NationsBank	1,950	15	27
23 Allstate	1,904	293	136
24 Dow Chemical	1,891	145	59
25 SBC Communications	1,889	15	28

Source: Standard & Poor's Compustat, a division of the McGraw-Hill Companies.

Mr. GRASSLEY. This report appears in the March 4, 1996 issue of Business Week.

Profits are reported as follows: Boeing: \$393 million; General Electric: \$6.6 billion; General Dynamics \$247 million; Lockheed Martin: \$682 million; Northrop Grumman: \$252 million, and United Technologies: \$750 million.

They are doing OK, and that's good.

In my mind, executive pay should be tied directly to company performance and to profits.

If the company had a great year, earned big profits and enjoyed other successes, then the chief executive should enjoy the fruits of his labor.

A big year should equal a big pay check.

A bad year might mean a pay cut.

The profit figures cited above are for calendar year 1995.

During that period, only McDonnell Douglas suffered a loss.

The company took a loss of \$416 million. But guess what?

That loss did not keep the company's top executive from drawing a bigger paycheck.

The top boss' base pay went from \$1.6 million in 1994 to \$1.9 million in 1995, including a bonus of \$1,042,400.

But that is not all.

McDonnell Douglas' chief executive, Mr. Harry C. Stonecipher, received a very generous share of company stock.

Mr. Stonecipher got cash and stock valued at a staggering \$34 million—in 1995 alone.

The other top executives at McDonnell Douglas also received handsome

bonuses. These generous pay packages came at a time when the company was downsizing in the face of declining sales.

Mr. President. I ask unanimous consent to have printed in the RECORD a report on Mr. Stonecipher's pay package from the Journal of Commerce.

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

[From the Journal of Commerce, Mar. 24, 1995]

MCDONNELL CHIEF'S COMPENSATION TAKES ON SUPERSTAR PROPORTIONS

ST. LOUIS.—The compensation package McDonnell Douglas Corp. assembled to attract Harry C. Stonecipher, chief executive, last year was worthy of basketball's Michael Jordan.

McDonnell's nearly seven-year deal with Mr. Stonecipher, the first non-family member to run the company, could bring him more than \$34 million in cash and stock.

"We paid the market rate for a person of his caliber," said James Reed, vice president for communications. "We're very convinced of that, and the board of directors is very convinced of that."

The Chicago Bulls also paid the market rate when they signed Jordan, the National Basketball Association's top player, to an eight-year, \$28 million deal in April of 1988.

Although the \$825,000 base salary and \$575,000 annual bonus target McDonnell set for Mr. Stonecipher are unremarkable for a Fortune 500 company, the stock incentives McDonnell offered are notable.

The aerospace giant used the promise of what is now \$17.7 million in stock profits to persuade Mr. Stonecipher to leave his job as chairman and chief executive of Sundstrand Corp.

McDonnell awarded Mr. Stonecipher 180,000 shares of restricted stock, with a current market value of \$10.1 million. The first 42,000 of those shares vest next Friday; the rest vest in 1996, 1997 and 2002.

McDonnell also gave Mr. Stonecipher the option to buy 450,000 shares later in the decade for \$36.96 each, the market price when he joined the company on Sept. 24.

Mr. GRASSLEY. Now, why would the big boss at McDonnell Douglas get a huge bonus when the company sustained a \$416 million loss?

Could it be because the company has a direct tap on the DOD money pipe?

When Uncle Sugar is picking up the tab, you can afford to give big pay raises—even when you are losing money.

In private business, it is not supposed to work that way.

I would like to clarify one point as we proceed with the debate:

These defense companies are not totally dependent on the Pentagon; most do 50 to 70 percent of their business with the Government the Pentagon primarily; they are really semi-private.

Mr. President, I ask unanimous consent to have printed in the RECORD the top 10 defense contractors.

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



LIST OF TOP 10 CONTRACTORS IN 1993 WITH AT LEAST ONE-THIRD DOD BUSINESS

[Dollars in billions]

	Total sales	DOD contracts	Percent DOD
McDonnell Douglas	\$14.5	\$7.5	52
Lockheed	13.1	6.9	53
Martin Marietta	9.4	4.7	50
Raytheon	9.2	3.2	35

LIST OF TOP 10 CONTRACTORS IN 1993 WITH AT LEAST ONE-THIRD DOD BUSINESS—Continued

[Dollars in billions]

	Total sales	DOD contracts	Percent DOD
Northrop	5.1	3.0	59
General Dynamics	3.2	2.1	66
Loral	3.3	1.7	52

LIST OF TOP 10 CONTRACTORS IN 1993 WITH AT LEAST ONE-THIRD DOD BUSINESS—Continued

[Dollars in billions]

	Total sales	DOD contracts	Percent DOD
Grumman	3.2	1.7	53
Litton Industries	3.5	1.6	46
E-Systems	2.1	.8	38

TOTAL SALES OF TOP 10 DEFENSE CONTRACTORS, 1989-94

[Dollars in billions]

Company	1989	1990	1991	1992	1993	1994
McDonnell Douglas	\$13,938	\$15,497	\$18,061	\$17,365	\$14,487	\$13,176
Lockheed	9,891	9,958	9,809	10,100	13,071	13,130
Martin Marietta	5,796	6,126	6,075	5,954	9,436	9,874
Raytheon	8,796	9,268	9,274	9,058	9,201	10,166
Northrop	5,248	5,490	5,694	5,550	5,063	6,711
General Dynamics	10,043	10,173	8,751	3,472	3,187	3,058
Loral	1,187	1,274	2,127	2,882	3,335	4,009
Grumman	3,559	4,041	4,038	3,504	3,249	( <sup>1</sup> )
Litton	5,023	5,156	3,526	3,711	3,474	3,446
E-Systems	1,626	1,801	1,991	2,095	2,097	2,028

<sup>1</sup> Acquired by Northrop.

TOTAL EMPLOYEES OF TOP 10 DEFENSE CONTRACTORS, 1989-94

Company	1989	1990	1991	1992	1993	1994
McDonnell Douglas	127,900	121,200	109,100	87,400	70,000	65,800
Lockheed	82,500	73,000	72,300	71,700	88,000	82,500
Martin Marietta	65,500	62,500	60,500	55,700	92,800	90,300
Raytheon	77,600	76,700	71,600	63,900	63,800	60,200
Northrop	41,000	32,800	36,200	33,600	29,800	42,400
General Dynamics	102,200	98,100	80,600	56,800	30,500	24,200
Loral	12,700	26,100	24,400	26,500	24,200	32,400
Grumman	28,900	26,100	23,600	21,200	17,900	( <sup>1</sup> )
Litton	50,800	50,600	52,300	49,600	46,400	42,000
E-Systems	17,900	18,400	18,600	18,600	16,700	16,000

<sup>1</sup> Acquired by Northrop.

COMPENSATION OF TOP 5 EXECUTIVES AT TOP DEFENSE CONTRACTORS FOR 1995

The following information is the fiscal year 1995 reported compensation of the top 5 executives at the defense contractors previously reported in GAO report "Defense Contractors: Pay, Benefits, and Restructuring During Defense Downsizing".

In this paper, total compensation is denied as Salary plus Bonus. Other cash compensation and long-term valuation of stock options is not included.

The sources of information are: SEC (Edgar) online electronic filings of company Proxy Statements or, Business Week, April 22, 1996.

COMPENSATION OF TOP 5 EXECUTIVES AT TOP DEFENSE CONTRACTORS FOR 1995

Company	Executive	Salary	Bonus	Total Salary/Bonus
McDonnell Douglas	1	825,000	1,042,400	1,867,400
	2	502,308	571,000	1,073,308
	3	392,308	524,100	916,408
	4	382,116	500,000	882,116
	5	376,024	229,600	605,624
Lockheed/Martin	1	1,053,462	1,400,000	2,453,462
	2	983,846	1,300,000	2,283,846
	3	733,077	750,000	1,483,077
	4	464,615	443,500	908,115
	5	459,904	448,200	908,104
General Dynamics	1	670,000	1,750,000	2,420,000
	2	500,000	700,000	1,200,000
	3	356,000	500,000	856,000
	4	300,000	300,000	600,000
	5	220,000	175,000	395,000
Raytheon	1	999,996	870,000	1,869,996
	2	573,908	425,000	998,908
	3	419,520	290,000	709,520
	4	397,500	240,000	637,500
	5	379,500	235,000	614,500
Northrop/Grumman	1	730,000	1,000,000	1,730,000
	2	238,688	428,000	666,688
	3	336,667	320,000	656,667
	4	275,000	350,000	625,000
	5	288,333	330,000	618,333
Litton	1	445,681	500,000	945,681
	2	337,418	340,000	677,418
	3	277,414	260,000	537,414
	4	326,385	335,000	661,385
	5	252,412	205,000	457,412

COMPENSATION OF TOP 5 EXECUTIVES AT TOP DEFENSE CONTRACTORS FOR 1995—Continued

Company	Executive	Salary	Bonus	Total Salary/Bonus
Loral (Being acquired by Lockheed/Martin. Proxy statement not on file).	1			6,244,000
	2			
	3			
	4			
	5			
E-System (Fiscal year 95 info not available. Being acquired by Raytheon).	1			3,247,000
	2			
	3			
	4			
	5			

Mr. GRASSLEY. This information is drawn from a recent GAO report entitled "Defense Contractors: Pay, Benefits, and Restructuring During Defense Downsizing."

Mr. President, the Government should not be in the business of deciding how much to pay corporate executives in the defense industry.

Grassley-Boxer will not get the Government out of that business entirely, but it is a step in the right direction.

Mr. President, earlier in the debate, I said that we need to get Government bureaucrats out of the business of deciding how much to pay defense executives.

Grassley-Boxer wouldn't get us out of that business entirely, but it would be a step in the right direction.

Grassley-Boxer would put a governor on executive pay flowing through the DOD money pipe.

The Grassley-Boxer amendment would limit the size of executive salaries that could be charged directly to the Government under a specific contract.

Under existing rules, the sky is the limit.

For the bills coming due today, DOD pay what is fair and reasonable.

Reasonableness is defined in Federal regulation, FAR 31-205-6.

The rule is broad and general, as I suspected.

It gives the bureaucrats wide latitude for maneuver.

The guidance on how to make the determination is spelled out in defense contract audit agency [DCAA] documents.

DCAA bureaucrats make the final decision.

The main guide is a market consensus survey to see what everybody else is getting paid.

Above all, the DCAA documents say: "Be fair—not arbitrary."

At the Pentagon, being fair and reasonable usually means the taxpayers get shafted.

Pentagon bureaucrats like to bend over backward to keep the defense contractors happy.

And shoveling money at corporate executives is a great way to do it.

The Pentagon has proven over and over again that it is incapable of keeping lid on executive pay dished out on contracts.

The pay package coming out of the recent Martin Marietta-Lockeed merger is a prime example of what I'm talking about.

Some 460 executives and directors are slated to receive a total of \$92.2 million: \$8.2 million in cash and stock options is supposed to go to Mr. Norman Augustine, chairman of the Martin Marietta Corp. before the merger.

Now this very generous plan is in the process of being blessed by the Pentagon bureaucrats.

The deal isn't final, yet.

Since this pay package is based on longstanding contractual commitments, some dating back to the early 1980's, United Same has to pay.

The old rules apply.

The sky is the limit.

This is what the DCAA bureaucrats have to do to make it happen.

They take the salary of each corporate executive and break it down into many parts and spread it around on thousands of contracts.

They use a mathematical formula to determine how much to put on each contract.

Mr. President, this is what we must not forget. This is the key point:

There is no ceiling on what DOD can pay the Lockheed-Martin executives.

But from what I am hearing, industry's demand for money is being scaled back, somewhat.

But exactly how much will each executive get under the merger deal?

I don't think the Pentagon wants us to know how much the taxpayers are paying Mr. Augustine.

They don't want us to know how much is about to be taken out of the pockets of hard-working American taxpayers to bankroll these outrageous payments.

These top industry executives are on the Government payroll, and we can't even find out how much they make.

DCAA says that's sensitive proprietary information.

If they are on the public payroll, the people have a right to know how much each one gets.

Over a year ago, Senator BOXER and I asked the DOD Inspector General, Ms. Eleanor Hill, for this information.

That was on April 28, 1995.

We received her response on May 26, 1995.

But it was unsatisfactory, and we went back to her on June 20 for more specific answers to our questions.

When no satisfactory response was given, the request was renewed again on February 16, 1996.

On June 17, 1996, she finally provided a partial answer to the question.

Mr. President, I ask unanimous consent to place our correspondence with the DOD IG in the RECORD.

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

U.S. SENATE,  
Washington, DC, April 28, 1995.

Ms. ELEANOR HILL,  
Inspector General, Department of Defense,  
Army Navy Drive, Arlington, VA.

DEAR MS. HILL: We are writing to ask you to examine the merger of the Lockheed and Martin Marietta Corporations and to determine its cost to the taxpayers.

We think this merger needs scrutiny by your office.

The "payout benefit plan" being given to executives and managers at Martin is truly beyond comprehension for most ordinary American citizens. Martin Marietta Chairman Norman Augustine, for example, will receive \$8.2 million in cash and stock options as a result of the merger. Other top executives are set to receive huge sums. A total of

\$92.2 million will be dished out to about 460 managers and executives under various plans. We understand that some of this money will be taken out of the pockets of hard working American taxpayers.

Since mid-1992, there have been at least nine or ten major mergers or acquisitions in the U.S. defense industry. Under current policy, the amounts charged to current or future defense contracts to cover the "restructuring" or merger costs could be building up to unacceptable levels. What are the government's total potential liabilities from all recent mergers? What is the rationale for giving defense companies tax money to cover the costs of their mergers? To us, mergers mean less competition, and less competition usually means higher prices.

Furthermore, we understand that there is a lack of clear guidance in regulation and law governing mergers as to what is allowable and what is not allowable. This situation could leave the door wide open for waste, abuse and excessive cash payments to industry executives.

In line with our more general concerns, we have eleven more specific questions on the Martin/Lockheed merger:

Is there any evidence—based on recent experience—to suggest that the merger will generate real savings to the taxpayers?

If so, what are the total expected savings to the taxpayers from the merger?

What is the total projected cost of the merger to the taxpayers, including potential reimbursements for closing unneeded facilities?

How exactly would tax dollars be used to compensate the two firms for the cost of the merger?

To what extent are tax dollars being used to support the executive compensation plan resulting from the merger—particularly the one contained in a joint proxy statement for the meeting held on March 15, 1995?

If tax money is used to finance the executive "payout" operation, please provide the name of each person receiving tax money and the total amount each person is to receive.

What is the legal basis for using tax money to make such payments?

Will projected costs and savings be subjected to adequate audit verification?

Does the merger plan comply with Section 818 of Public Law 103-337 and Section 8117 of Public Law 103-335?

Does the April 15, 1995 deadline specified in Section 8117 mean that the Martin/Lockheed merger is not covered by this provision?

Have anti-trust issues been adequately addressed?

Ms. Hill, as far as we are concerned, the salaries paid to top executives in industry should be determined in the market place—not by some obscure act of Congress. But if money is taken out of the pockets of hard working American taxpayers to pay defense industry executive outrageous and unreasonable salaries and bonuses, then we feel like we have an obligation to ask questions.

We look forward to your independent assessment of the facts.

Your continued support is always appreciated.

Sincerely,

CHARLES E. GRASSLEY.  
BARBARA BOXER.

INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE,  
Arlington, VA, May 26, 1995.

Hon. CHARLES E. GRASSLEY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRASSLEY: This is in reply to a letter of April 28, 1995, signed jointly by you and Senator Barbara Boxer, that re-

quested our assessment of the facts surrounding the merger of the Lockheed and Martin Marietta Corporations. Our response to each of your concerns and questions is presented in the enclosure.

Under Section 818, Public Law 337, and implementing regulations, restructuring costs associated with a business combination of defense contractors may not be paid, absent a review of projected costs and savings resulting for the Department from that business combination. We understand that Lockheed Martin Corporation plans to submit a proposal containing such information by late June 1995. That proposal will be audited by the Defense Contract Audit Agency and the results assessed by the Defense Contract Management Command to determine the amount of restructuring costs that properly may be reimbursed by the Government. In the interim, those agencies will review the companies' requests for payments to assure that the Government is not being improperly billed.

Because the Defense Contract Audit Agency and the General Accounting Officer will be examining the costs associated with the business combination, we do not plan to initiate a review of the matter. We will, however, closely monitor the audit by the Defense Contract Audit Agency and actions by the Defense Contract Management Command. Let me assure you that I share your concern that the Lockheed and Martin Marietta business combination not result in the payment of unallowable or excessive costs by the Government.

A similar reply is being provided to Senator Boxer. If we may be of further assistance, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at 604-8324.

Sincerely,

ELEANOR HILL,  
Inspector General.

RESPONSE TO COMMENTS AND QUESTIONS REGARDING THE MERGER OF LOCKHEED AND MARTIN MARIETTA CORPORATIONS

General Comments: A total of \$92.2 million will be dished out to about 460 managers and executives under various plans.

Of the \$92.2 million, the Lockheed Martin Corporation believes that \$31 million are allowable costs that can be charged to Government contracts. The Defense Contract Audit Agency is currently auditing the \$31 million. The audit is scheduled to be completed by June 30, 1995.

What are the Government's total potential liabilities from all recent mergers?

The Department of Defense (DoD) may pay allowable and allocable restructuring costs resulting from a business combination provided under that audited proposals indicate that overall savings to the Government will result. As only a few contractors have presented restructuring proposals, the total potential costs and overall savings to the Government cannot be predicted at this time.

What is the rationale for giving defense companies tax money to cover the costs of their mergers? To us, merger means less competition, and less competition means higher prices.

The DoD may pay restructuring costs, i.e., the cost to streamline operations, including the elimination of unneeded or redundant facilities and reductions in the work force subsequent to a merger or acquisition, provided they are offset by related savings. We share your concern, however, that competition is being reduced and may lead to higher prices.

We understand that there is a lack of clear guidelines in regulation and law governing mergers as to what is allowable and what is not allowable.

Clearly, those costs, such as reorganization costs, that were previously unallowable are still not allowable. A July 1993 policy memorandum on restructuring costs by the Under Secretary of Defense for Acquisition and Technology specifically makes that point. What is unclear is the law and regulations addressing the allowability of restructuring costs that result in increased costs on contracts novated from the selling company to the buyer.

Under the provisions in the present Federal Acquisition Regulation (FAR), the DoD is under no obligation to pay increased costs of novated contracts even if they are offset by decreases. The July 1993 memorandum was intended to clarify that DoD contracting officers have the latitude to recognize cost increases on novated contracts due to restructuring provided they are offset with related savings.

The problem we see is that the Congress initially believed that restructuring costs actually represented merger and acquisition costs. Section 818 of Public Law 103-337, therefore, addresses restructuring costs in general rather than those situations specifically related to increased costs on novated contracts.

Restructuring costs are generally allowable since contractors must have the ability to change and improve their operations. However, the interim regulations written by the DoD in response to the broad requirements of Section 818, require contractors to demonstrate that all restructuring costs, whether related to a merger or acquisition or not, are offset by savings. It is possible that the law and new regulations will make previously allowable costs unallowable. The net effect is that few contractors have come forward with restructuring proposals. We believe, therefore, that the law and the DoD interim regulations should be clarified to address restructuring related to novated contracts only.

**Specific Concerns:** Is there any evidence—based on recent experience—to suggest that the merge will generate real savings to the taxpayers?

Yes. In those very few cases where companies involved in business combination have submitted restructuring proposals, cost reductions are forecast. However, we cannot predict whether anticipated savings are offset by diminished competition.

If so, what are the total expected savings to the taxpayer from the merger?

The company has not submitted a proposal of forecasted savings.

What is the total projected cost of the merger to the taxpayer, including potential reimbursements for closing unneeded facilities?

Again, that information is not yet available because the company has not submitted a proposal of forecasted savings.

How exactly would tax dollars be used to compensate the two firms for the cost of the merger?

As previously stated, the costs of the merger are not compensated. Restructuring costs are reimbursed once the contractor satisfactorily demonstrates to the Contracting Officer at the Defense Contract Management Command and auditor at the Defense Contract Audit Agency that there will be overall savings to the Government. An advance agreement will then be executed specifying the type and limits for restructuring costs that can be charged to contracts each year. That agreement is forwarded to a senior DoD official who certifies that savings will be achieved. The costs are then allocated among all the contractor's business and the Government pays its share.

To what extent are tax dollars being used to support the executive compensation plan

resulting from the merger particularly the one contained in a joint proxy statement for the meeting held on March 15, 1995?

Tax money, in the form of contract payments, will be used to pay some of the executive compensation costs. The Lockheed Martin Corporation has indicated that the costs will be claimed on its Government contracts based on its past practices and would not exceed the amount DoD would have paid had the merger not occurred. Each of the elements of compensation included in the proxy statement resulting from the merger are being reviewed by the Defense Contract Audit Agency to determine the reasonableness of the compensation paid and to ensure the long-term compensation plans are in accordance with the procurement regulations. The DoD and other Federal agencies pay the allowable portion of executive compensation based on their share of the contractor's business.

If tax money is used to finance the executive "payout" operation, please provide the name of each person receiving tax money and the amount each person is to receive.

Although the proxy statement does identify some individuals and amounts paid, it does not identify the amount that will be claimed on Government contracts. We will not know all the names of the people receiving the money or the final amount being claimed on Government contracts until the audit by the Defense Contract Audit Agency is complete. The audit is scheduled to be completed by June 30, 1995.

What is the legal basis for using tax money to make such payments?

The FAR provides for a fair share of contractor costs, including executive compensation, to be charged to Government contracts. The regulation prohibits paying costs such as "golden parachutes." The audit by the Defense Contract Audit Agency will determine if the amounts claimed by the Lockheed Martin Corporation are allowable.

Will projected costs and savings be subjected to adequate audit verification?

The Public Law and procurement regulations require audit verification by the Defense Contract Audit Agency. We plan to monitor the audit.

Does the merger plan comply with Section 818 of Public Law 103-337 and Section 8117 of Public Law 103-335?

We will not know whether the plan complies with either law until the restructuring proposal is submitted and examined by the contracting officer and auditor.

Does the April 15, 1995 deadline specified in Section 8117 mean that the Martin/Lockheed merger is not covered by this provision?

The April 15, 1995 deadline applies to payments from funds appropriated in fiscal year 1995 for contracts awarded after April 15, 1995. Section 8117 will limit, to some extent, the DoD reimbursement to the Lockheed Martin Corporation after April 15, 1995. The audit by the Defense Contract Audit Agency will evaluate the compensation costs proposed to be claimed after April 15, 1995, to determine compliance with the public law.

Have anti-trust issues been adequately addressed?

Compliance with antitrust laws is the responsibility of the Department of Justice and the Federal Trade Commission. We are not aware of any problems in that area.

INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE,  
Arlington, VA, June 14, 1996.

Hon. CHARLES GRASSLEY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRASSLEY: This is in further response to a letter of April 28, 1995, signed jointly by you and Senator Barbara

Boxer that requested information regarding long-term incentive compensation payouts to Martin Marietta executives. These payouts have been claimed for government reimbursement by Lockheed Martin Corporation as a result of the merger of Lockheed and Martin Marietta Corporations.

Enclosed are aggregate totals of the long-term incentive compensation for four categories of Lockheed Martin executives that are allocable to Government contracts through indirect expense pools, excluding commercial and foreign military sales. It should be noted the long-term incentive compensation was earned over a period of years and paid in 1995 after the merger. The categories of former Martin Marietta executives include the top five executives, other top executives, all other executives and the outside Board of Directors.

The Lockheed Martin Corporation has agreed, on an exception basis, to a release of the aggregate totals without a company proprietary stamp. Lockheed Martin Corporation considers individual names and associated financial information to be confidential proprietary and management sensitive data and has not made an exception as to that information.

We agree that such information is proprietary and is exempt from release under the Freedom of Information Act, Sections 552(b)(4) and 552(b)(6), Title 5, United States Code. It has been designated "For Official Use Only" (FOUO), and can be released pursuant to a request from a chairman of a committee or subcommittee with jurisdiction over the subject matter.

We hope that the above information is helpful to you. If we may be of further assistance, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703) 604-8324.

Sincerely,

ELEANOR HILL,  
Inspector General.

*Martin Marietta long-term incentive compensation allocable to Government contracts through indirect expense pools*

[Excluding commercial and foreign military sales]	
Top Executives (5) .....	<sup>1</sup> \$3,552,909
Other Top Executives (14) .....	12,691,248
Outside Board of Directors (19) (1993 to 1995) .....	12,773,263
Outside Board of Directors (Prior to 1993) .....	1,555,297
All Other Executives (450+) .....	16,669,283
Total .....	<sup>2</sup> 16,272,000

<sup>1</sup>These amounts were calculated from information provided by the Defense Contract Audit Agency.

<sup>2</sup>This amount is advisory to the Defense Corporate Executive who is responsible for negotiating the final settlement with the Lockheed Martin Corporation.

Mr. GRASSLEY. Martin Marietta's top executives are getting paid \$16,272,000 under the deal.

This isn't salary. It's a retirement package for the senior executives.

Some call it a "golden parachute."  
By any definition, it's a very generous deal.

DOD pays the top five executives, including Mr. Augustine, \$3,552,909.

Now, this isn't Mr. Augustine's salary, for example.

These are just retirement benefits. He gets a lot more, but it comes out of another DOD pool of money.

How many pools of money does DOD have for corporate pay.

Mr. President, this tells me we need a cap.

I am told that when the idea of a cap was first debated over in the Pentagon, a DCAA bureaucrat made this suggestion:

Why not set the cap at \$1 million?

Mr. President, the Pentagon's weak-kneed attitude on executive pays tells me that a cap is mandatory.

On March 5, 1996, the DOD inspector general, Ms. Eleanor Hill, came out in favor of a \$250,000 cap.

I thank her for doing that.

Mr. President, I ask unanimous consent to place her letter of recommendation in the RECORD.

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

INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE,  
Arlington, VA, March 5, 1996.

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

DEAR MR. CHAIRMAN: Recently, the Department provided its views on S. 1102, "To amend title 10, United States Code, to make reimbursement of defense contractors for costs of excessive amounts of compensation for contractor personnel unallowable under the Department of Defense contracts". In response to a request from Senator GRASSLEY'S office, we offer our views on the legislation for your consideration.

We support a permanent \$250,000 cap on allowable individual compensation costs under DoD contracts. This is not a limitation on total compensation but on the costs charged to the Government. Furthermore, we would also support a limitation on all Government contractors. This additional limitation would prevent DoD contractors who also have contracts with other Government agencies from charging this compensation to non-DoD contracts.

I hope this information is helpful as the Congress continues consideration of this important issue. If we can be of further assistance, please do not hesitate to contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703, 604-8324).

Sincerely,

ELEANOR HILL,  
Inspector General.

Mr. GRASSLEY. Unfortunately, Senator BOXER and I think \$250,000 cap is too high.

That's what the President of the United States makes in a year.

Only one person on the Federal payroll should make that much money.

Mr. President, the appropriators seem to agree with our thinking.

We can thank the appropriators for their pioneering work in this area.

In 1944, they established the first "cap" on the defense appropriations bill.

Under Section 8117 of Public Law 103-335, they placed a \$250,000 salary "cap" on fiscal year 1995 contract payments.

Then, just last year, they lowered the cap to \$200,000 on fiscal year 1996 contract payments.

That was in Section 8068 of Public Law 104-61—the fiscal year 1996 defense appropriations bill.

As I pointed out earlier in the debate, that's not a permanent cap.

It's a 1-year cap on fiscal year 1996 defense appropriations.

Mr. President, we need a permanent cap on all Government contracts.

We shouldn't take money out of the pockets of hard working American taxpayers to bank-roll the big executives in defense industry.

We need to get the taxpayers out of the loop.

Pay and bonuses for top defense executives should be determined in the marketplace.

Executive wages should be determined by successes and failures by profits and losses.

And not by a bunch of bureaucrats in the Pentagon.

A \$200,000 cap is a good first step in the right direction.

I hope my colleagues will support this amendment.

Mr. President, throughout this debate, I have repeatedly stressed one point:

We need to get government bureaucrats out of the business of deciding how much to pay industry executives.

Mr. President, there is only one place where those kinds of decisions should be made in this country.

And that's in the marketplace.

Those decisions should be governed by profits and business successes.

There is a general consensus for getting the Government out of the loop.

Government bureaucrats are incapable of deciding what an executive should earn.

Mr. President, I have here in my hand an article taken from one of the defense trade journals.

This one is from Defense News, June 3-9, 1996, page 14.

Now, Defense News is a weekly publication with close ties to defense industry.

The article has this title: "White House Prepares New Rule on Compensation for Executives."

The report says the White House procurement czar is about to issue a new regulation on how much executive pay can be charged to defense contracts.

"Industry officials" are quoted.

And industry officials are saying what I am saying.

They say that this decision should be made in the marketplace.

This is what the reports says, and I quote:

"Industry officials say the free market should determine how much they [defense executives] are paid, and how much the Government reimburses them [for salary]."

Mr. President, that is exactly what I am saying.

Mr. President, I ask unanimous consent to have printed in the RECORD, the article.

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

[From the Defense News, June 3-9, 1996]

WHITE HOUSE PREPARES NEW RULE ON  
COMPENSATION FOR EXECUTIVES

(By Jeff Erlich)

WASHINGTON.—White House officials will make a decision this month on what portion of defense executives' salaries the government will reimburse.

The issue of how much corporate executives are paid has taken on populist overtones as salaries continue to rise while workers are laid off, a senior government official said.

"Some contractors seem to have tunnel vision," the official said. "There is a larger debate in society about executive compensation. This is not just about defense contracting."

Industry officials, however, say the free market should determine how much they are paid, and how much the government reimburses them.

"If you find the right guy, the leverage of his thought process is way beyond the value you would attribute to him as one man," Vance Coffman, chief operating officer of Lockheed Martin Corp., Bethesda, Md., said in a May 29 interview.

Steve Kelman, White House director of federal procurement policy, is due to issue the pay rule this month. He said May 28 that he has not yet made a decision.

Kelman will weigh options that include a cap on how much the Pentagon can reimburse executives for their salaries.

Congress has a \$200,000 cap this year, pending the new policy. Or Kelman could eliminate any caps and let the DoD's cost-accounting principles govern levels of reimbursement.

He also will address other forms of pay, such as bonuses, deferred salary, stock options and other compensation, often earned during corporate restructuring.

These issues came under congressional scrutiny with the merger of Lockheed and Martin Marietta corporations. Lockheed Martin will get \$16.5 million from the government in extra compensation resulting from the restructuring.

"During the past eight years, 2.2 million Americans have lost their defense-related jobs. At precisely the same time, the top CEOs among defense contractors have been taking home huge salaries and stock payouts paid in no small part by U.S. taxpayers," Reps. Peter DeFazio, D-Ore., Bernard Sanders, I-Vt., and Carolyn Maloney, D-N.Y., wrote May 9 to Defense Secretary William Perry.

Bert Concklin, president of the Professional Services Council, a Vienna, Va.-based consultants association, said the policy should address only high levels of compensation resulting from mergers, buyouts or other corporate restructuring, while leaving alone normal bonuses and salaries.

"It should focus on what has apparently gotten the attention of the critics," Concklin said May 28.

Mr. GRASSLEY. Grassley-Boxer doesn't get the Government out of the loop completely.

It would leave bureaucrats with authority to manipulate just a small piece of the compensation pie.

The bulk of executive compensation would be decided by industry in the marketplace where it belongs.

In time, I hope to see a complete end to this practice.

It would cease to be an allowable expense under defense contracts.

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

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4075) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4076

(Purpose: To amend the reporting requirement under demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies)

Mr. NUNN. Mr. President, on behalf of Senator BOXER, I offer an amendment that would extend the reporting date on the demonstration project for an additional 2 years. The demonstration involves purchase of services from municipalities.

I believe this amendment has also been cleared by the Republican side of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mrs. BOXER, proposes an amendment numbered 4076.

The amendment is as follows:

At the end of title VIII, insert the following new section:

**SEC. . REPORTING REQUIREMENT UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.**

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2820) is amended by striking out "1996" and inserting in lieu thereof "1998".

Mr. KEMPTHORNE. Mr. President, this has been cleared on this side.

I urge its immediate adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4076) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4077

(Purpose: To authorize agreements with Indian tribes for services under the Defense Environmental Restoration Program)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator MCCAIN, I offer an amendment that modifies section 2701 of title X, United States Code, that specifically authorizes the Secretary of Defense to enter into agreements to obtain the reimbursable services of any Indian tribe to assist the Secretary in carrying out the Department of Defense environmental restoration activities. Section 2701 currently authorizes the Secretary to enter into such agreements with any other Federal agency or State or local government agency. The amendment would make it clear that an Indian tribe may be party to such an agreement.

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

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for MCCAIN, proposes an amendment numbered 4077.

The amendment is as follows:

At the end of subtitle D of title III, add the following:

**SEC. . AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.**

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out “, or with any State or local government agency,” and inserting in lieu thereof “, with any State or local government agency, or with any Indian tribe,”; and

(2) by adding at the end the following:

“(3) DEFINITION.—In this subsection, the term ‘Indian tribe’ has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).”.

Mr. MCCAIN. Mr. President, I am offering an amendment to S. 1745, the National Defense Authorization Act for fiscal year 1997, that would modify section 2701 of title 10, United States Code, to specifically authorize the Secretary of Defense to enter into agreements to obtain the reimbursable services of any Indian tribe to assist the Secretary in carrying out Department of Defense environmental restoration activities. Section 2701 currently authorizes the Secretary to enter into such agreements “\* \* \* with any other Federal agency, or with any State or local government agency. \* \* \*”

Participation in agreements under section 2701 became an issue when the Department of Defense informed the Suquamish Indian tribe that the Department did not have the legal authority to enter into such agreements with Indian tribes. The amendment would expressly authorize the Department to enter into agreements with Indian tribes for reimbursable services related to environmental restoration.

Mr. President, I urge that the Senate adopt this amendment.

Mr. KEMPTHORNE. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4077) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4078

(Purpose: To revise the description of a category of expenses for which humanitarian and civic assistance funds may be used)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 4078.

The amendment is as follows:

In section 1006, strike out the last three lines and insert in lieu thereof the following:

“(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting activities described in such subsection (e)(5), including any non-lethal, individual or small-team landmine cleaning equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

“(C) The cost of any equipment, services, or supplies provided pursuant to (B) may not exceed \$5 million each year.”.

Mr. NUNN. Mr. President, this amendment amends existing law to enable the Department of Defense in the course of providing education, training and technical assistance to foreign nations personnel on landmine clearance to also acquire equipment, services or supplies and to transfer nonlethal individual small team landmine clearing equipment or supplies to such foreign country. A ceiling of \$5 million would be set for the cost of such services, equipment and supplies.

Mr. KEMPTHORNE. Mr. President, this has been cleared on this side, and I urge its immediate adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4078) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4079

(Purpose: To revise the eligibility requirements for grants and contracts under the University Research Initiative Support Program)

Mr. KEMPTHORNE. Mr. President, I send to the desk an amendment on behalf of myself which would clarify the eligibility criteria for the University Research Initiative Support Program.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] proposes an amendment numbered 4079.

The amendment is as follows:

At the end of subtitle D of title II add the following:

**SEC. 243. AMENDMENT TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.**

Section 802(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1701; 10 U.S.C. 2358 note) is amended by striking out “fiscal years before the fiscal year in which the institution submits a proposal” and inserting in lieu thereof “most recent fiscal years for which complete statistics are available when proposals are requested”.

Mr. KEMPTHORNE. Mr. President, I am proposing an amendment to the Defense Authorization bill in support of the University Research Initiative Support Program [URISP]. This amendment will greatly improve and make more efficient the process for calculating the eligibility of colleges and universities around the country to receive grants and contracts for research by clarifying that such institutions may not have received more than \$2 million

in funding from the Department of Defense in the two most recent fiscal years for which complete statistics are available when proposals are requested.

The University Research Initiative Support Program [URISP] was initiated by the Senate Armed Services Committee in section 802 of the National Defense Authorization Act for fiscal year 1994. The purpose of the program was to provide support for individual universities which had not been participants in Department of Defense research programs. The URISP program is only open to universities that have received less than \$2 million in DOD R&D funds in the two fiscal years preceding the submission of proposals for participation by the university. The program was intended to be a complement to the similar Defense Program to Stimulate Competitive Research [DEPSCoR] program in which university eligibility is determined solely by location in a designated DEPSCoR state and not by the amount of research funding an individual institution may have received in the past. Section 802 directs that all contracts and grants be awarded under the URISP program using merit-based, competitive procedures.

On February 13, 1996, the Department of Defense announced that it will award \$30 million under the URISP program over the next five years. The funding is intended to allow for the building of infrastructure to allow the universities to compete for DOD research contracts. The average grant is \$2 million, and the plan is to fund the first three years at \$500,000 each and to provide \$300,000 and \$200,000 in the fourth and fifth year, respectively.

Unfortunately, release of full funding for the first installment has been reduced by the OSD comptroller to \$140,000 because the eligibility determinations required under the law are delaying program implementation. Information for the two most recent fiscal years has not been available because of the time lag in compiling such recent data.

The amendment I propose would have the effect of allowing the program to go forward by authorizing the use of data from the two most recent fiscal years for which it is available at the time the university made its proposal. This change will allow the effective implementation of a program that originated in the Senate Armed Services Committee.

The Department of Defense has requested that this change be made and the House has included this provision in their bill as section 244. In the spirit of competition, passage of this amendment would allow universities which previously lacked the ability to vie for government research dollars to compete on a more equal footing thereby ensuring that healthy competition remains the standard bearer in the research and development community.

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

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

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4079) was agreed.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 4080

(Purpose: To strike section 1008, relating to the prohibition on the use of funds for Office of Naval Intelligence representation or related activities)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator LOTT, I offer an amendment to strike section 1008 of the bill relating to the Office of Naval Intelligence. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Idaho [Mr. KEMPTHORNE], for Mr. LOTT, proposes an amendment numbered 4080.

The amendment is as follows:

Strike out section 1008, relating to the prohibition on the use of funds for Office of Naval Intelligence representation or related activities.

Mr. LOTT. Mr. President, this amendment strikes section 1008 of the bill as reported out of committee. I appreciate the support of the members of the committee as well as the full Senate for this amendment.

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

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4080) was agreed to.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 4081

(Purpose: To authorize the Secretary of the Army to convey certain real property located at Fort Sill, Oklahoma)

Mr. KEMPTHORNE. Mr. President, on behalf of Senators INHOFE and NICKLES, I offer an amendment which would transfer 400 acres located at Fort Sill, OK, to the Department of Veterans Affairs for use as a national cemetery. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. NICKLES, for himself and Mr. INHOFE, proposes an amendment numbered 4081.

The amendment is as follows:

Insert the following in the appropriate place:

**SEC. . TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT SILL, OKLAHOMA.**

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—

(1) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 400 acres and comprising a portion of Fort Sill, Oklahoma.

(2) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under paragraph (1) as a national cemetery under chapter 24 of title 38, United States Code.

(3) RETURN OF UNUSED LAND.—If the Secretary of Veterans Affairs determines that any portion of the real property transferred under paragraph (1) is not needed for use as a national cemetery, the Secretary of Veterans Affairs shall return such portion to the administrative jurisdiction of the Secretary of the Army.

(b) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by the recipient of the real property.

Mr. NICKLES. Mr. President, I wish to thank Senators THURMOND and NUNN for their assistance in getting this provision included in the Defense authorization bill. I also want to thank the staff of the Senate Armed Services Committee for their patience and understanding in working with my staff on this issue.

This land transfer will put Oklahoma well on its way to getting a new national veterans cemetery. This process was started nearly ten years ago, but for one reason or another has been slow in moving forward. The transfer will conclude years of searching for a location by utilizing this land now a part of Ft. Sill.

Getting property upon which to locate a veterans cemetery has been a major struggle, and, obviously, this land transfer solves that problem. I am very pleased that this provision will be in the bill for the veterans of Oklahoma who wondered if this day would ever come.

Mr. INHOFE. Mr. President, I wish to thank Senators THURMOND and NUNN for agreeing to include this provision in the Defense authorization bill. I also want to thank the staff of the Senate Armed Services Committee for their patience and understanding in working with Senator NICKLES' and my staff on this issue.

This land transfer will allow Oklahoma to move forward in its attempt to establish a new national veterans' cemetery. This process has taken almost a decade to get to this point, but I believe we now have a satisfactory solution in using available land at Fort Sill, in Lawton, OK.

Finding property for this veterans' cemetery has been a major struggle, and, obviously, this land transfer will mean a great deal to many Oklahoman veterans. I am pleased to be a part of this solution, and I thank the other Senators who have helped to make this happen.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4081) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4082

(Purpose: To revise the provision relating to the environmental restoration accounts)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator MCCAIN, I offer an amendment that would remove language that refers to the treatment of appropriations and focuses on purposes for which authorized funds may be obligated under the four environmental restoration accounts for the military departments.

The amendment also eliminates all references to transfer accounts. The deletion of the term "transfer accounts" ensures that the four environmental restoration accounts are treated as separate line items for authorization of appropriations not susceptible to transfer funds between the military departments.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. MCCAIN, proposes an amendment numbered 4082.

The amendment is as follows:

On page 81, strike out line 18 and all that follows through page 86, line 2, and insert in lieu thereof the following:

**SEC. 341. ESTABLISHMENT OF SEPARATE ENVIRONMENTAL RESTORATION ACCOUNTS FOR EACH MILITARY DEPARTMENT.**

(a) ESTABLISHMENT.—(1) Section 2703 of title 10, United States Code, is amended to read as follows:

**"§ 2703. Environmental restoration accounts**

"(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

"(1) An account to be known as the 'Defense Environmental Restoration Account'.

"(2) An account to be known as the 'Army Environmental Restoration Account'.

"(3) An account to be known as the 'Navy Environmental Restoration Account'.

"(4) An account to be known as the 'Air Force Environmental Restoration Account'.

"(b) OBLIGATION OF AUTHORIZED AMOUNTS.—Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

"(c) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

"(d) AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

"(1) Amounts recovered under CERCLA for response actions.

"(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

"(e) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Defense Environmental Restoration Account for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law."

(2) The table of sections at the beginning of chapter 160 of title 10, United States Code, is amended by striking out the item relating to section 2703 and inserting in lieu thereof the following item:

"2703. Environmental restoration accounts."

(b) REFERENCES.—Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(c) CONFORMING AMENDMENT.—Section 2705(g)(1) of title 10, United States Code, is amended by striking out "the Defense Environmental Restoration Account" and inserting in lieu thereof "the environmental restoration account concerned".

(d) TREATMENT OF UNOBLIGATED BALANCES.—Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) shall be transferred on such date to the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) October 1, 1996; or

(2) the date of the enactment of this Act.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4082) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, as it was noted in Senate Report No. 104-267 produced by the Committee on Armed Services, it was not possible to include CBO cost estimates when the report was created because the cost estimates were not available. I now have CBO's figures.

I ask unanimous consent that they be printed in the RECORD.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, May 15, 1996.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1745, the National Defense Authorization Act for Fiscal Year 1997 as ordered reported by the Senate Committee on Armed Services on May 2, 1996.

The bill would affect direct spending, and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish, we would be pleased to provide further details on the estimate.

Sincerely,

JUNE E. O'NEILL,  
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1745.
2. Bill title: National Defense Authorization Act for Fiscal Year 1997.
3. Bill Status: As ordered reported by the Senate Committee on Armed Services on May 2, 1996.
4. Bill purpose: This bill would authorize appropriations for 1997 for the military functions of the Department of Defense (DoD) and the Department of Energy (DoE). This bill also would prescribe personnel strengths for each active duty and selected reserve component.
5. Estimated cost to the Federal Government: Table 1 summarizes the budgetary effects of the bill. It shows the effects of the bill on direct spending and asset sales and on authorizations of appropriations for 1997. Assuming appropriation of the amounts authorized, the bill would increase funding for discretionary programs in 1997 by \$3.0 billion over the 1996 appropriated level, although outlays would decline by \$0.1 billion.
6. Basis of estimate: The estimate assumes that the bill will be enacted by October 1, 1996, and that the amounts authorized will be appropriated for 1997. Outlays are estimated according to historical spending patterns.

*Direct spending and asset sales*

The bill contains several provisions that would affect direct spending or asset sales (see Table 2). The provisions involve the sale of material in the National Defense Stockpile, the sale of various naval vessels, civilian and military retirement benefits, annuities for military surviving spouses, the use of proceeds from certain property sales, and other matters with less significant costs.

Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

Stockpile Sales. The bill would require the Administration to sell certain materials in the National Defense Stockpile to raise receipts by \$338 million during the five-year period ending on September 30, 2001, and \$649 million during the seven-year period ending on September 30, 2003. Table 2 shows CBO's estimates of sales through 2002.



TABLE 1.—BUDGETARY IMPACT OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES  
[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING AND ASSET SALES							
Direct spending:							
Estimated budget authority .....	0	12	20	75	78	82	89
Estimated outlays .....	0	-1	13	72	77	82	89
Assets Sales: <sup>1</sup>							
Estimate budget authority .....	0	-142	-59	-64	-70	-75	-145
Estimated outlays .....	0	-142	-59	-64	-70	-75	-145
SPENDING SUBJECT TO APPROPRIATIONS ACTIONS							
Spending under current law:							
Budget authority <sup>2</sup> .....	265,023	0	0	0	0	0	0
Estimated outlays .....	264,311	91,156	36,485	17,138	7,362	3,275	913
Proposed changes:							
Estimated authorization level .....	0	268,069	0	0	0	0	0
Estimated outlays .....	0	173,007	55,280	21,615	9,373	3,938	2,084
Spending under the bill:							
Estimated authorization level <sup>2</sup> .....	265,023	268,069	0	0	0	0	0
Estimated outlays .....	264,311	264,163	91,765	38,753	16,735	7,213	2,997

<sup>1</sup> Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.  
<sup>2</sup> The 1996 figure is the amount appropriated for programs authorized by this bill.  
 Note.—Costs of the bill would fall under budget function 050, National Defense, except for certain other items as noted.

The receipts would come from selling aluminum, cobalt, columbium ferro, germanium metal, indium, palladium, platinum, rubber, and tantalum. Current law does not permit DoD to sell any of these materials except cobalt, but CBO expects that all cobalt now authorized for sale will be sold during 1996.

To determine if the receipt targets could be achieved, CBO reviewed both past sales and historical trends in prices for the different materials. Using both historical average prices and quantities that would probably not cause any significant disruption in world markets, CBO found the receipt levels to be achievable.

Transfer of Naval Vessels. The bill would authorize the Secretary of the Navy to sell eight naval vessels to certain foreign countries and otherwise dispose of two other vessels. The Navy estimates the sale would generate \$72 million in offsetting receipts in 1997.

Civilian Retirement Annuities. Section 1121 would index the average pay used to calculate deferred retirement benefits for certain DoD civilian employees. CBO estimates that this proposal would reduce spending by \$40 million in fiscal year 1997, \$98 million in 1998, \$57 million in 1999, \$57 million in 2000, \$56 million in 2001, and \$54 million in 2002.

Section 1121 would apply, at the discretion of DoD, to employees at military bases sold to private contractors. To qualify for benefits under this proposal, the DoD employee must continue working in the same job after the base is sold to a private company. Further, the employee must be enrolled in the Civil Service Retirement and Disability System and not be eligible for retirement benefits. Based on the Base Realignment and Closure Commission reports and data from DoD, CBO assumes that about 1,200 people in 1997 and 2,000 in 1998 would take advantage of this proposal.

Under the bill, qualified workers could count their years of service under the private contractor toward meeting the age and

service requirements for regular retirement. Further, the high-3 average federal salary used to calculate benefits would be indexed to federal pay raises during the time between the end of federal service and retirement. Based on data from DoD, CBO estimates that only about 5 percent of those affected would begin receiving benefits in the six-year projection period. Direct spending outlays are estimated to be less than \$500,000 in fiscal year 1997, \$2 million in 1998, \$3 million in 1999, \$3 million in 2000, \$4 million in 2001, and \$6 million in 2002. The bulk of the costs would begin to be realized about 15 years from enactment.

Over the six-year projection period, the increased costs of the annuities would be more than offset by forgone refunds of employee contributions. Based on rates of withdrawal from the Office of Personnel Management, CBO assumes that under current law about 60 percent of affected employees would have withdrawn their retirement contributions, when they lost their federal jobs to a private contractor. Since this proposal would greatly increase the value of the employee's retirement benefits, most of the affected workers would not withdraw their contributions and instead would remain eligible for retirement benefits. Given an average refund of about \$34,000, the reduction in outlays from fewer refunds is estimated to be \$20 million in fiscal year 1997 and about \$40 million in 1998.

Section 1121 would also require that DOD amortize in 10 equal payments any increase in the unfunded liability of the Civil Service Retirement and Disability Fund that is attributable to the enhanced benefits of this proposal. DOD would pay an estimated \$20 million a year for 10 years beginning in fiscal year 1997 and another \$40 million a year for 10 years beginning in 1998. The receipt of these payments is not included in the cost estimate because they fund additional benefits that generally lie beyond the horizon of the estimate.

Annuities for Certain Military Surviving Spouses. Section 634 would provide annuities to the surviving spouses of two groups of former servicemembers. The first group would consist of military retirees who died before March 21, 1974. The second group would consist of reservists who died between September 21, 1972 and October 1, 1978, and who were entitled to retired pay at the time of their death except that they were under the age of 60. Based on information from DOD, CBO estimates that this provision would ultimately extend benefits to about 25,000 surviving spouses. We assume, however, that only half of those eligible spouses would learn of this provision and receive benefits in 1997, when costs are estimated to total about \$12 million. In 2002, we assume all 25,000 will be receiving the benefits. CBO estimates that payments will eventually total about \$57 million a year.

Use of Base Closure Proceeds. Section 2812 would allow DOD to use certain proceeds from the sale of base closure property for the construction of commissaries or facilities related to morale, recreation, or welfare activities. This provision would affect proceeds from the sale of any property that was acquired or constructed with commissary funds or nonappropriated funds and that is sold due to the base closure process. Under current law, these proceeds cannot be used unless appropriated by the Congress. By 2002, CBO estimates that spending under this section would total about \$15 million annually.

Retirement of Certain Officers. Section 532 would allow no more than 25 retired officers in each military department to be recalled to active duty. Under current law, the Army and Navy have recalled about 100 retired officers to active duty. This provision would force the retirement of about 150 people and would result in increased retirements costs of about \$5 million annually.

TABLE 2.—DIRECT SPENDING AND ASSET SALES IN S. 1745  
[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
DIRECT SPENDING						
Civilian Retirement .....	-20	-38	3	3	4	6
Surviving Spouses .....	12	38	52	54	56	57
Base Closure Proceeds .....	2	8	12	14	15	15
Retirement of Certain Officers .....	5	5	5	5	5	6
Bonuses Repayments .....	0	0	( <sup>1</sup> )	1	2	5
Other Direct Spending .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Total Direct Spending .....	-1	13	72	77	82	89
ASSET SALES						
Stockpile Sales .....	-70	-59	-64	-70	-75	-145
Sale of Naval Vessels .....	-72	0	0	0	0	0

TABLE 2.—DIRECT SPENDING AND ASSET SALES IN S. 1745—Continued

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Total Asset Sales .....	-142	-59	-64	-70	-75	-145

<sup>1</sup> Less than \$500,000.

Repayment of Separation Bonuses. Under current law, some servicemembers who leave the military and receive certain separation bonus payments must repay those amounts if they later receive veterans' disability compensation or military retirement. For these individuals retirement and compensation payments are withheld until the full amount of the bonus payment has been repaid. This provision would change the amount that must be repaid from 100 percent of the bonus payment to the net amount of the payment following federal income tax withholding, for separations from service occurring in 1997 or later. Thus, beneficiaries would begin receiving veterans compensation or retired pay sooner than under current law.

Additional veteran's compensation payments would begin in 1999. Near term costs would be small—less than \$500,000 in 1999 and \$15 million in 2002. Total costs for individual separating over the next six years would eventually amount to about \$70 million, but this total amount would not be reached for 10 to 15 years.

No data are kept on the number of individuals who receive separation payments and subsequently rejoin the military and qualify for retired pay. Such individual would most likely join and retire from the Selected Reserves. Reserve retirees do not receive retired pay until they reach age 62—more than 25 years after most would have received the initial separation payment. Any costs associated with this part of the provision would be small and would not appear for many years.

Miscellaneous Military Retirement Provisions. Four other provisions would change current law governing the military retired program including survivor benefits. None of these provisions would have significant costs because relatively few people would be affected or changes in benefit levels would be relatively small.

Section 515 would authorize reservists to receive disability retirement if they are injured during overnight stays associated with inactive-duty training.

Section 516 would allow certain members of the reserves to receive retirement-related credit if they participate in select educational programs and work in a specialty that is critically needed in wartime.

Section 531 would allow service members who are retired due to physical disabilities to receive retired pay based on the grade to which they would have been promoted had it not been for the onset of the physical disability.

Section 533 would authorize disability coverage for certain officers who are injured while attending educational programs on leave without pay.

Other provisions. The bill would give the President the authority to award the Medal of Honor to seven individuals. This award is accompanied by monthly payment of \$400, but the annual cost of all seven recipients would amount to less than \$500,000 per year.

The bill would allow the Secretary of Transportation to stop trying to collect amounts that Coast Guard personnel owed the government before they died on active duty. The forgone receipts would be considered direct spending. Both the number of people and the amount of collections would be small, however, and the cost of this provision would be less than \$500,000 annually.

The bill also contains a provision that would allow the government to recover the costs of compensation for certain military servicemembers who are unable to perform their military duties. If a third party is found liable for the circumstances under which the servicemember becomes incapacitated, the government would be able to collect and spend the money. Collections would increase but expenditures would rise by the same amount, so there would be no net budgetary impact.

#### Authorizations of appropriations

The bill authorizes specific appropriations of \$198 billion for 1997 for operation and maintenance, procurement, research, development, test and evaluation, nuclear weapons programs, and other DoD program. These authorizations fall under National Defense, budget function 050.

In addition, the bill would authorize specific appropriations for other budget functions: \$150 million for the Naval Petroleum Reserve (function 270), \$57 million for the Armed Forces Retirement Home (function 700).

The bill also contains both specific and implicit authorizations of appropriations for other military programs, primarily for military personnel costs, some of which extend beyond 1997. Table 3 contains estimates for the amounts authorized and the related outlays. The following sections describe the estimated authorizations shown in Table 3 and provide information about CBO's cost estimates.

Endstrength. The bill would authorize active and reserve component endstrengths for 1997 at a cost of \$68 billion. Endstrengths specifically stated in the bill for active-duty personnel would total about 1,457,500—about 500 more than in the Administration's request but about 24,200 below the level estimated for 1996. DoD reserve endstrengths would be authorized at about 901,900—about 900 more than in the Administration's request but about 28,900 less than the estimated 1996 level.

Also, the bill would authorize an endstrength of 8,000 in 1997 for the Coast Guard Reserve, which is the same as the 1996 level and the Administration's request; this authorization would cost about \$66 million and would fall under budget function 400, Transportation.

Compensation and Benefits. The bill contains several provisions that would affect military compensation and benefits.

Pay Raises and Quarters Allowances. The bill would authorize a 3.0 percent increase in the rates of basic pay and the basic allowance for subsistence for military personnel, at a cost of \$1.2 billion. The same section would also call for the basic allowance for quarters (BAQ) to increase by 4.0 percent. Under current law BAQ increases according to the military pay raise; consequently, the 3.0 percent pay raise authorized in this bill would raise BAQ by \$109 million. The provision that raises BAQ by the additional 1.0 percent would cost another \$36 million. Thus, BAQ would increase by \$145 million compared to 1996 rates.

Expiring Authorities. Several sections would extend for one year certain payment authorities that are scheduled to expire at the end of 1997. In some cases, renewing authorities for one year results in costs over several years because payments are made in install-

ments. Payment authorities for enlistment and reenlistment bonuses for active duty personnel would cost \$148 million in 1998. The cost of extensions of special payments for aviators and nuclear-qualified personnel would total \$49 million in 1998. Extension of various bonus programs for Selected Reserve personnel would increase costs by \$33 million in 1998. Finally, authorities to make special payments to nurse officer candidates, registered nurses, and nurse anesthetists would increase authorizations by \$12 million in 1998.

Housing Allowance During Duty at Sea. The bill would authorize payment of housing allowances to certain personnel in pay grade E-5 who are assigned to shipboard sea duty. This change would provide about 7,000 personnel with housing allowances averaging \$6,000 annually, for a total yearly cost of about \$40 million.

Grade Structure. The bill would authorize the number of active duty officers who can serve in certain pay grades in each of the military services. This change would not increase overall endstrength, but it would result in increased promotions. The provision has a cost, about \$35 million annually, because personnel serving in higher grades are paid more. Because the provision does not take effect until September 1, 1997, the cost is only \$3 million in 1997.

Special Pay for Dentists. In 1996, DoD will pay about \$40 million in incentive payments to dentists serving as officers in the military services. This bill would increase these incentives at a cost of \$8 million a year.

Moving costs. The bill would allow DoD to pay storage costs for motor vehicles when members cannot take the vehicle along on a move and to reimburse members for certain expenses when they pick up a vehicle at a port following government shipment. Together, these two provisions would cost \$4 million in 1997.

Family separation allowance. Current law authorizes payment of a family separation allowance (FSA) to servicemembers whose military duties prevent them from being able to live with their families. However, no allowance is paid when both spouses are servicemembers and there are not other dependents. This provision would pay FSA to military couples who are otherwise eligible for payments at a cost of \$2 million annually.

Adoption expenses. Under current law, DOD reimburses members of the military services for expenses incurred when they adopt children through state, local, or non-profit adoption agencies. The bill would extend this reimbursement to adoptions arranged privately under court supervision. Based on national adoption statistics, CBO estimates that this change would increase the number of adoptions eligible for reimbursement by about 50 percent, at an annual cost of \$1 million.

Military Personnel Authorization. The bill explicitly authorizes appropriations for military personnel of \$69,878 million in 1997. Because the estimated cost of other sections of the bill exceed this amount, this section has the effect of reducing costs by \$36 million.

Military Health Care Programs. The bill contains two provisions that affect military health care and that have significant budgetary impacts.

Dental Insurance. The bill would require the Secretary of Defense to establish a dental insurance program for military retirees

and their dependents. DOD could bear part of the cost of the premium payments. Assuming premium sharing at the same level as in similar programs currently available to active duty dependents and members of the Selected Reserve, this provision would cost about \$300 million annually.

**Composite Health Care System (CHCS).** The bill would direct the Secretary of Defense to make certain changes to the composite Health Care System (CHCS), an automated medical information system used by DOD. These changes would standardize CHCS so that the information systems of various military treatment facilities and private

contractors could exchange data about health care beneficiaries. No information is available from DOD about the potential costs of the changes, and CBO is unable to estimate the cost of this provision.

**Civilian Retirement Annuities.** Section 1121, which would index the average pay used to calculate deferred retirement benefits for certain DOD civilian employees, also results in costs that would be funded by appropriations. The 10-year amortization payments made by the DOD to the civilian retirement fund would total an estimated \$10 million in 1997 and \$60 million a year for each of the following years in the projection period. These

costs are offset by savings of about \$30 million in fiscal year 1997 and \$50 million in 1998 attributable to the provision that precludes severance payment to any individual taking advantage of benefits under this section.

**Public Health Service.** The bill would authorize payments to Public Health Service officers of certain special pay and allowances currently received by DoD military personnel. Payments would be extended to optometrists, non-physician health care providers, and foreign language specialists at a cost of \$4 million annually. These costs would fall under various budget functions.

TABLE 3.—AUTHORIZATIONS OF APPROPRIATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal years, in millions of dollars]

Category	1997	1998	1999	2000	2001	2002
Stated authorizations .....	198,120	0	0	0	0	0
Estimated outlays .....	106,579	51,760	21,615	9,373	3,938	2,084
Endstrengths:						
Function 050:						
Estimated authorization level .....	68,479	0	0	0	0	0
Estimated outlays .....	65,036	3,443	0	0	0	0
Function 400:						
Estimated authorization level .....	66	0	0	0	0	0
Estimated outlays .....	59	7	0	0	0	0
Compensation and Benefits (DoD):						
Military Pay Raise:						
Estimated authorization level .....	1,378	1,824	1,798	1,780	1,779	1,776
Estimated outlays .....	1,309	1,802	1,799	1,781	1,779	1,776
Expiring Authorities—Active Duty:						
Estimated authorization level .....	0	148	51	35	33	16
Estimated outlays .....	0	141	56	36	33	17
Expiring Authorities—Aviation and Nuclear Officers:						
Estimated authorization level .....	0	49	24	24	17	15
Estimated outlays .....	0	47	25	24	17	15
Expiring Authorities—Reserves:						
Estimated authorization level .....	0	33	27	18	13	9
Estimated outlays .....	0	31	27	18	13	9
Expiring Authorities—Nurses:						
Estimated authorization level .....	0	12	0	0	0	0
Estimated outlays .....	0	11	1	0	0	0
Duty at Sea:						
Estimated authorization level .....	40	40	41	41	41	41
Estimated outlays .....	38	40	41	41	41	41
Grade Relief:						
Estimated authorization level .....	3	33	34	35	36	37
Estimated outlays .....	3	31	34	35	36	37
Dental Special Pay:						
Estimated authorization level .....	8	8	8	8	8	8
Estimated outlays .....	8	8	8	8	8	8
Moving Costs:						
Estimated authorization level .....	4	5	5	5	5	5
Estimated outlays .....	4	5	5	5	5	5
Family Separation Allowances:						
Estimated authorization level .....	2	2	2	2	2	2
Estimated outlays .....	2	2	2	2	2	2
Adoption Expenses:						
Estimated authorization level .....	1	1	1	1	1	1
Estimated outlays .....	1	1	1	1	1	1
Cap on Military Personnel Appropriations:						
Estimated authorization level .....	-36	0	0	0	0	0
Estimated outlays .....	-35	-2	0	0	0	0
Health Care Provisions:						
Retiree Dental Insurance:						
Estimated authorization .....	( <sup>1</sup> )	283	296	309	322	337
Estimated outlays .....	( <sup>1</sup> )	212	293	306	319	333
Composite Health Care System (CHCS):						
Estimated authorization level .....	( <sup>1</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Estimated outlays .....	( <sup>1</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Civilian Retirement Annuities:						
Estimated authorization level .....	( <sup>1</sup> )	10	60	60	60	60
Estimated outlays .....	( <sup>1</sup> )	10	60	60	60	60
Public Health Service:						
Estimated authorization level .....	4	4	4	4	4	4
Estimated outlays .....	4	4	4	4	4	4
Total Authorizations of Appropriations:						
Estimated authorization level .....	268,069	2,452	2,351	2,322	2,321	2,311
Estimated outlays from authorizations for 1997 .....	173,007	55,280	21,615	9,373	3,938	2,084
Estimated outlays from authorizations for 1998–2001 .....	0	2,273	2,356	2,321	2,318	2,308

<sup>1</sup> The 1997 impacts of these provisions are included in the amounts specifically authorized to be appropriated in the bill.  
<sup>2</sup> CBO is unable to estimate the costs of this provision.

Panama Canal Commission. Title XXXV would authorize the Panama Canal Commission to spend any sums available to it from operating revenues or Treasury borrowing for operation, maintenance, and improvement of the canal in fiscal year 1997. This spending is considered discretionary, because the appropriation bill customarily establishes an obligation ceiling for this account. CBO estimates that Panama Canal Commission collections and outlays will be about \$624 million in 1997.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-

you-go procedures for legislation affecting direct spending or receipts through 1998. Because this bill would affect direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays .....	0	-1	13
Change in receipts .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Not applicable.

8. Estimated impact on State, local, and tribal governments: The bill contains no

intergovernmental mandates as defined in Public Law 104-4 and would impose no significant costs on State, local, or tribal governments. A number of the bill's provisions—such as those pertaining to cultural resource management, land transfers, and teacher and firefighter placement programs—would affect State, or local governments; however, none would create new enforceable duties or result in significant budgetary impacts on these entities.

9. Estimated impact on the private sector: This bill would impose no new Federal private sector mandates, as defined in Public Law 104-4.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Kent Christensen, Victoria Fraider, Raymond Hall, and Amy Plapp prepared the estimates affecting the Department of Defense; they can be reached at 226-2840. Kathy Gramp (226-2860) prepared the estimate for the Naval Petroleum Reserve. Deborah Reis (226-2860) prepared the estimate for the Panama Canal Commission. Wayne Boyington (226-2820) prepared the estimates for the costs of changes to civilian retirement programs.

State and local government impact: Leo Lex and Karen McVey (226-2885).

Private sector impact: Neil Singer (226-2900).

12. Estimate approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. NUNN. Mr. President, for those who may be listening, I believe there had originally been a vote at 9:15 that the leader had announced and now that the amendment, which was the SIMPSON amendment, has been disposed of and agreed to with the second-degree amendment that was accepted, so as far as I know—and the Senator from Idaho may want to add to this—there will be no vote on this amendment at 9:15 tomorrow morning.

The PRESIDING OFFICER. The Senator is correct; that vote was vitiated.

Mr. KEMPTHORNE. Mr. President, we are certainly in agreement that the vote which was ordered has been vitiated, or has been dealt with. We have not yet received final word from the majority leader as to whether or not he wishes to still have an early vote. We will know that very shortly.

At this point I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

#### AFRICAN-AMERICAN MEDAL OF HONOR NOMINEES

Mr. KEMPTHORNE. Mr. President, I rise today to pay tribute to seven unsung heroes of World War II. Although a half-century in the making, it is never too late to honor the bravery and heroism of our men and women in uniform. I view the nomination of seven African-American World War II heroes for the Medal of Honor with much admiration and pride. This is an honor that should have been bestowed many decades ago. The award acknowledges a job well done and is absolutely well deserved.

A 15-month study conducted by a team of military historians reviewed the nation's archives and interviewed veterans to find out why no black service member received the Medal of Honor during World War II. Nine black

soldiers were awarded the second-highest honor—the Distinguished Service Cross. I was surprised, however, to learn that the study found no evidence that any African-American soldier in World War II was ever nominated for the Medal of Honor, though commanders, comrades and archival records indicate that at least four of the seven nominees had been recommended. This same report found evidence that the segregation of units by race often complicated training, exacerbated relations between officers and enlisted men and their units, and undermined the morale of these units in both subtle and obvious ways.

The Senate Armed Services Committee and the House Committee on National Security approved a provision in the Defense Authorization bill that would authorize the Secretary of the Army to award the Medal of Honor to African-American former service members who have been found by the Secretary of the Army to have distinguished themselves by gallantry above and beyond the call of duty while serving in the U.S. Army during WWII.

It is truly unfortunate that only one of the seven nominees—Vernon J. Baker—is still living. On April 5, 1945, then First Lieutenant Baker led a platoon over "Hill X" in Italy. Along the way, he and his men destroyed six machine gun nests, two observer posts and four dugouts while the Germans rained bullets down on them. Out of 25 men, 7 Americans survived while 26 Germans were killed in the action. "Hill X" had to be taken in order to capture a castle that guarded the town of Montignoso along Highway 1. The route was key to the Allies push north and its capture helped to hastened the end of WWII. First Lieutenant Baker received the Distinguished Service Cross—our Nation's second highest award—for his actions. And now at long last he will receive the appropriate recognition—the Medal of Honor the highest honor that we can bestow.

Mr. Baker, although raised in Wyoming, moved to St. Maries, ID, in 1987 because he enjoys the State's hunting and great outdoor opportunities. I am proud of and thankful for the many sacrifices that our men and women in uniform have made in the past and continue to make around the world. We are certainly proud that Mr. Baker now resides in the State of Idaho, and that he and the other nominees will now rightfully receive the Congressional Medal of Honor.

#### HONORING THE DASCHLES CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. REID. Mr. President, it is my distinct pleasure to rise today to honor Sebastian and Elizabeth Daschle, who celebrated their 50th wedding anniversary on January 16, 1996. Their lives and strong commitment to one another serve as an example to the entire Nation.

Betty Meiers and Sebastian "Dash" Daschle were married on a mild winter day in Roscoe SD. Two days later, they were hit by the worst blizzard of the year. Together, the Daschles weathered the storm and have continued to stand beside one another through 50 years of surprises and joys.

The Daschles devotion to one another began early, with Betty waiting for her sweetheart to return home from World War II so they could be married. Since fabric was scarce at the time, Betty's wedding dress and the flower girl's dress were made out of a parachute brought home from the war. While the fabric was unconventional, it was plentiful and provided enough material for Betty's dress to have a long, elegant train. Betty and Dash took their vows on the day of Betty's parents 25th anniversary and, for 30 years, the two couples jointly celebrated their happiness. Clearly, commitment and lasting love run in the family.

Following the wedding, the young couple moved to Aberdeen, SD, to make their home. After an unsuccessful search for a place to live, they had to install plumbing on the top floor of a house to create a makeshift apartment. Betty's father and brother built the Daschles' first house in 1948. In 1952, they built a bigger home on the same lot and have happily lived there ever since.

Through the years, Dash worked as a bookkeeper for Nelson Auto Electric, and eventually worked his way to become a part-owner of the business. The Daschles are proud parents of four boys—including my friend and colleague, the distinguished minority leader Senator TOM DASCHLE. The Daschles now delight each day in the joy of their grandchildren.

For the Daschles, a promise made was a promise kept. Their dedication to their vows and commitment to strong family ties serve as a model for families across America.

I congratulate the Daschles on this achievement, and wish them continued happiness in their lives together.

#### SALUTE TO THE PERFORMING ARTS

Mr. GRASSLEY. Mr. President, when I think of Iowa, I envision lush, rolling hills; wide, blue skies; and rich, black soil. Located in the heartland of America, Iowa's bounteous fields and streams feed the world. I'm sure most people across the country and throughout the world associate my State with its exceptional agricultural products and productive farmland.

But today, I am going to share with America a different chapter of the Iowa story. Perhaps one that many already have read about or seen on the Big Screen—and that is, Iowa's contributions to film making and the performing arts. A handful of our Iowa-born friends have risen to celebrity status on TV, on the silver screen, and on stage.