''§ 2161. Joint Military Intelligence College: master of science in strategic intelligence; bachelor of science in intelligence

''Under regulations prescribed by the Secretary of Defense, the President of the Joint Military Intelligence College may, upon recommendation by the faculty of the college, confer the degree of master of science in strategic intelligence and the degree of bachelor of science in intelligence upon the graduates of the college who have fulfilled the requirements for such degree.''.

(b) CONFORMING AMENDMENT.—The item relating to section 2161 in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

''2161. Joint Military Intelligence College: master of science in strategic intelligence; bachelor of science in intelligence.''.

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY OF LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS.

Section 506(b) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974) is amended by striking out ''for fiscal years 1996 and 1997'' and inserting in lieu thereof ''for fiscal years 1998 and 1999''.

SEC. 503. MISUSE OF NATIONAL RECONNAISSANCE OFFICE NAME, INITIALS, OR SEAL.

(a) IN GENERAL.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following:

''§ 426. Unauthorized use of National Reconnaissance Office name, initials, or seal

''(a) PROHIBITED ACTS.—Except with the joint written permission of the Secretary of Defense and the Director of Central Intelligence, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity, in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary or the Director, any of the following:

''(1) The words 'National Reconnaissance Office' or the initials 'NRO'.

''(2) The seal of the National Reconnaissance Office.

''(3) Any colorable imitation of such words, initials, or seal.

''(b) INJUNCTION.—(1) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice.

''(2) Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.''

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that subchapter is amended by adding at the end the following:

''426. Unauthorized use of National Reconnaissance Office name, initials, or seal.''.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 939 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. LOTT. Mr. President, I am very pleased to be able to ask unanimous consent that the Senate now turn to the consideration of Calendar No. 88, S. 936, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 936) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, for the information of all Senators, then, the Senate is now considering the defense authorization bill. Several amendments are expected to be offered to the bill; therefore, votes can be expected throughout the remainder of the afternoon and into the night. We will have to get started and see what amendments are available, and then we will expect some votes, but we would like to get as much work done today as we can. And that could take us into the night.

Also, I want to make clear that we do intend for the Senate to resume consideration of the bill on Friday. I do expect rollcall votes on amendments relative to the DOD bill, at least until the noon hour on Friday. But, again, that will depend on exactly what amendments are pending. We recognize Senators do have commitments to go back to their States tomorrow afternoon, and we will try to accommodate that.

But I do think we need to get some work done on this important legislation. A lot of effort has gone into working out a way to be able to bring the DOD authorization bill to the floor. I think we can make some progress, and I encouraged the ranking member and the chairman to see right away if they could get some finite list of amendments that might want to be offered and be considered. Maybe we can get some understanding of when we could get a final vote on this legislation when we come back after the recess.

Next week, we again do intend to bring up the reconciliation spending bill on Monday, as I discussed with the acting minority leader, and we hope to run off time on that bill on Monday. We will talk further about exactly what will happen on Monday. We will do that tomorrow probably just as we wrap up consideration of this bill, complete the spending reconciliation bill Tuesday afternoon or Wednesday, and then go to the tax bill on Thursday, and stay until we finish the tax cut bill.

I do not know exactly how long that will take. We have a very bipartisan effort underway in the Finance Committee. The vote on the spending bill was 20 to 0, and we are working together right now on the tax cut provisions also. I expect it will be a bipartisan process and a bipartisan bill. It is possible it may not take that long, but it is very important legislation and we need to get it done, completed next week—both of those bills.

Assuming we cannot complete the DOD authorization bill tomorrow because of some concerns, and at least one issue that may come up, I know the Democratic leader would want to be here for that, so we may not be able to take that up until after we come back from the recess.

I want to thank the Members for their cooperation in getting this legislation before the Senate now. And I do want to announce that we will expect to complete action on it the week that we come back. Hopefully, it will not take all week, because we have a lot of other bills now that are ready for consideration. It will be the pending business when we come back—if we do not complete it tomorrow—when we come back from the recess.

I hope Senators will come to the floor now and offer their amendments. Some Senators were inquiring, ''Why do we need to vote during the middle of the afternoon on Thursday?'' I would like to suggest we have votes the rest of the day into tonight, on Friday, and we be prepared next week to work long hours, Monday, Tuesday, Wednesday, Thursday, and Friday, to get our work done. Then we can go to the recess period and feel good about our production.

Would the Senator from Kentucky have any comments?

Mr. FORD. No comments, Mr. President. I appreciate the courtesy that the majority leader has shown me in the absence of the Democratic leader. I am trying to fill in as best I can, and hopefully we can be accommodating. And I am sure the majority leader will be accommodating to us. We both have to work together. I think Monday we can work out something that would be amenable to both sides. Hopefully, tomorrow we might look at the DOD authorization bill with amazement.

Mr. LOTT. Yes.

Mr. FORD. We hope we can do that, I am sure. But there is one amendment that we will have to wait until into July, so we are not going to finish. We could be very close. I hope we could find out how many amendments are out there and maybe get some kind of resolution to how many we might have.

I will be glad to help the majority leader with that.

Mr. LOTT. That would be very helpful, Mr. President.

I thank Senator FORD.

It is a pleasure for me to yield the floor to the chairman of the committee so we can begin the debate.

Mr. THURMOND. Thank you very much.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to take a few minutes before the Senate begins consideration of the fiscal year 1998 Defense authorization bill to explain why the Armed Services Committee filed two separate Defense authorization bills.

Yesterday, as most of you observed, there was objection to a consent request to take up S. 924, the bill the committee reported to the floor for consideration. This objection was based on a number of provisions involving public depots—specifically—Air Force Logistics Centers. Senator INHOFE, the chairman of the Readiness Subcommittee included these provisions in his subcommittee markup. They were approved by the subcommittee and the full committee in the markup and therefore were included in the bill which the committee voted unanimously to report to the floor.

Senators from other States who did not agree to these provisions would not consent to S. 924 being considered by the Senate. I believe all Senators acted in the interests of their states and their perception of what was in the best interests of the Government. This issue affects a great many jobs in all of these States and is an important economic issue within each State.

I want to commend Senator INHOFE for stepping forward and offering to strip these provisions out of the bill. The committee met yesterday and, at his request, reported out a bill that does not include the provisions that provided the basis for objection. Therefore, the Senate can proceed to consideration of the Defense authorization bill, now S. 936. The committee did not publish a report to accompany S. 936 and deems Senate Report 105–29, minus sections 311, 312, and 313, as the report to accompany S. 936.

I understand the importance of this issue to each of you. I want to especially thank and commend Senator INHOFE for his courageous and unselfish act in moving to remove the basis for objection so that this bill, which is so critical to our Armed Forces and our national security, can be considered by the Senate.

I want to emphasize that all Senators reserve their rights to offer amendments on this issue on the floor while the bill is being considered. I understand that while the bill is on the floor, Senators and staff will continue to search for a solution to this very difficult issue.

I want to thank all Senators for their consideration. We hear a lot of talk on this floor about the loss of comity in the Senate. I believe this is an indication of how Senators can act cooperatively on difficult issues. In this case, it took a courageous Senator, Senator INHOFE, to make the difference and I thank him again on behalf of the committee.

Mr. INHOFE. Mr. President, first of all, let me thank the very distinguished chairman of our committee, Senator THURMOND, for the hours and hours that he put in and the way he ran the meetings. He was very fair and open. I appreciate personally very much his remarks that he just made. Thank you, Senator THURMOND.

As chairman of the readiness subcommittee I want to thank Senator ROBB who is the ranking minority member. We took care of a lot of the problems out there. I must say, Mr. President, that I think that our readiness is desperately underfunded. We did the very best we could in this bill with the resources we had but we are not going to be able to continue on the course we are on right now. We have problems.

As I go around the Nation, and around the world, actually, and visit bases, I have been in bases in the State of Alabama, and throughout the Nation, as well as some of the foreign bases, and I can tell you we are in an OPTEMPO rate which is unacceptable. Our divorce rates are going up, our retention rates are going down, and we need to do a better job of funding not just readiness but modernization and quality of life. I am very concerned about quality of life. As I go around I find that some of these kids are working about double the normal tempo that we have found to be acceptable. While they can sustain it for a while, and while the troops can sustain it, the spouses cannot. There will come a point in time where they will have to have more time with their families and have a more civil type of existence. We cannot do that with the way this administration has not allocated the proper amount of money to keep our system going to meet the minimum expectations of the American people. That is, to be able to defend America on two regional fronts.

Having said that, I say again that we did the very best that can be done, and in our readiness subcommittee we were able to reinstate money for flying hours. We are losing pilots on a daily basis to the airlines. So we will have to do a lot more than we have done, but we have done the very best that we can.

Let me make one comment about the depot issue. I know it is a difficult issue. A few years ago when one of the House Members, Congressman ARMEY, I believe, originally came up with the whole idea of the Base Realignment and Closing Commission concept, which means we know we cannot reduce excess infrastructure by doing it through the normal political process because everybody is concerned about jobs in their States. So they appointed an independent commission to be totally free from political influence to make recommendations and they went through, with round one in 1991, in 1993 another round, in 1995 a third round, and in doing this there is hardly a Senator in this Chamber that did not have major installations that have closed in their States. Certainly the State of Alabama lost a major one, and there were two major installations in the very State from which our chairman comes from, South Carolina, and virtually all the other States. So, we all bit the bullet.

However, it appears there is an effort now to disregard that and leave air logistic centers in California as well as in Texas open. While it is a difficult thing to go through we have to accept the fact, sooner or later, that you cannot have in the case of any specialty area, and specifically in this case, air logistic centers where you have five operating at 50 percent capacity. You cannot continue to do that. So they recommended closing two of them that they determined to be the least efficient of the five and transferring that workload to the remainder which would be around 75 to 80 percent capacity.

That makes a lot of sense. According to the GAO, that would save $468 million a year, and over 5 years, Mr. President, that is $2.34 billion. When I think about that and think about where those dollars are desperately needed in quality of life, in readiness, in force strength, in modernization, it breaks my heart to think we are maybe willing to just throw it away.

So I did make the gesture that the chairman referred to and no one asked me to do it. I felt it was the right thing to do because we have to have an authorization bill. Under the rules of the Senate, it is very possible for one Senator to keep a bill from coming up. I did not want that to happen to Senator THURMOND's bill. I did not want that to happen to our defense establishment. So I pulled the objectionable portions of how we treat depot maintenance out of the bill, but at the same time I announced I have every intention of reestablishing language that will accomplish what we want to get accomplished, and that is to be able to save that money that the GAO states is at risk.

So I do not know whether it will be an amendment on the floor by which I will try to do this or in conference but I think everyone understands clearly there will be an effort to reinstate language that we have had to take out.

With that, I will say this is a good bill and I want to move forward with it. I want to get a chance to really consider these amendments, and I know there will be a lot of amendments.

As the new chairman of the Readiness Subcommittee of the Armed Services Committee, I have a devoted a significant amount of time during the past few months traveling to military bases to discuss issues that impact the readiness of the Armed Forces and their ability to carry out assigned missions: European theater, including installations in England, Italy, Bosnia, Hungary; Camp Lejuene, NC; Fort Hood, TX; Corpus Christi Naval Base, Texas; Dyess Air Force Base; and Fort Drum.

We have also received testimony from the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the service chiefs, the unified commander-in-chief, and several other high ranking military and civilian officials from the Department of Defense.

While the administration claims to have provided strong support for training, maintenance, supplies and other essentials needed to keep U.S. Forces ready to fight and win decisively, its budget request reduced real funding for these areas by $1.4 billion.

Nothing I've heard during my base visits has made me feel like we are as ready as the administration asserts.

At each unit, maintenance personnel have resorted to cannibalizing good equipment to keep other equipment operating. These additional maintenance actions result in 12-hour average work days for our young troops—only because of a lack of good spares.

If readiness truly remains the administration's highest priority, then I have to wonder about the shape of the other accounts—modernization, quality of life, research and development—are they even more seriously underfunded?

Military units and the personnel within them, are being overused and underfunded to the point that I am afraid we are returning to the days of the hollow force. And the military personnel with whom I've spoken agree.

It is also apparent to me that our Forces are being stretched to the limit to support humanitarian and contingency operations such as the deployment of IFOR/SFOR in Bosnia.

Our high OPTEMPO is particularly troubling, since it results in more than just time away from home for the troops—it results in more equipment wear and tear; higher than planned consumption of spares; and canceled training.

At every base visited, I heard concerns about the quality of equipment.

Our lack of spares has caused us to cannibalize perfectly good engines to keep others operating, requiring my maintenance troops to work even more hours to keep our planes flying. Our normal work week is now 50—56 hours/week.—Lakenheath, AF Maintenance Officer.

Letter to Senator THURMOND from a non-commissioned officer:

We have old, worn out equipment that is difficult to maintain because we cannot always get the parts needed to repair them. It is the same way wherever we go; outdated, broken equipment, a lack of spare parts, overworked and underpaid GIs, resulting in an inability to perform our mission.

I do not question the fact that our military forces are the finest in the world. They are clearly performing their assigned missions superbly and they are capable of defeating any potential enemy of today.

But what about tomorrow? If this trend continues, I am concerned about how long we can maintain the present pace of operations. I am not alone in my concerns—they were echoed by many of the military personnel I had the pleasure of meeting. One officer summed it up nicely when he said ''the storm clouds are on the horizon.''

The Pentagon continues to omit these concerns from official reports we receive from the Committee—to the contrary, their reports reports indicate readiness levels are at an all time high. I find the remarkable discrepancy between what I see in the field and the official statements coming from the administration and the Pentagon very troubling. And I am concerned that unless we take the necessary steps to correct these problems now, our military capability will erode as we enter the 21st century.

The most troubling challenge is the need for additional modernization funding, for lack of new procurement has dramatic affects across all the other accounts: As our military equipment ages, it requires increased maintenance and thus more operations and maintenance [O&M] funding; since additional funding is not available to increase the O&M accounts, dollars are often robbed from training accounts; unfortunately, as the equipment ages, the problem will only get worse, and we will find ourselves in a death spiral.

The funding crisis is further aggravated by the continual deployment of forces to contingency operations such as Southern Watch and Provide Comfort. I have spoken many times, about the huge cost of these operations—between $6.5 and $8 billion for Bosnia alone—and the fact these expenditures will come at the expense of our defense budget.

While dollars are the most obvious issue in defense, I suggest that what we often overlook is the huge burden we are placing on our people and our equipment. We are wearing out our equipment and pushing our people so hard they no longer have time to train.

I heard comment after comment during my visits:

The high OPTEMPO at which our personnel are operating is definitely causing a strain on our people's families. Ultimately, this strain also affects my pilots' job performance.—Marine F—18 Squadron Commander.

''The number of days we fly to support Bosnia doesn't leave us with enough time to train. The only areas where we get training from our Bosnia missions is in reconnaissance and close air support. The rest of our training areas are suffering.''—Air Force F–16 Squadron Commander.

''Our average crew goes TDY 150—160 days per year—the Air Force goal is 120 days. These excessive taskings are straining my peoples' families as well as impacting the ability of my crews to receive adequate training.''—Air Force C—130 Squadron Commander.

Clearly, there are situations when the deployment of the U.S. military is necessary to protect America's vital interests. Unfortunately, it appears the Clinton administration will continue to keep a very low threshold for determining the need to commit our forces.

My friends, the United States cannot force its military to expend more resources than we are willing to provide and still expect it to remain a viable force for the future when it may be called upon to defend American interests. I am concerned, the committee is concerned, our military personnel are concerned, and the American people should be concerned. If we are to avoid losing our military edge, we must act decisively and begin providing the resources necessary to support the missions we continue to ask of our Armed Forces.

Mr. COVERDELL. Will the Senator yield?

Mr. INHOFE. I am happy to yield to the Senator.

Mr. COVERDELL. Senator, as I understand, you have been trying to facilitate this very important piece of legislation in conjunction with the distinguished chairman from South Carolina. I have been a vigorous supporter of your efforts to fulfill the BRAC recommendations to the Congress, the President, and the Nation, which called for there to be three logistic Air Force bases. Your efforts are to fulfill that recommendation, to make that aspect of the Base Realignment and Closure Commission fulfilled. It has been abrogated by the administration.

Mr. INHOFE. That is correct.

Mr. COVERDELL. And it is your intention, as I understand our conversations, to continue to pursue an appropriate conclusion to this avoidance of BRAC by the administration during the deliberations, the ongoing deliberations of the debate on the Department of Defense authorization?

Mr. INHOFE. That is my intent.

Mr. COVERDELL. The Senator from Oklahoma can be assured that he will have my undevoted attention to accomplishing this because not only have we lost half a billion dollars because the Base Realignment and Closure Commission was voided by the administration, we have lost the integrity of the discipline itself. It should never occur again in that form.

I suspect there will be a debate on that on this bill. The Base Realignment and Closure Commission has been sullied because it was a strict discipline that the people, the citizens of the country had to live by, the Congress had to live by, could not amend, gave up its prerogatives to amend, could only vote up or down, and then we found the administration could void it for whatever reason. That means that system no longer is of sound integrity, so if it is ever visited again it will have to be in a form that includes the President—not just the people and the Congress.

I assume the Senator from Oklahoma will agree with that.

Mr. INHOFE. I do agree with that. I want to give my assurance to the Senator from Georgia I have been living with this problem for a long period of time. We need an ultimate solution. In the interim, we need to make sure the recommendations of the BRAC Commission—that we protect the integrity of that system and they be acted upon—that we go ahead and fulfill the

expectations. Again, it is not just the money involved here.

I think about all of the Senators who had closures, and if we start making exceptions now I think it is very unfair to every Member of this Senate body who has had a closure to now say for political reasons we can take exceptions.

I know it is controversial when you say this, but if you just read the statements that the President made in August of 1996 right before the election, saying we will make sure those jobs do not leave, so what does that mean? It means regardless of what they do, whether it is competition or anything else, if the jobs stay in those areas we will still have five air logistic centers, so you have the same problem operating at 50 percent capacity.

Mr. COVERDELL. One last comment. It is my understanding that the total number of jobs in the two bases that BRAC asked be closed were 33,000 at the time of the recommendation and today, almost 2 years later, it is 31,000.

Mr. INHOFE. That is correct. In responding to the Senator from Georgia, we had a committee meeting on this with the GAO and we looked at how much that has cost so far. That has been 2 years ago. And still, almost the same number are there.

Now, there are other problems that come in, as the junior Senator from Utah brought up yesterday, that we are having a flight of expertise out of these areas, getting into other occupations, and if we do not do something quickly we are not going to be able to ever solve this problem.

I think for that reason we need to address this, address it in this bill. But again, to protect the bill so that we would have an authorization bill, I, personally, was willing, as you were willing, to take that out so we could come to the floor and take it up and work in a different work form—it may be the same form or a different form—but take it up as a floor amendment or in conference.

Mr. COVERDELL. I thank the Senator from Oklahoma, and I yield the floor.

Mr. THURMOND. Mr. President, national security remains the federal government's most important obligation to its citizens. The Committee on Armed Services recognizes its critical role within the Senate in carrying out the powers relating to national security which are granted to Congress in the Constitution. These include the power to: declare war; raise and support Armies; provide and maintain a Navy; make rules for the government and regulation of the Land and Naval Forces; provide for organizing, arming and disciplining the militia; give its advice and consent to treaties and to the nominations of officers of the United States.

The members of the committee further understand the importance of the committee's jurisdiction within the Senate over matters relating to the common defense, the Department of Defense, the Military Departments, and the national security programs of the Department of Energy.

The Armed Services Committee completed its markup last Thursday afternoon after 4 days of careful deliberation, voting unanimously to approve of the fiscal year 1998 defense authorization bill. I believe we have a good bill with a better balance between personnel quality of life programs, readiness, and modernization.

The budget agreement reached this year represents a historic endeavor by the Congress and the President to reach a balanced budget by fiscal year 2002. While the budget agreement protects our military forces from unrealistic and unwise cuts, the committee remains concerned that the funding levels for defense may not provide sufficient funds to adequately sustain over time the personnel, quality of life, readiness, and modernization programs critical to our military services. The committee intends that the achievement of a balanced budget will not adversely affect the readiness and capabilities of our military forces and will endeavor, within the funds agreed upon for defense in the budget agreement, to ensure their essential readiness and capabilities. Changes in the world situation or threat, and adverse impacts from funding shortfalls on general readiness or on vital operational capabilities, are among the trends that might indicate a requirement for additional funds for defense. In such cases, the committee believes that national security requirements must take precedence over lesser priorities within the budget.

In this bill, the committee worked to achieve a more appropriate balance between near-term and long-term readiness through investments in modernization, infrastructure, and research; maintenance of sufficient endstrengths at all grade levels and policies supporting the recruitment and retention of high quality personnel; fielding of the types and quantities of weapons systems and equipment needed to fight and win decisively with minimal risk to our troops; and ensuring an adequate, safe and reliable nuclear weapons capability.

The committee worked to protect the quality of life of our military personnel and their families. Quality of life initiatives include provisions designed to provide equitable pay and benefits to military personnel, including a 2.8 percent pay raise to protect against inflation, and the restoration of appropriate levels of funding for the construction and maintenance of troop billets and military family housing.

The committee remains concerned about military readiness. To ensure that U.S. Armed Forces remain the preeminent military power in the world, readiness requirements must be adequately funded.

The committee is also concerned about the continuing migration of modernization funds to operations and maintenance accounts. We have consistently recommended a more robust, progressive modernization effort which will not only provide capabilities requisite for future military operations, but will lower future operational and maintenance costs as well.

The committee has increased investment in the broad spectrum of research and development activities to ensure that U.S. military forces remain superior in technology to any potential adversary. We believe that effective development of advanced technologies will be a key factor in determining the victors on future battlefields. A program of stable, long-term investment in science and technology will remain vital to United States dominance of combat on land, at sea, in the air, and in space.

The committee also directed a more detailed programming and budgeting process for the reserve components. The utilization and effectiveness of reserve component forces are dependent on proper funding to enhance their readiness and capabilities.

Finally, the committee sought to accelerate the development and deployment of theater missile defense systems and to provide adequate funding for a national missile defense system to preserve the option to deploy such a system in fiscal year 2003. This bill also supports expeditious deployment of land and sea-based theater missile defense systems to protect United States and allied forces against the growing threat of cruise and ballistic missiles.

The committee intends that, within the balanced budget agreement, we will provide adequately for our men and women in uniform to defend our Nation. The committee will continue to examine the adequacy of the funds we allocate to our national security. At the same time, we must search for ways to improve the efficiency and effectiveness of our defense establishment—especially in the support structure—so that we can achieve savings to devote to the cutting edge of our military combat forces.

The national defense authorization bill for fiscal year 1998 reflects a bipartisan approach to our national security interests, and provides a clear basis and direction for U.S. national security policies and programs into the 21st century.

Let me make it clear to my colleagues—we do not have much time to complete action on this bill. If you have amendments, please come to the floor and introduce your amendment now. Remember that if you are adding anything to this bill that requires additional funding, you must provide a legitimate offset.

Mr. President, I want to close by thanking all the Senators on the committee and commend them for their hard work on this bill. All 18 Senators on the committee voted for the bill.

I also want to thank the staff on both sides and commend them for their hard

work on the bill. I also ask unanimous consent that a list of members of the Armed Services Committee staff be included at this point in the RECORD in recognition of their dedication and hard work.

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

SENATE ARMED SERVICES COMMITTEE STAFF

Les Brownlee, David S. Lyles, Charlie Abell, Tricia L. Banks, John R. Barnes, June Borawski, Lucia Monica Chavez, Christine Kelley Cimko, Christine E. Cowart, Daniel J. Cox, Jr., Madelyn R. Creedon, Richard D. DeBobes, Marie Fabrizio Dickinson, Shawn H. Edwards, Jonathan L. Etherton, Pamela L. Farrell, Richard W. Fieldhouse, Cristina W. Fiori, Jan Gordon, Creighton Greene, Patrick ''PT'' Henry, Larry J. Hoag, Andrew W. Johnson, Melinda M. Koutsoumpas, Lawrence J. Lanzillotta, George W. Lauffer, Peter K. Levine, Paul M. Longsworth, Stephen L. Madey, Jr., Michael J. McCord, J. Reaves McLeod, John H. Miller, Ann M. Mittermeyer, Bert K. Mizusawa, Jennifer L. O'Keefe, Cindy Pearson, Sharen E. Reaves, Sarah J. Ritch, Moultrie D. Roberts, Steven C. Saulnier, Cord A. Sterling, Scott W. Stucky, Eric H. Thoemmes, Roslyne D. Turner, Amy M. Vanderwerff and Jennifer L. Wallace.

Mr. THURMOND. Mr. President, I believe we have a good bill and I urge all my colleagues to support it.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that the privileges of the floor be granted to the following members of the Armed Services Committee staff during the pendency of S. 924, the national defense authorization bill for fiscal year 1998, for today, each day the measure is pending and for rollcall votes thereon:

Les Brownlee, Charlie Abell, Tricia L. Banks, John R. Barnes, Lucia Monica Chavez, Christine Kelley Cimko, Christine E. Cowart, Daniel J. Cox, Jr., Madelyn R. Creedon, Richard D. DeBobes, Marie F. Dickinson, Shawn H. Edwards, Jonathan L. Etherton, Pamela L. Farrell, and Richard W. Fieldhouse.

Cristina W. Fiori, Jan Gordon, Creighton Greene, Gary M. Hall, Patrick ''PT'' Henry, Larry J. Hoag, Andrew W. Johnson, Melinda M. Koutsoumpas, Lawrence J. Lanzillotta, George W. Lauffer, Peter K. Levine, Paul M. Longsworth, David L. Lyles, Stephen L. Madey, Jr., and Michael J. McCord.

J. Reaves McLeod, John H. Miller, Ann M. Mittermeyer, Bert K. Mizusawa, Jennifer L. O'Keefe, Cindy Pearson, Sharen E. Reaves, Sarah J. Ritch, Moultrie D. Roberts, Steven C. Saulnier, Cord A. Sterling, Scott W. Stucky, Eric H. Thoemmes, Roslyne D. Turner, Amy M. Vanderwerff, and Jennifer L. Wallace.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I join the chairman of the Armed Services Committee in bringing S. 936, the national defense authorization bill, to the floor, and I want to congratulate the Senator from South Carolina for the extraordinary effort he has put in on this bill. He has really guided this bill through thick and thin, so that we are in a position where we can bring this bill to the floor. It is his commitment and his energy that he devotes to national defense that has made this possible. I congratulate him on that.

I want to reiterate the comments of the chairman of the committee that we are here debating S. 936, which is the bill that was reported yesterday. Now, this bill is almost identical to S. 924, which was the version of the defense authorization bill that was reported earlier this week. The exception is that the bill before us does not contain certain provisions relative to depot maintenance that were in the earlier bill. That has been the subject of a number of colloquies here this afternoon.

This bill meets the guidelines of the budget agreement and the fiscal year 1998 budget resolution. The members of the committee didn't agree on every provision; we never do, of course. There are several critical areas where I believe this bill needs to be improved. I will be working to make these improvements during the debate and during the conference. But despite the few disagreements that existed, there was—again, as this committee traditionally does—a very strong sense of bipartisanship and a spirit of cooperation that permeated the discussions and the markups. I want to join my friend, the chairman of the committee, in thanking all of the members of the committee and the staff for the hard work put up to get this bill to this point.

The chairman has summarized major provisions of the bill, and I want to take a few moments to give my perspective on some of the key provisions.

First, relative to the implementation of the quadrennial defense review recommendations, for the most part, this bill is consistent with the administration's defense policies and programs. The budget agreement this year demonstrated that there is a growing consensus between the President and the Congress over the level of defense spending for the next 5 years. It is not going to be possible, at these funding levels, to maintain today's force levels at their current readiness posture, provide the pay and the quality of life for our military members and their families that they deserve and that we are obligated to provide, and still to modernize our forces to meet possible future threats. We are not going to be able to do all that at the agreed-upon funding levels.

In my view, our forces must continue to have the technological edge over any potential adversary. In order to modernize our forces, we are going to have to accept, in my judgment, a somewhat smaller force in the future. But there are encouraging indications that technology is going to allow a smaller force to have the same or even greater lethality and combat effectiveness as our forces have today.

The recently completed quadrennial defense review begins to make some of the tradeoffs that we are going to need to make to be able to modernize our forces. In several important respects, this bill begins to implement the requested recommendations. For example, the bill reduces active duty personnel strength for the military services by 36,000 below the current levels and reduces Reserve component strength 16,000 below current levels.

The bill supports a major Army initiative, which was recommended at the quadrennial defense review, by increasing funding by approximately $150 million for the Army's Force 21 initiative. Last April, I visited the Army's advanced war-fighting experiment at the National Training Center. I saw, firsthand, the tremendous potential of the advanced situational technologies the Army is developing in their Force 21 initiative. The QDR recommended speeding up the fielding of these technologies, and the committee bill supports this important effort.

I may say that a number of our colleagues visited the center as well. I know the Senator from Indiana, for instance, also visited the National Training Center, and he is the chairman of our subcommittee. He was also very deeply impressed by the potential of these technologies, and he is primarily instrumental, I would say, for the increased resources that we are devoting to this initiative. I have been happy to support that effort. I believe very strongly in them. But I want to give credit to Senator COATS for the energies he has shown in this regard.

In order to be able to afford the modernization program for the military services outlined in the quadrennial defense review, it is important that the Congress and the Defense Department carefully limit weapons acquisition programs to only the levels necessary to meet the future requirements of the military services. In this regard, I am pleased that our committee included a provision prohibiting future production of B–2 bombers beyond the 21 currently planned for the Air Force. We don't need and we can't afford more B–2's.

Finally, Mr. President, in this area, we have heard from a number of Senators this year expressing concern over the levels of procurement funding for the National Guard and Reserve components.

The committee bill authorizes a total of $653 million above the budget request to buy equipment for National Guard and Reserve units. But now I want to turn to several areas of concern that I have with this bill.

First, on base closures: I am disappointed that the committee could not agree on a process for future base closures in the Department of Defense. Although there was strong support in the committee for more base closures, the amendment to authorize two additional base closure rounds—one in 1999 and one in 2001—failed on a 9 to 9 tie vote. I believe that the case for closing more military bases is clear and compelling.

From 1989 to 1997 the Department of Defense reduced total active duty military end strength by 32 percent. That figure is going to grow to 36 percent by the year 2003, as a result of the quadrennial defense review. So we have cut the size of our forces by 36 percent as of the year 2003, and already by 32 percent.

But even after the four base closure rounds, the domestic military base structure in the United States has been reduced by only 21 percent. And therein lies the problem. We have more structure than we need in our bases. So both the QDR, quadrennial defense review of the Department of Defense, and the national defense panel of outside citizens that we have selected to review the QDR division—both the QDR and that outside defense panel—have concluded that further reductions in the DOD base structure are essential to free up money that we need to modernize our forces.

Because we have to make some very difficult choices here, one of the critical choices is whether or not we are going to continue to keep excess structure when we are shorting modernization funding. And on June 5 the Armed Services Committee received a letter signed by all six members of the Joint Chiefs of Staff. The chairman, the vice chairman, the four service chiefs all signed one letter. It is rather unusual. But they did it in this case because of the strength of their views. And they urged us in this letter to ''strongly support further reductions in base structure proposed by the Secretary of Defense.''

Mr. President, every dollar that we spend to keep open bases that we don't need is $1 that we can't spend on modernization programs that our military forces do need. And I know that closing bases is a painful process. I have been through it. We lost all three of our Strategic Air Command bases in Michigan. One of them that was closed recently was in the upper peninsula of Michigan which was the largest single employer in the upper peninsula in a rural area, and it was closed. We argued against it. We lost. So the largest employer in the upper peninsula of Michigan shut down. We are surviving. A lot of good people are putting their shoulder to the wheel and we are going to be able to pull through. Is there some short-term pain and stress? You bet. Is it essential that we go through this process to reduce excess structure? It is.

Are there additional facilities in Michigan that might be addressed in future rounds of base closings? There are. And that has to make all of us worry. But we have really no choice. If we are serious about modernizing, about the need to modernize and to keep ahead of any potential adversary, and to make sure that our forces in the future have the best equipment that can possibly be developed and manufactured, we have to do what the Joint Chiefs have urged us to do in this 24-star letter; and that is to support further reductions in base closures which has closings which have been recommended by the Secretary of Defense. I don't see any other choice. The easy way is to not do it. But it is not the right thing to do, if we are going to maintain our qualitative technological edge. We just simply must continue to find a way to reduce our infrastructure costs. And, if that means that the next round of base closing we have to adjust it so that we don't run into the kind of argument that we have run into in the past round of base closings, if we have to put in the next round of base closing a provision that you can't privatize in place, for instance, without a specific recommendation to do that by BRAC, if that is what it is going to take, then so be it. But we have to continue down this road, if we are going to be true to the needs of our military.

Secretary Cohen pointed out in his testimony on the quadrennial defense review that the choice is clear. We can maintain the current base structure and fail to meet our modernization goals, or we can reduce our base structure and achieve the savings that we need to pay for the modernization that we all agree is necessary.

On the Air Force depot issue, there is no more contentious issue than this one. And I commend the Senators who permitted this process of bringing this bill to the floor to continue by removing the contentious provisions at this time. I commend them for it. In my view, the only way to resolve this issue is to have a fair competition, and determine the most cost-effective solution to redistribute the workload of these two depots, regardless of whether the result is privatization in place, privatization in some other location, or transfer to another Government depot.

There are many that believe and I know that the White House politicized this one aspect of the base closure process when the DOD privatized in place the work of the two closing Air Force depots. But I think it would be just as bad for Congress to politicize the base closure process by attempting to legislate a particular outcome. I don't think we can legislate a particular outcome.

I don't think we should. I think we should legislate a process which will guarantee that there be a full and fair competition. I tried that approach in committee. I didn't quite make it. But I think that is the best way to proceed.

We have base-decision amendments on this bill, and, even if we do not, we are going to face this issue in conference because the House bill contains provisions that do address the issue. Ultimately we will have to reach a compromise I believe that is fair and equitable to all.

On another subject, cooperative threat reduction programs: One of the most cost-effective and successful defense programs to reduce threats to our country and to enhance our national security is the cooperative threat reduction program that was started in 1991 by Senators Nunn and LUGAR. The cooperative threat reduction program at the Department of Defense and its companion program at the Department of Energy have produced important results in reducing the threat of proliferation of weapons of mass destruction, including nuclear, chemical, and biological weapons and their materials.

In my view, the committee decision to reduce the budget request for these programs by $135 million was shortsighted. I would have preferred to see an increase in funding for these programs because they are a very cost-effective approach to the most serious national security threat that we face today. That is the threat from the proliferation of weapons of mass destruction. Of all the security threats that we face, that is probably the most serious one—weapons of mass destruction in the hands of terrorists, or terrorist states.

This is a very modest investment in terms of defense budget, and it can significantly reduce the threat of proliferation by securing materials wherever they are—in this case Russia and some of the other former Soviet Union states. That is a real investment in our own security with a huge payoff.

It doesn't take much of this plutonium or enriched uranium to leak—to be transferred across the borders of these states to threaten us with massive destruction. About a hockey puck of plutonium can take care of one of our cities. That can be carried in one's pocket. That material literally can be carried in a pocket across a border. We need to secure that material; whatever it takes to secure it within reason.

These are reasonable amounts of money. We are talking about a major investment in American security.

So I think the decision to reduce the budget request for these programs, including security of nuclear material, was a mistake. And I know there is going to be a bipartisan effort to restore these funds for this important program. I hope that we will do so here on the floor.

Mr. President, on another part of the bill, the committee authorized $345 million to begin incremental funding of the construction of the next *Nimitz* class nuclear aircraft carrier called CVN–77. It did so based on claims of cost savings by the shipbuilder. Those claims, it seems to me, can be made reasonably. Those are claims that have some foundation.

Indeed, there was a report that we received. The Rand Corp. folks did a

study on this issue that said that the savings which were advertised here claimed by the shipbuilder can be achieved. It is possible. But what we failed to do in committee is to assure that the advertised and claimed savings would be achieved. We didn't adopt the safeguards to ensure that the taxpayers actually received the savings advertised by the shipbuilder on which this very unusual action is based.

We do not incrementally fund aircraft carriers. We do not say, ''OK, we will put a couple hundred million dollars in this year, and a couple hundred million dollars in next year'', and so forth, because it makes it very difficult for us when it comes to negotiating the contract to purchase the aircraft carrier to have any bargaining leverage. We have already incrementally funded, bought pieces of it, obligated funds for it, and we have lost our bargaining leverage when it comes to the price. So what we have done traditionally is authorized the whole thing at once in order to make sure that we get the best deal when it comes time to negotiate the price.

The Defense Department's current future years' defense program includes a total of $5.2 billion for the construction of the next aircraft carrier with what is called ''advanced procurement'' in the year 2000, and the balance of $4.5 billion in the year 2002. But earlier this year the shipbuilder came forward with a proposal, as I said, to incrementally fund this carrier beginning in this year's budget—the one that is in front of us—and continuing each year through 2002. According to the shipbuilder, this alternative funding proposal would save us $600 million in the cost of building the CVN–77. And this claim has been repeated many times in the last 2 months in some very highly visible advertising in the media.

As I said, the normal method of funding major defense procurement funding programs is to provide full funding in one lump sum in the year in which the program is started.

There have been certain exceptions and limited long-lead items which are funded through advanced procurement. And the reason for it is the one that I have given, which has to do with avoiding buy-ins—the situation in which it becomes more difficult to control total program costs in future and future cost growth.

But the Rand Corp. did that study I referred to, and it substantiated that savings were really possible here if we incrementally fund it as proposed by the shipbuilders, and the Navy's own analysis subsequently confirmed that this savings could be achieved.

So I am willing to support incremental funding as one Senator, but I am willing to do it only if this incremental funding approach assures us that the Government is going to receive the savings from this approach that had been promised by the contractor. And it is doable. We can do this. And I will be offering an amendment—and I hope there will be bipartisan support for this amendment—that will attempt to assure that this $600 million in advertised savings is, in fact, achieved in the purchase of this aircraft carrier. And we began, I think, to do this in a way which allows us to get the savings but also to assure the savings.

Mr. President, just one or two other items. Section 1039 of this bill prohibits the General Accounting Office from undertaking any self-initiated audits unless it can certify that it has completed all congressional requests. Since the General Accounting Office has hundreds of pending requests at any given time, this provision in effect is a total prohibition on any self-initiated work by the GAO.

I hope that this provision will be deleted or modified because it could hamstring the GAO in its very important efforts to identify waste, fraud and abuse in Government programs. Already 80 percent of the GAO work is in response to the requests of committees and Members of the Congress. But some of the work that they do fulfills work that has been carried out by them in the waste, fraud and abuse area which they have self-initiated and which has been very, very important to the Congress in identifying waste, fraud and abuse—not just in the defense area, in any area. And this provision applies not just to defense. The provision in this defense bill applies Governmentwide.

That is why the chairman of the Governmental Affairs Committee, Senator THOMPSON, and the ranking member of the Governmental Affairs Committee, Senator GLENN, both wrote a letter requesting sequential referral of this bill to Governmental Affairs so that they could have a look at this provision which is Governmentwide and would restrict the GAO. Sequential referral was not approved because, under the rules, the parliamentary rules, apparently in order for there to be sequential referral, a bill must have many more provisions in it relating to that second committee than this one provision. It has to predominantly belong within the jurisdiction of a second committee, and this bill obviously does not. This is one of a few provisions which touches the Governmental Affairs jurisdiction. But I do hope that we will be able to find a way to either delete or to modify this provision as it will hamstring the efforts of the GAO in doing some very important work.

Finally, Mr. President, section 363 of this bill gives the Secretary of Defense the unprecedented authority unilaterally to stop for 30 days certain administrative actions of other Federal agencies. The Secretary would have this authority without regard to the valid health or safety concerns that may have motivated other agencies in taking their action. This automatic stay could cover rules and orders intended to protect the environment and safeguard work safety or preserve private property and many other conceivable administrative actions and orders. This action exceeds the jurisdiction of the Armed Services Committee. It creates the appearance of placing the Department of Defense above the law. For these reasons, I do not believe that it should have been included in the bill, and I hope we can find a way to correct it.

Mr. President, I know there will be some vigorous debate on this bill, and I hope Senators will come to the floor and offer their amendments so that we can complete Senate action on the bill in a timely manner and in a fashion that the majority leader has announced, and then go to conference with the House.

And, again, I want to commend my friend from South Carolina for his leadership on the committee and in making it possible for this bill to come to the floor. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I would like to take this opportunity to commend Senator LEVIN, the ranking member of this committee, for his fine cooperation, advice and assistance during the preparation of this bill. This cooperation on his part greatly enhanced the successful completion of the 1998 defense authorization legislation. We worked in a bipartisan manner for the benefit of our great Nation, and by doing this I think we have brought to the floor an excellent bill on behalf of our Nation.

Mr. MCCAIN. Mr. President, as we begin consideration of the Senate's version of the National Defense Authorization Act for Fiscal Year 1998, I cannot help reflecting on the increasingly illogical nature of the process through which we have arrived at this point. By that I refer to the task of marking up yet another defense bill while budgets continue to decline in real terms, force structure continues to contract, and operational requirements continue to climb, while Members of Congress continue to waste considerable sums on projects of questionable merit.

Let me say first that there is much in this bill that warrants our support, including an active duty pay raise, improvements in the way housing allowances for military personnel are calculated and applied, funding for tactical aviation modernization and missile defense programs, increased emphasis on defense against chemical and biological weapons, and much more.

The bill includes, for example, a provision authorizing the Department of Defense to waive CHAMPUS deductibles and annual fees for service members and their families who are stationed in remote duty locations within the continental United States. These families, most of whom are junior enlisted personnel, are geographically separated from military treatment facilities and TRICARE Prime sites and now rely to a great degree on standard CHAMPUS for health care

services. The legislation also approves several survivor benefit plans that will alleviate much of the emotional anguish experienced by surviving spouses of military retirees.

The committee also adopted an amendment that enhances aviation special pays. Compelling testimony from the service chiefs of the Navy, Air Force, and Marine Corps revealed that our Armed Forces are facing critical shortages of skilled aviators. It is clear that this provision will be crucial in retaining sufficient aviators to operate today's technically advanced aircraft. Any failure to address this issue would certainly have an enormous impact on future readiness.

I was particularly pleased that the Armed Services Committee continued to focus on improving the system by which the services determine unit readiness levels. The Department of Defense is directed to continue its study of the merits of maintaining units at differing levels of readiness, depending upon actual deployability and the likelihood of each unit actually responding to a crisis. With budgets being as tight as they are while fiscally daunting modernization decisions are fast approaching, it is worth examining whether savings in the operations and maintenance accounts—the largest portion of the defense budget and the most difficult to track—can be identified and reallocated to high priority research and development and procurement programs.

I recognize that there is already a considerable amount of tiering that occurs in the Navy simply by virtue of the deployment, training, and maintenance schedules it must follow in order to meet requirements. The Army and Air Force, however, may be a source of some savings if units whose deployability is highly contingent on air and sealift capabilities are permitted to relax their readiness levels to some degree. In fact, many Army personnel have expressed the sentiment that they would fare better if forced to perform fewer training exercises, which place a strain on people and equipment.

I am not arguing that units should be permitted to atrophy; on the contrary, I would like to think that none of us would acquiesce in the implementation of policies that would place U.S. interests and military personnel at risk. It is a legitimate question, though, whether certain units must be retained at the highest readiness levels despite the improbability of deployment, given operational plans, and the time it would take for such units to deploy given available lift assets.

One of the more significant actions taken by the committee involved termination of funding for the B–2 bomber, including of funds required to preserve that aircraft's industrial base. Opponents of the amendment to end the program once and for all argued that we need to maintain the ability to build more of these extremely technically complex aircraft in the event future contingencies require more stealth bombers. We already have enough strategic bombers in the inventory, however, and the Air Force has repeatedly testified that it does not want and cannot afford any more. Most important, the time it takes to build even one B–2 precludes our being able to surge produce them in the event of a major deterioration in the international environment. Should a major regional contingency arise, it will be fought with the bombers on-hand—not ones more than a year from being operational.

Unfortunately, for all that is good in this bill, there is much that is wasteful. The manner in which shipbuilding and conversion dollars are allocated no longer bears any resemblance to actual military requirements and available resources, nor does it correspond to essential industrial base preservation concerns. Rational discourse on whether to incrementally fund a $5 billion aircraft carrier cannot occur without other shipbuilding interests demanding something for themselves. After all, what's another destroyer above and beyond the number requested and budgeted for? What's another LPD-class ship, or an AOE fast support ship, or another submarine? For the last several years, we have seen a dangerous trend whereby decisions on shipbuilding matters, more than any other—save for the depot issue—are predicated solely on parochial considerations. This situation has to stop.

One of the more disappointing results of the Armed Services Committee's mark-up of this bill was the rejection of an amendment sponsored by Senators ROBB, LEVIN, COATS, and myself that would have statutorily mandated the two base closure rounds called for in the Quadrennial Defense Review. There is a broad consensus that the Defense Department, even after the previous four rounds of such closings, continues to maintain considerably more infrastructure than it needs. The expenditures associated with maintaining these installations and facilities constitute a major drain on declining resources allocated for national defense. Rejection of the amendment represented a serious setback in the efforts of some of us at instilling greater discipline into the budgetary process.

Mr. President, you can support the Reserve component of our total force without acquiescing in the thorough hemorrhaging of scarce military construction dollars for National Guard projects. The total military construction budget request for projects located inside the United States was $2 billion, not including another $2 billion for base closure activities. The request for National Guard and Reserve construction projects was $172 million. Of the 87 military construction projects added to the administration's request, 46—more than half—are for the National Guard and Reserve. The Senate bill includes over $900 million in National Guard and Reserve procurement items, the House version $700 million.

As I have already noted, the bill includes an ample supply of pork-barrel projects, including continued funding of High Frequency Active Auroral Research Program, or HAARP. This project, while certainly interesting from a purely theoretical perspective, is thoroughly lacking in merit and does not belong in a defense spending bill. Nor do additional dollars for the National Oceanographic Partnership Program. The Navy, out of whose budget this project is funded, derives no tangible return on its investment. This nondefense program may deserve to be funded in another area of the Federal budget, but it does not belong in this bill. Individually, projects like these are a serious waste of taxpayer dollars. Collectively, they constitute a serious drain on the resources needed to ensure future military readiness.

In short, Mr. President, it is regrettable that the propensity of Members to continue to add pork as though it were still the early 1980's remains as strong as ever.

AMENDMENT NO. 417

(Purpose: To strike section 3138, relating to a prohibition on recovery of certain additional costs for environmental response actions associated with the Formerly Utilized Site Remedial Action Project program, and to require a report on the remediation activities of the Department of Energy)

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. TORRICELLI, proposes an amendment numbered 417.

Mr. LAUTENBERG. 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:

Strike out section 3138 and insert in lieu thereof the following:

SEC. 3138. REPORT ON REMEDIATION ACTIVITIES OF THE DEPARTMENT OF ENERGY.

The Secretary of Energy shall submit to Congress a report on the remediation activities of the Department of Energy.

Mr. LAUTENBERG. Mr. President, first let me say to the distinguished chairman of the Armed Services Committee and the ranking member that I commend them for a job well done. I am very much aware of the complications that one has in the defense authorization bill. It is a large sum of money, a very complicated piece of legislation. It has research funds and it has operational money. It is quite a job, and I commend the both of them for moving this rapidly and getting this bill to the floor.

Mr. President, I have an amendment that would strike a section, section

3138 of this bill because this section prevents the Department of Energy from recovering any cleanup costs at sites under DOE's Formerly Utilized Site Remedial Action Project program other than the costs already covered in a written, legally binding agreement with the party involved in the site.

To put it more simply, this section would strike the Department of Energy's ability to recover costs already covered in a previous agreement with a party involved in the site.

As a practical matter, Mr. President, it would absolve W.R. Grace Company of millions of dollars of responsibility for toxic pollution costs by their actions. The effect of this provision from the analysis that we have conducted so far is to grant a special exemption from Superfund law to one company. The Superfund law, a law which I am proud to have helped author, embodies the principle that polluters should pay for the damage they do, and in this case W.R. Grace should pay for the cleanup of the mess that it created.

The deal was an unacceptable slap in the face to American taxpayers and the residents of Wayne, NJ, my home State. As a matter of fact, I lived in this community for some time. The residents of Wayne Township have been living with this problem for such a long period of time, and why this amendment is so outrageous is something that I want to explain.

A pile of approximately 15,000 cubic yards of potentially radioactive material has already been removed by the Department of Energy, and the Department of Energy says that there are still about 70,000 cubic yards more still buried at the Wayne site, and it is still deciding how to clean up the part that is on the surface and below. The Department of Energy estimates the entire cleanup may cost $120 million. The major contaminant in this soil is a contaminant called thorium, highly radioactive material. It is known to cause cancer and has a half life, Mr. President, that is far longer than perhaps this Earth can endure. It is 14 billion years. In other words, this stuff stays hot for that long a period of time.

This deadly waste was the result of industrial activity going on since 1948, almost 50 years ago. The contamination may affect the drinking water of 51,000 New Jersey residents resulting in untold harmful health consequences. The W.R. Grace company owned the property and contributed to this huge pile of waste. The Grace company signed an agreement with the Federal Government in which it promised to contribute to the cleanup, and then they went on to pay a tiny fraction of the ultimate cleanup cost for this site when they deeded over the property to the Government. They paid $800,000 as a down payment on $120 million. That does not sound like a very serious downpayment to me. But the agreement also said that the Federal Government maintained the right to come after W.R. Grace under other laws to remedy the threats caused by their pollution despite again the agreement they had signed. But nothing happened for many years.

In 1995, I urged in a letter to the Department of Energy to expedite the cleanup by negotiating with W.R. Grace, the responsible party, the polluter, to pay its share. Those negotiations began shortly thereafter. Over the last year, I have been assured a number of times by the Energy and Justice Departments that progress was being made. And for over 1 year now W.R. Grace has been engaged in a discussion with the Department of Justice, which I believe was in good faith, to determine what share Grace would pay for contributing so much to this mess.

Now I read the language in this bill and find that it effectively wipes out all of the progress that has been made, wipes out all of the obligation that W.R. Grace would have. This language takes away the Department of Energy's legal rights under the Superfund polluter pays liability system. It abrogates a legal commitment signed by Grace.

Mr. President, this puts the burden squarely on the American taxpayer instead of the polluters. Further, it will delay the cleanup and could poison the drinking water of the people of Wayne and the State of New Jersey. The Department of Energy, Mr. President, has limited cleanup dollars and numerous sites across the country under a program that is called FUSRAP, the Formerly Utilized Sites Remedial Action Program. These are the sites of industrial activity that may have contributed at one point to our Nation's defense. That does not mean they have a license to pollute thereafter. They have a responsibility.

Without an infusion of cleanup funds from the parties responsible for the mess in Wayne, there will be years of delay in this cleanup, years when the radioactive waste will continue to blight a community, years for that plume to migrate, to reach the drinking water source for that town.

Mr. President, the Senator from New Hampshire, Mr. SMITH, and I worked together on the Senate Environment and Public Works Committee and together we are trying to rewrite the Superfund law which is soon to expire. We worked together in good faith, and I believe we have narrowed the differences on many issues affecting Superfund. I hope that we are going to be able to produce a bill later this year with both our names as cosponsors of that legislation.

However, as far as the provision in this bill that deals with the Department of Energy cleanup at the site in Wayne, I oppose it strenuously. As the Senator from New Hampshire expressed to me, he had no scheme in mind to mitigate the obligation that W.R. Grace has to do the cleanup. That was an effect apparently unintended by the Senator from New Hampshire, but we have to deal in reality not the intent. W.R. Grace must stand up to their obligation. The reality is that the provision in this bill would not only slow down the Wayne cleanup program, but it would also transfer its costs from the responsible party to the taxpayer. We are not going to stand for that, Mr. President.

So I urge the adoption of my amendment and urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, the amendment of the Senator from New Jersey addresses a provision, section 3138, in the defense bill which relates to something called Formerly Utilized Sites Remedial Action Program [FUSRAP]. I just want to give a little background as to how and why the language the Senator is concerned about appeared in the legislation and also to indicate what its intent was and to discuss specifically his amendment.

Earlier this year it came to the attention of the Armed Services Committee this program, the so-called FUSRAP program, was not getting the sites cleaned up as quickly or as efficiently as it could. Of course, as all of us know who work on the Superfund issue, that is true of many, many Superfund sites around the country as well as these particular FUSRAP sites. So the committee felt we wanted to do something to expedite the cleanups, to get it done quicker, to respond to the concerns raised by Members who were not on our committee—that is the Armed Services Committee—and in some cases were not even on the Environment and Public Works Committee. In order to try to respond to those concerns, the Armed Services Committee unanimously adopted this language. It was hoped it would speed up the cleanup of these sites and provide an incentive for parties that were responsible for the contamination of these sites to come to the table, negotiate their liability allocations with DOE, and to contribute an appropriate amount to the cleanup costs—not to give anybody a sweetheart deal, not to remove people from the hook, so to speak, but rather to bring people to the table to pay their appropriate share of the cleanup costs. That was the goal and the objective of the language.

I might say, unfortunately, sometimes these disputes manage to make their way to the floor because they are not resolved before we get here. Had this Senator had some knowledge of concerns raised by members of the committee or other Members of the Senate prior to this time, we might have been able to address those concerns. But as I indicated earlier, it passed unanimously in the Armed Services Committee. There was absolutely no discussion of it in the committee. So it is unfortunate that we

have to deal with it here, but, be that as it may, that is what we will do.

The language included in the section would have limited DOE's ability to seek cost recoveries against some private parties. That is true. That is what Senator LAUTENBERG just said. But in no way would it have limited the similar powers, the collateral powers that the EPA and the Department of Justice has to obtain these recoveries, get these dollars recovered. So, given the fact that DOE may have some level of responsibility for liability at these sites, we on the committee believed it was an inappropriate conflict of interest for them to have control for recovering costs against private parties. So, by leveling the playing field, we believed it would be more likely that private parties would settle their liability at the site, and, given the fact that EPA and DOJ would still have enforcement authority, we knew no party would be let off the hook. That was the intention.

I believe in my own heart, as I read the language, that the language supports that intention. But I can understand there may be differences of opinion in terms of how you interpret it. There have been some concerns raised that we tried to address a single-party site here, to give somebody specific relief. That could not be further from the truth. I think the facts speak for themselves. This was a generic amendment. I might say the topic at hand here is the so-called FUSRAP sites, that is the Formerly Utilized Sites Remedial Action Project.

In a DOE Office of Environmental Restoration pamphlet that is dated April 1995, there are 46 FUSRAP sites, of varying degrees. I think it may be the case that the site in New Jersey could be singled out here as possibly being helped in one way or another by his provision. However, there are 46 sites, so I think the committee is on record here, being very clear that the intention here was to deal with 46 FUSRAP sites to try to expedite the cleanup. They are in States all across the United States.

Mr. President, I ask unanimous consent that a section of this pamphlet listing those 46 FUSRAP sites be printed in the RECORD.

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

SITE NAME AND LOCATION

MISSOURI

Latty Avenue Properties—Hazelwood
St. Louis Airport Site (SLAPS)—St. Louis
SLAPS (Vicinity Properties)—Hazelwood and Berkeley
St. Louis Downtown Site (SLDS)—St. Louis

NEW JERSEY

DuPont & Company—Deepwater
Maywood—Maywood/Rochelle Park
Middlesex Sampling Plant—Middlesex
New Brunswick Laboratory—New Brunswick
Wayne Interim Storage Site—Wayne

NEW YORK

Ashland 1—Tonawanda
Ashland 2—Tonawanda
Linde Air Products—Tonawanda
Seaway Industrial Park—Tonawanda
Bliss & Laughlin Steel—Buffalo
Colonie—Colonie
Niagara Falls Storage Site—Lewiston/Youngstown/Niagara Falls

OHIO

Associate Aircraft—Fairfield
B&T Metals—Columbus
Baker Brothers—Toledo
Luckey—Luckey
Painesville—Painesville

OTHER SITES

Madison—Madison, IL
W.R. Grace & Company—Curtis Bay, MD
Chapman Valve—Indian Orchard, MA
Shpack Landfill—Norton/Attleboro, MA
Ventron—Beverly, MA
General Motors—Adrian, MI
CE Site—Windsor, CT

CLEANUP COMPLETED

Acid/Pueblo Canyons—Los Alamos, NM
Alba Craft—Oxford, OH
Albany Research Center—Albany, OR
Aliquippa Forge—Aliquippa, PA
Baker & Williams Warehouses—New York, NY
Bayo Canyon—Los Alamos, NM
Chupadera Mesa—White Sands Missile Range, NM
Elza Gate—Oak Ridge, TN
Granite City Steel—Granite City, IL
HHM Safe Co.—Hamilton, OH
National Guard Armory—Chicago, IL
Kellex/Pierpont—Jersey City, NJ
Middlesex Municipal Landfill—Middlesex/Piscataway, NJ
Niagara Falls Storage Site Vicinity Properties—Lewiston, NY
Seymour Specialty Wire—Seymour, CT
C.H. Schnoor—Springdale, PA
University of California—Berkeley, CA
University of Chicago—Chicago, IL

Mr. SMITH of New Hampshire. So that was the intention here and the point I wanted to make regarding these sites.

Let me also say, because this is kind of a technical term—the so-called FUSRAP sites is a little hard to understand. We have a lot of acronyms here. I know it is difficult for people to comprehend some of these, but this program was initiated in 1974 by the Atomic Energy Commission under the Atomic Energy Act of 1954. They have 7 or 8 major objectives. I will just briefly highlight those.

One is to find and evaluate sites that supported the Manhattan Engineer District/Atomic Energy Commission's early atomic energy program and to determine whether these sites needed cleanup or control.

Second, to clean up or control these sites so that they meet current DOE guidelines.

Third, to dispose of or stabilize waste in an environmentally acceptable way.

Fourth, to complete all work so the DOE complies with the appropriate Federal laws and regulations and State and local environmental and land use requirements.

Fifth, to certify the sites for appropriate future use.

These sites are owned by either the Department of Energy, local governments, private corporations or private citizens or a combination thereof.

Again, the goal here was to try to craft something that would expedite these 46 FUSRAP sites, some with problems more serious in nature than others. Obviously the site the Senator from New Jersey is talking about is much more serious than some of the others. But the idea was to bring these parties to the table in a fair and equitable way, being certain that those PRPs that had put money on the table, had offered money on the table, would be encouraged to provide not only that money but more. That way, we could get a fair settlement so the taxpayers would be saved dollars and at the same time we would accomplish the goal of cleaning up these sites.

In a moment I am going to offer a second-degree perfecting amendment to the amendment of the Senator from New Jersey. Before I do that, I just want to say that I understand the concerns of the Senator. He has been very cooperative. We have talked about this at great length in the past few days to try to come to an understanding of what my intent was and what he believes the result to be. We may not be 100 percent in agreement here, but I think we can resolve this with this second-degree amendment which I believe addresses the concerns of the Senator and at the same time will lead us to accomplishing the cleanup goal that we want to achieve.

I do not want to preclude the Senator's debate. I would be happy to withhold offering the second-degree if the Senator wants to speak on this amendment? I will withhold that amendment and I will yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I just want to respond to my colleague. I do not object to the Senator's second degree amendment. If it is passed into law, DOE is going to have to report to Congress next year on the number of sites of this category, the FUSRAP program, on the cost of cleanup, the numbers of sites where private parties are involved, and on the progress DOE has made in pursuing them for a cleanup costs.

We want to do these sort of things. This reporting requirement is certainly a step in the right direction. DOE at last will be required to step up its efforts to make the private sector pay for the pollution it caused. It's only fair. The private sector profited enormously from participating in DOE's efforts to build the Nation's nuclear arsenal. The company, however, should not escape liability for the mess they created as they did that.

These former DOE sites, Department of Energy sites, contain some of the Nation's most dangerous and pernicious pollution problems. Their radioactive legacy—it is incredible—will endure for thousands if not millions of years. This stuff, unfortunately, creates the energy supply as well as the hazard for this period of time. DOE has been shamefully slow and their reluctance to bring W.R. Grace into the cleanup efforts is inexplicable. In fact,

DOE did not begin to go after Grace as a responsible party until I started urging them to do so, now over 2 years ago.

Sadly enough, Wayne is not the only New Jersey site being managed by the Department of Energy under the FUSRAP program. New Jersey has five of these sites, including another thorium site which threatens residents of Maywood, Rochelle Park and Lodi. Like the Wayne citizens, these residents, too, have been waiting patiently for lots of years to see that their particular site is cleaned up.

This report should prove helpful in encouraging faster cleanup at these sites. I support the amendment and I note the presence of my colleague from New Jersey on the floor, who has worked closely with me on matters affecting the communities, these communities that have these radioactive sites.

I am pleased to see him and to note that we worked together on these things. I assume the Senator from New Jersey wants to make some comments. I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I want to identify myself with the remarks of my colleague, Senator LAUTENBERG, and I join with him in offering this amendment today. What we have before us is a classic case of adding insult to injury. The people of various communities in New Jersey have lived for 40 and 50 years with the problem of thorium. The stories are long and often involved, but the thorium is clearly dangerous in the case of Maywood and the thorium in Wayne. They are all the result of wartime production, the production of lanterns and bomb sights and other war material that required a low level of radiation.

In an extraordinary story of success of the U.S. Government, in the case of Maywood all the thorium involving residential communities has now been removed. Now we are beginning to do the same in the community of Wayne. But it is not enough that the people of Wayne have the thorium removed. The question remains who will pay the bill? This was not an operation of the U.S. Government. This was not a question where the Government was operating the facility and it was left for the residents. This is a profitmaking corporation that had public and private contracts, earned money on the site, left it polluted, and the taxpayers are now left with the bill.

To date, $50 million has been spent. It is estimated the final cost could be as high as $120 million to remove 100,000 cubic yards of waste material.

Mr. President, only several months ago, I, as Senator LAUTENBERG, in concern that as we began to make progress in the removal of this thorium, wanted to know the progress and who was going to pay the bill. We pressed the Department of Energy to seek legal recourse in recovering costs and assuring future contributions.

I, too, met with the W.R. Grace Corp., and I was very pleased after those meetings to receive this letter, as Congressman PASCRELL, who represents this district, received this correspondence and claimed ''we are entered into good faith negotiations with the Department of Energy in an effort to fairly resolve this matter.''

The letter from the Grace Corp. concluded:

Grace has acted in good faith and desires to achieve an amicable resolution to this problem.

Only to discover in this legislation a prohibition in section (a) and (b):

The Department of Energy may not recover from a party described in subsection (b) any costs of response actions for actual or threatened release of hazardous substances that occurred before reenactment of the act.

The net result would be that all of our efforts to ensure the Department of Energy uses all legal recourse and continues in good-faith negotiations, that the private parties that profited by these operations also bear the cost of removal of the thorium contamination, would have been lost and the taxpayers would be left with the entire cost, $120 million.

Mr. President, I am very pleased Senator LAUTENBERG and I have the chance today to strike this provision, and I am very pleased that Senator SMITH, in his secondary amendment, will simply seek good-faith efforts in negotiations to resolve this matter. But let the record be clear to the Department of Energy, a good-faith resolution is nothing less than the Federal policy of polluter pays prevails.

We fully expect the Department of Energy to seek those parties who profited and that they pay. We cannot allow an enormous environmental potential success to be transferred and transformed into a failure. As the communities of Maywood have seen much of the thorium now leave, Wayne is witnessing the first departure of that same thorium. We intend to see it not only removed, but the taxpayers not be left with a legacy of debt.

I am very pleased we have a chance to offer this amendment today, and I am glad Senator SMITH is now joining us in having good-faith negotiations proceed. I urge my colleagues to support both efforts.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 418 TO AMENDMENT NO. 417

(Purpose: To create a report for Congress regarding the Formerly Utilized Sites Remedial Action program)

Mr. SMITH of New Hampshire. Mr. President, I think it would be appropriate at this time for me to offer the second-degree amendment, and then I believe we can get this matter resolved and go on to the next amendment.

So I offer a second-degree amendment to Senator LAUTENBERG's amendment to strike section 3138 from the national defense authorization bill for fiscal year 1998. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. LAUTENBERG, proposes an amendment numbered 418 to amendment No. 417.

Mr. SMITH of New Hampshire. 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 lieu of the language proposed to be inserted, insert the following:

SEC. . REPORT ON REMEDIATION UNDER THE FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM.

Not later than March 1, 1998, the Secretary of Energy shall submit to Congress a report containing the following information regarding the Formerly Utilized Sites Remedial Action Program:

(1) How many Formerly Utilized Sites remain to be remediated, what portions of these remaining sites have completed remediation (including any offsite contamination), what portions of the sites remain to be remediated (including any offsite contamination), what types of contaminants are present at each site, and what are the projected timeframes for completing remediation at each site.

(2) What is the cost of the remaining response actions necessary to address actual or threatened releases of hazardous substances at each Formerly Utilized Site, including any contamination that is present beyond the perimeter of the facilities.

(3) For each site, how much it will cost to remediate the radioactive contamination, and how much will it cost to remediate the non-radioactive contamination.

(4) How many sites potentially involve private parties that could be held responsible for remediation costs, including remediation costs related to offsite contamination.

(5) What type of agreements under the Formerly Utilized Sites Remedial Action Program have been entered into with private parties to resolve the level of liability for remediation costs at these facilities, and to what extent have these agreements been tied to a distinction between radioactive and non-radioactive contamination present at these sites.

(6) What efforts have been undertaken by the Department to ensure that the settlement agreements entered into with private parties to resolve liability for remediation costs at these facilities have been consistent on a program wide basis.

Mr. SMITH of New Hampshire. Mr. President, I am going to take a couple of minutes, and then we will move on.

This second-degree amendment would substitute a reporting requirement for the original section of section 3138 directed regarding cost recovery agreements at cleanup sites managed by DOE within the so-called FUSRAP program.

As you know, and as we indicated earlier, there had been some interest requested that limitations be placed on this Federal agency cost recovery from

potential responsible third parties. We were able to deal with those, and the Armed Services Committee does not have jurisdiction over these issues, but does have jurisdiction over defense-related cleanups of DOE sites. Section 3138 was intended to narrowly focus on concerns that were related to cost recovery of FUSRAP.

Mr. President, basically, there are six provisions that are part of that report language. They are self-explanatory. This is an attempt to try to get a reasonable compromise to see to it that we save taxpayers dollars, at the same time to be fair and to get both parties to the table as quickly as possible.

I yield the floor, Mr. President.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me commend the Senators from New Jersey for this amendment and commend the Senator from New Hampshire for his support of it with a second-degree amendment.

It is a good amendment. We support it.

I ask unanimous consent that a letter from the Department of Energy, addressed to our chairman, dated June 19, strongly supporting, in effect, the amendment by stating their opposition to the provision, be printed in the RECORD.

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

DEPARTMENT OF ENERGY,
Washington, DC, June 19, 1997.

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

DEAR CHAIRMAN THURMOND: I am writing to express strong opposition to a provision, section 3138, in S. 936, National Defense Authorization Act for Fiscal Year 1998, that would prohibit the Department of Energy from recovering all legally available response costs for certain actual or threatened releases of hazardous substances at sites included in the Formerly Utilized Sites Remedial Action Program (FUSRAP). At some FUSRAP sites, the application of this provision would be inconsistent with the policy that the polluter should pay the cost of addressing the pollution created.

We strongly support removing this language and would be pleased to report to the Congress on our current efforts under the FUSRAP program.

Sincerely,

ALVIN L. ALM,
Assistant Secretary for Environmental Management.

Mr. LEVIN. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we support the amendment. I suggest a voice vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the second-degree amendment No. 418.

The amendment (No. 418) was agreed to.

Mr. SMITH of New Hampshire. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 417, as amended.

The amendment (No. 417), as amended, was agreed to.

Mr. SMITH of New Hampshire. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 419

(Purpose: To prohibit the distribution of certain information relating to explosives, destructive devices, and weapons of mass destruction)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mr. BIDEN, proposes an amendment numbered 419.

Mrs. FEINSTEIN. 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 subtitle E of title X, add the following:

SEC. 1074. CRIMINAL PROHIBITION ON THE DISTRIBUTION OF CERTAIN INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) UNLAWFUL CONDUCT.—Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(*l*) DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'destructive device' has the same meaning as in section 921(a)(4);

''(B) the term 'explosive' has the same meaning as in section 844(j); and

''(C) the term 'weapon of mass destruction' has the same meaning as in section 2332a(c)(2).

''(2) PROHIBITION.—It shall be unlawful for any person—

''(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intention that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a State or local criminal offense affecting interstate commerce; or

''(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal criminal offense or a State or local criminal offense affecting interstate commerce.''.

(b) PENALTIES.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''person who violates subsections'' and inserting the following: ''person who—

''(1) violations subsections'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) violates subsection (*l*)(2) of section 842 of this chapter, shall be fined under this title, imprisoned not more than 20 years, or both.''; and

(2) in subsection (j), by striking ''and (i)'' and inserting ''(i), and (*l*)''.

Mrs. FEINSTEIN. Mr. President, I send this amendment to the desk on behalf of Senator BIDEN and myself.

For 3 years, Senator BIDEN and I have sent an amendment to the desk which would prohibit the teaching of bomb making. Twice it passed this body by unanimous consent, and twice in conference the amendment was taken out.

Last year, when we made this amendment and this body graciously and, I believe, wisely accepted it, it was replaced in conference with the proviso that the Department of Justice would do a report to see whether this amendment was well advised and would stand a constitutional test.

On April 29 of this year, the Department of Justice published a report, and that report was entitled, ''Report on the Availability of Bomb Making Information, The Extent to Which Its Dissemination is Controlled by Federal Law, and the Extent to Which Such Dissemination May be Subject to Regulation Consistent with the First Amendment to the United States Constitution.''

The bottom line of the report is that the Department of Justice agrees that it would be appropriate and beneficial to adopt further legislation to address the problem of teaching bomb making directly, if that can be accomplished in a manner that does not impermissibly restrict the wholly legitimate publication and teaching of such information or otherwise violate the first amendment.

In other words, the question presented by this is, when does the first amendment end and when does conspiracy to commit a felony begin?

So the language in the amendment that we submit to this body today has been reworked, strengthened and approved by the Department of Justice. I would like to briefly read it. The language is as follows:

It shall be unlawful for any person—

(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use

of an explosive, destructive device, or weapon of mass destruction, with the intention that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a State or local criminal offense affecting interstate commerce . . .

Then there is an alternative:

or (b) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction . . . knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal criminal offense or a State or local criminal offense affecting interstate commerce.

The penalty for violating this law would be a fine of $250,000 or a maximum of 20 years in prison, or both.

Mr. President, according to terrorism expert, Neil Livingston, there are more than 1,600 so-called mayhem-manuals in circulation. I outlined some examples of what I am talking about.

I will never forget, Mr. President, and you are a member of the Judiciary Committee—I don't believe you were on the committee at the time—but when a document entitled ''The Terrorist's Handbook'' was circulated, I believe at that time Senator KENNEDY and I couldn't believe it. So I went back to my office and asked my staff to download what is called ''The Terrorist's Handbook.'' The cover of ''The Terrorist's Handbook'' reads something like this:

Stuff you are not supposed to know about. Whether you are planning to blow up the World Trade Center, or merely explode a few small devices on the White House lawn, the Terrorist's Handbook is an invaluable guide to having a good time. Where else can you get such wonderful ideas about how to use up all that extra ammonium triiodide left over from last year's revolution?

And then this handbook, which I have in my hand, goes on to tell people how to break into a building, how to pick a lock, how to break into a chem lab in a college, how to look like a student. It produces techniques for picking locks. It goes on and tells you what useful household chemicals you should use. And then it goes on to explain, with specificity, how to make a lightbulb bomb, a book bomb, a phone bomb, and it goes on and on and on.

Mr. President, there is no legal, legitimate use for a phone bomb, for a book bomb, for a baby-food bomb, all of which are described in this handbook. When it is put in this context, the context of criminality, it is my belief that the person who puts this up on the Internet becomes a conspirator in the ability to commit a major crime in the United States.

An interesting thing that we have found is that individuals who have committed these crimes have actually had at least some of these publications in their home when they were arrested.

According to the Executive Office for U.S. Attorneys, the following publications were found among Timothy McVeigh's possessions: ''Homemade C–4, A Recipe for Survival.'' My staff just went over to the Library of Congress and tried to take out a copy of this. Incidentally, it is missing from the library.

''Ragnar's Big Book of Homemade Weapons and Improvised Explosives.''

So we know that materials on the Internet are used by terrorists to commit terrorist acts. We also know that the number of explosive devices now being found are increasing. Authorities have stated that the rise is attributable to a rise in Internet use. This is certainly true in Los Angeles County. During the first half of 1996, these numbers of explosive devices have increased dramatically; 178 were found compared to 86 total in 1995.

Responses by the Los Angeles Police Department to reports of suspected bombs have shot up more than 35 percent from 1994 to 1995. The LAPD found 41 explosives in 1995, more than double the number 3 years ago. And it goes on and on and on.

One thing is also very interesting. Not only are terrorists using this, but children are using this.

Not too long ago there was a cartoon in a newspaper. It really describes what is happening. A mother is on the telephone saying to a friend, ''* * * history, astronomy, science, Bobby is learning so much on the Internet * * *'' And there is Bobby sitting by his computer, and what Bobby is doing here is putting a timer on six sticks of dynamite looking at the Internet and following the recipe. Of course what that leads to is something like this:

Three Boys used Internet to Plot School Bombing, Police Say.

That is the New York Times.

Something like this:

Internet Cited for Surge in Bomb Reports. Police and sheriffs officials say Web sites provide youngsters with information on making explosives.

Yesterday, June 18, the Fort Lauderdale Sun-Sentinel reported on the pending trial of 15-year-olds Burke DeCesare and Adam Walker, who were charged with planting a bomb in their Catholic school. They are eighth graders. They live in the Bayview neighborhood. They broke into Saint Coleman Catholic School in Pompano Beach around 2 a.m. on February 24, 1996. They planted a gasoline bomb in the ceiling of classroom 116.

Bomb experts from the Broward Sheriff's Office said the device, made with gasoline, was wired to explode at the flick of a light switch. This is taught—the recipe for this is in one of these manuals. The boys told police they got the instructions to build the bomb from the Internet.

Nine days ago, on June 10, 1997, the Cleveland Dispatch reported the arrest of a North Side 15-year-old who built a homemade bomb with information he gathered from the Internet. The Columbus Fire Division bomb squad was required to remove devices from the kitchen and the basement of the parents' homes. Neighbors, who lived within 500 feet of the home, were evacuated for 2 hours.

Columbus police reported that one device consisted of a quart Mason jar containing lighter fluid and Styrofoam, with an M–90 inserted into the Mason jar cap which served as an igniter. This young man told his parents he learned to make the bomb on the Internet.

Last month, the Los Angeles Times reported that two 14-year-old boys were arrested in Yorba Linda, CA, after crafting eight pipe bombs and detonating one of them. The bomb caused a fire, charring 400 feet of land behind a home on Grandview Avenue. After admitting they sparked the fire with the bomb, the boys told investigators they had seven more bombs inside the house. The bombs were fashioned with information from the Internet.

In May of this year, the Baltimore Sun reported that two teenagers in Finland face charges over an explosion from Finland's second ''Internet bomb'' in a week. Sixty people were evacuated. And it goes on and on and on.

In Orange County, police say teenagers may have used the Internet to help construct acid-filled bottle bombs in Mission Viejo and Huntington Beach, one of which burned a 5-year-old boy when he found it on a school playground.

According to the Bureau of Alcohol, Tobacco and Firearms, between 1992 and 1995, 15 juveniles were killed and 366 injured in the United States while making explosive devices. Most of this comes right off of the Internet.

The Justice Department, on a single Web site, obtained the titles to over 110 different bombmaking texts.

The point here is that this material is now so easy to get. When it is put in something like a terrorist handbook and you are told what to use, how to steal it, how to dress like a college student, how to break into a chem lab, how to use cardboard to stuff in the lock so you can come back at night, how to go home and how to go into your kitchen and make one of these bombs, and then how to go out and explode it wherever you want—there is no legitimate legal use for this information.

There is only a criminal purpose for this information. There is no legal use for a baby food bomb, for a phone bomb, for a book bomb. You do not blow up a tree stump if you are a farmer in the field with one of these. There is no legal use. So I am hopeful—I know that we are into the third year of this amendment—that it will in fact survive a conference committee. I understand that both sides are willing to accept the amendment.

Mr. President, I ask unanimous consent that a summary of the Department of Justice report be printed in the RECORD.

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

SUMMARY OF THE REPORT ON THE AVAILABILITY OF BOMBMAKING INFORMATION, THE EXTENT TO WHICH ITS DISSEMINATION IS CONTROLLED BY FEDERAL LAW, AND THE EXTENT TO WHICH SUCH DISSEMINATION MAY BE SUBJECT TO REGULATION CONSISTENT WITH THE FIRST AMENDMENT TO THE U.S. CONSTITUTION

(Prepared by the U.S. Department of Justice)

INTRODUCTION AND SUMMARY

In section 709(a) of the Antiterrorism and Effective Death Penalty Act of 1996 [''the AEDPA''], Pub. L. No. 104–132, 110 Stat. 1214, 1297 (1996), Congress provided that, in consultation with such other officials and individuals as she considers appropriate, the Attorney General shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution. Section 709(b) of the AEDPA, in turn, requires the Attorney General to submit to the Congress a report containing the results of the study, and to make that report available to the public.

Following enactment of the AEDPA, a committee was established within the Department of Justice [''the DOJ Committee''], comprised of departmental attorneys as well as law enforcement officials of the Federal Bureau of Investigation and the Treasury Department's Bureau of Alcohol, Tobacco and Firearms. The committee members divided responsibility for undertaking the tasks mandated by section 709. Some members canvassed reference sources, including the Internet, to determine the facility with which information relating to the manufacture of bombs, destructive devices and other weapons of mass destruction could be obtained. Criminal investigators reviewed their files to determine the extent to which such published information was likely to have been used by persons known to have manufactured bombs and destructive devices for criminal purposes. And legal experts within the Department of Justice reviewed extant federal criminal law and judicial precedent to assess the extent to which the dissemination of bombmaking information is now restricted by federal law, and the extent to which it may be restricted, consistent with constitutional principles. This Report summarizes the results of these efforts.

As explained in this Report, the DOJ committee has determined that anyone interested in manufacturing a bomb, dangerous weapon, or a weapon of mass destruction can easily obtain detailed instructions from readily accessible sources, such as legitimate reference books, the so-called underground press, and the Internet. Circumstantial evidence suggests that, in a number of crimes involving the employment of such weapons and devices, defendants have relied upon such material in manufacturing and using such items. Law enforcement agencies believe that, because the availability of bombmaking information is becoming increasingly widespread (over the Internet and from other sources), such published instructions will continue to play a significant role in aiding those intent upon committing future acts of terrorism and violence.

While current federal laws—such as those prohibiting conspiracy, solicitation, aiding and abetting, providing material support for terrorist activities, and unlawfully furthering civil disorders—may, in some instances, proscribe the dissemination of bombmaking information, no extant federal statute provides a satisfactory basis for prosecution in certain classes of cases that Senators Feinstein and Biden have identified as particularly troublesome. Senator Feinstein introduced legislation during the last Congress in an attempt to fill this gap. The Department of Justice agrees that it would be appropriate and beneficial to adopt further legislation to address this problem directly, if that can be accomplished in a manner that does not impermissibly restrict the wholly legitimate publication and teaching of such information, or otherwise violate the First Amendment.

The First Amendment would impose substantial constraints on any attempt to proscribe indiscriminately the dissemination of bombmaking information. The government generally may not, except in rare circumstances, punish persons either for advocating lawless action or for disseminating truthful information—including information that would be dangerous if used—that such persons have obtained lawfully. However, the constitutional analysis is quite different where the government punishes speech that is an integral part of a transaction involving conduct the government otherwise is empowered to prohibit; such ''speech acts''—for instance, many cases of inchoate crimes such as aiding and abetting and conspiracy—may be proscribed without much, if any, concern about the First Amendment, since it is merely incidental that such ''conduct'' takes the form of speech.

Accordingly, we have concluded that Senator Feinstein's proposal can withstand constitutional muster in most, if not all, of its possible applications, if such legislation is slightly modified in several respects that we propose at the conclusion of this Report. As modified, the proposed legislation would be likely to maximize the ability of the Federal Government—consistent with free speech protections—to reach cases where an individual disseminates information on how to manufacture or use explosives or weapons of mass destruction either (i) with the intent that the information be used to facilitate criminal conduct, or (ii) with the knowledge that a particular recipient of the information intends to use it in furtherance of criminal activity.

Mrs. FEINSTEIN. Mr. President, I conclude my statement simply with this. This amendment has been put into this bill once before. It has been put into the terrorism bill once. It has been passed by this body twice. It has been reworked to withstand a first amendment challenge. I am hopeful, with the history of what is happening in this country, that Americans all across this land will say there is no first amendment right to be a conspirator and teach someone how to make a bomb to blow someone else up. So I am hopeful that this year it might survive a conference.

I thank the Chair and yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. We are checking with one Senator who we understand may wish to be heard on this amendment. I just want to notify the Senate of that. I see, though, the chairman is on his feet, so I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we have no objection to the amendment.

Mr. LEVIN. 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. COCHRAN. 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. COCHRAN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 420

(Purpose: To require a license to export computers with composite theoretical performance equal to or greater than 2,000 million theoretical operations per second)

Mr. COCHRAN. Mr. President, I send an amendment to the desk for myself and Mr. DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. DURBIN, proposes an amendment numbered 420.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further 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. . SUPERCOMPUTER EXPORT CONTROL.

(a) EXPORT LICENSING WITHOUT REGARD TO END-USE AND END-USER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, effective upon the date of enactment of this Act, computers described in paragraph (2) shall only be exported to a Computer Tier 3 country pursuant to an export license issued by the Secretary of Commerce.

(2) COMPUTERS DESCRIBED.—A computer described in this paragraph is a computer with a composite theoretical performance equal to or greater than 2,000 million theoretical operations per second.

(b) LIMITATION ON REEXPORT.—It is the sense of the Senate that Congress should enact legislation to require that any computer described in subsection (a)(2) that is exported to a Computer Tier 1 or Computer Tier 2 country shall only be reexported to a Computer Tier 3 country (or, in the case of a computer exported to a Computer Tier 3 country pursuant to subsection (a), reexported to another Computer Tier 3 country) pursuant to an export license approved by the Secretary of Commerce and that the preceding requirement be included as a provision in the contract of sale of any such computer to a Computer Tier 1, Computer Tier 2, or Computer Tier 3 country.

(3) COMPUTER TIERS DEFINED.—In this section, the terms ''Computer Tier 1'', ''Computer Tier 2'', and ''Computer Tier 3'' have

the meanings given such terms in section 740.7 of title 15, Code of Federal Regulations.

Mr. COCHRAN. Mr. President, on the 11th of June, my Subcommittee on International Security, Proliferation, and Federal Services of the Committee on Governmental Affairs held a hearing on the subject of proliferation and U.S. dual-use export controls. The hearing focused almost entirely on the subject of U.S. exports of high-performance computers, also known as supercomputers.

In preparing for and conducting this hearing, we learned that the administration's policy on supercomputers, which are an integral component for developing, producing and maintaining nuclear weapons, ballistic missiles, and practically all advanced weapon systems, could put American lives and interests at risk.

I am offering this amendment as a necessary first step to staunch the flow of American-made supercomputers to countries and places they should not be going.

On October 6, 1995, President Clinton announced a new export control policy for supercomputers which decontrolled supercomputer exports to a great extent. He said that he had ''decided to eliminate controls on the exports of all computers to countries in North America, most of Europe, and parts of Asia.'' Continuing further, ''For the former Soviet Union, China, and a number of other countries, we will focus our controls on computers intended for military end uses or users, while easing them on the export of computers to civilian customers.''

There is, of course, a delicate balance that must be struck between presenting U.S. national security by controlling dual-use exports and promoting exports. We must be careful not to place American manufacturers in a position where they cannot export goods that other countries are exporting, though, of course, our national security interests dictate that some goods cannot be sold to some countries no matter how irresponsibly other countries behave. For example, the willingness of some Western European countries to work with Libya to construct a chemical weapons complex does not justify the involvement of United States companies in similar ventures.

President Clinton's October 6, 1995, announcement liberalizing U.S. export controls on supercomputers established four country tiers to guide American exporters, at the same time eliminating restrictions on the export of computers capable of less than 2,000 million theoretical operations per second— this is referred to as an MTOPS—for all except tier 4 countries, it is unrestricted if the computers are capable of less than 2,000 MTOPS. Whether it makes sense to decontrol computers capable of up to that level is one of the issues which should be studied more extensively. I will ask the General Accounting Office to do so.

Country tier 1, consisting primarily of NATO allies, effectively establishes a license-free zone for U.S. high-performance computer exports. Computers of unlimited capacity under this policy can be exported to any tier 1 country without regard to the identity of the end user or the intended end use.

The policy for country tier 2, which includes countries such as South Korea, Hungary, Poland, and the Czech Republic, allows unlicensed exports to any country within this tier of computers capable up to 10,000 million theoretical operations per second. And the policy continues the virtual embargo against those nations—the terrorist nations such as Iran, Iraq, Syria, and North Korea—that comprise country tier 4. There are many deficiencies in this new policy, Mr. President.

Our amendment addresses what we consider to be the most significant deficiency in need of immediate attention. It is a problem specific to the part of the policy pertaining to country tier 3 which I want to describe now. The policy announced by President Clinton for tier 3 countries, which include Russia, China, and some others, is based entirely upon the questions of who the end user will be and for what end use the supercomputer is intended. End use and end user are the critical factors for tier 3 exports.

The tier 3 policy requires an export license to be granted by the Department of Commerce under only two circumstances: First, if the computer to be exported is capable of 2,000 MTOPS and is going to a military end use or end user; and second, if the computer to be exported is capable of 7,000 MTOPS and is going to a civilian end use and end user. This policy requires no export license for manufacturers who want to sell supercomputers capable between 2,000 and 7,000 MTOPS to buyers in tier 3 countries when there is to be a civilian end use and end user. It is the exporter—not the Department of Commerce, not the U.S. Government—who is given the latitude under the policy for determining whether the purchaser's representations are accurate, that it is not a military end user and will not use the supercomputer for a military purpose.

The Clinton administration policy further requires American exporters to act on the honor system, policing themselves and deciding themselves whether or not the end user is going to be a military entity or will be putting the supercomputer to a military use.

Unfortunately, some companies have already been tempted to take a chance. Maybe they were not sure; maybe they were tempted by the profits of the transaction. Whatever the motivations and the understandings or lack of information, or for whatever the reason, we have known that some transactions have involved the sale of supercomputers, without objection from our Department of Commerce or our Federal Government to those who may be putting computers to a military use, or maybe military entities themselves.

We know now, for example, based on statements from the Russian Minister of Atomic Energy and from United States Government officials, that there are at least five American supercomputers in two of Russia's nuclear weapons labs: Chelyabinsk-70 and Arzamas-16. Minister Mikhailov of the Russian Ministry of Atomic Energy has not been reluctant to proclaim what these high-performance computers will be used for, and he said in a speech in January they will be used to simulate nuclear explosions, and that the computers are, in his words, ''10 times faster than any previously available in Russia.''

Four of the five supercomputers we are aware of publicly in Russia's nuclear weapons labs came from Silicon Graphics, a company in California, I think. According to the CEO, Edward McCracken, it was his company's understanding that the computers were for environmental and ecological purposes. It may be that Silicon Graphics was unable to determine whether a Russian nuclear weapons lab was going to be the military end user or if its supercomputers would be put to a military end use. But it seems from the statements made by the Atomic Energy Minister in Russia that they certainly are available to them for those purposes.

We also know at least 47 high-performance computers have been exported without licenses to the People's Republic of China. One of the computers sold also by Silicon Graphics is now operating in the Chinese Academy of Sciences. The Chinese Academy of Sciences is a key participant in military research and development, and works on everything from the DF–5 ICBM—which, incidentally, is capable of reaching the United States—to uranium enrichment for nuclear weapons. There can be no question about the Chinese Academy of Science's status as a military end- user.

According to the Department, its new Silicon Graphic Power Challenge XL supercomputer provides it with computational power previously unknown, which is available to all the major scientific and technological institutes across China. We can only hope that some of these institutes in China are using the supercomputer's technology for peaceful purposes, but we cannot help but suspect that some may be a part of the weapons development program in China, which is on a fast track to modernize their nuclear weapons system and capabilities and their missile technologies and all the rest.

At our recent hearing, we had the benefit of testimony from the Under Secretary of Commerce for Export Administration, William Reinsch, who said that the Clinton administration doesn't know if any of the supercomputers in China or Russia are being used for weapons-related activities, but the Commerce Department is in a difficult position. You have to appreciate how difficult it must be to have the responsibility for both promoting exports

and controlling exports, and that is the dilemma that this Department is in. But we have to realize that nuclear weapons labs are potential end users and have been shown already by the evidence before our committee that they have obtained American supercomputers and they may be put to a military end use.

In 1986, the Department of Energy published an unclassified report entitled, ''The Need for Supercomputers in Nuclear Weapons Design.'' The report's conclusion included this statement: ''The use of high-speed computers and mathematical models to simulate complex physical processes has been and continues to be the cornerstone of the nuclear weapons design program.'' These computers continue to be important to the design and production of nuclear weapons and other types of weapons of mass destruction and delivery systems.

I do not see how we can tolerate the continuation of a policy that makes it easier for Russia and China to modernize their nuclear weapons and delivery systems. We ought not to be in the business of helping them to improve the quality of our weapons, their technology, their delivery systems, particularly when there is evidence of proliferation from those countries to other countries.

This amendment, I want to point out, does not include a comprehensive revision of our export control policy. It is targeted to one specific part of the policy. We hope that with the findings that are obtained from the General Accounting Office study and our further studies in our subcommittee, which is reviewing this entire issue and proliferation problems generally, that we will be able to come up with and work with the administration and hopefully develop a consensus agreement on a modification of our export policy.

We think the time is here, it is now, when we need to stop the unrestricted flow of these supercomputers to potential users all around the world that can threaten our Nation's security and put at risk American citizens. It is not like some other country has these systems available for sale on the market. They do not. We are the state-of-the-art producer of the supercomputers. Japan has the capacity to produce supercomputers as well, but their export policy is more restrictive now than ours is. So we are the culprit, if we are putting in the hand of military end users and military weapon system producers in other countries technologies that are superior to what they have now and that can be used to make more lethal their nuclear weapons and their missile systems. We are putting in jeopardy the lives of our own citizens.

I am hopeful that this amendment, in concert with other efforts that we are making, will help improve our capacity to monitor these exports and require license in those situations where we think this export might present a proliferation problem, because we know from previous experience in Russia and China, as well, private companies have demonstrated that they do not have the adequate restraints to make determinations about where and how their exports are distributed into other country's hands. We know that transshipments are occurring. We also know that it is difficult to verify in a country like China what the private company that may be the purchaser of a supercomputer really intends to do with it once they have it. It is difficult to get access, to get information, and so a private company has a very difficult time developing an information base on which it can really make a conclusion about the end use or the end user. That is another reason to change this policy. The Commerce Department is going to have to do a better job of compiling information about those who are in the market worldwide for these supercomputers and making this information available to our exporters and the companies that have these supercomputers for sale.

Mr. President, I encourage the Senate to look very carefully at this proposal. I hope that the amendment will be agreed to. Senator DURBIN and I were involved in questioning witnesses before our subcommittee just recently on this subject, and we are convinced that this is a policy that has to be changed, and the time to change it is right now.

Our amendment does not in any way change the policy President Clinton announced in October 1995, though it is my judgment that the entire policy is in need of serious evaluation and revision, and I will also be asking the General Accounting Office to assist me in this evaluation. Our amendment requires the Department of Commerce, in concert with other parts of the executive branch, to determine whether an entity in a tier 3 country is a military or civilian end-user, and whether the end-use will be for a military or civilian purpose. By their exports to Russian and Chinese nuclear weapons labs, private companies have demonstrated that they do not do an adequate job of making this determination. Government has the resources and information available to make the best determination possible, and should step in to ensure that America's national security is not being compromised for sake of a more profitable quarter.

In a country like the People's Republic of China, how can any private company have the resources to determine whether an end-user is military or civilian?

Some suggest that the process can be left unchanged, but that the Commerce Department can do a better job of helping industry make the proper end-use and end-user determination by publishing a list of end-users to which high performance computer exports are prohibited. I disagree with this suggestion. Any published list would necessarily be incomplete, for a complete list would compromise U.S. intelligence sources and methods. Any published list would also serve as a marketing tool for the world's proliferators, making their job of finding specific clients easier. And, any published list would be only too easy to manipulate by both the purchaser and the exporter who may not be willing to operate under the honor system. If, for example, Chelyabinsk-70 is on the list of prohibited locations, does that mean that a Chelyabinsk-71, not on the list, can receive U.S. exports of high performance computers? What's to stop an exporter like Silicon Graphics from accepting the convenient suggestion that, ''yes, Chelyabinsk-70 does nuclear weapons work, but at Chelyabinsk-71 we conduct only environmental research.''

Publishing a list could reduce, but not eliminate, the problem we face, though in so doing other serious problems would be created. Congress needs to change the current process so the Government—with the most access to information with which to make the most informed determination of military end-use and end-user—makes the decision on whether to ship these computers to countries who are modernizing their weapons and delivery systems and engaged in proliferation of these technologies. America should not be participating in the qualitative upgrade of Russian and Chinese proliferant activities.

The Commerce Department maintains that President Clinton's supercomputer export control policy is working. Commerce continues to make this claim despite the fact that the administration's policy has allowed American supercomputers to be shipped to Russia's and China's nuclear weapons complexes, and who knows where else. If this policy is working, what would a policy that wasn't working look like? Would there be more supercomputers in Russia and China, or would we know absolutely that our supercomputers were in Iran, North Korea, or other terrorist states?

The cold war's end does not decrease the need for the continued safeguarding of sensitive American dual-use technology. While there may no longer be a single, overarching enemy of the United States, there is little doubt that many rogue states, and perhaps others, have interests clearly contrary to those of the United States. Helping these nations—or helping other nations to help these nations—to acquire sensitive dual-use technology capable of threatening American lives and interests makes no sense.

I thank Senator DURBIN for his work with me on this issue, and look forward to continuing to work with him to get to the bottom of this problem. I encourage all of my colleagues to support this amendment.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Illinois is recognized.

PRIVILEGE OF THE FLOOR

Mr. DURBIN. Mr. President, first, I ask unanimous consent that the privilege of the floor be granted to Lamelle Rawlins during the pendency of this debate.

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

Mr. DURBIN. Mr. President, I am pleased to join my colleague from Mississippi, Senator COCHRAN, as a cosponsor of this important amendment. I think anyone who had attended our hearing within the last 2 weeks on this issue would have been shocked at what they learned. We have expanded opportunities for the purchase of some of the most valuable technology in the world. It is technology developed in the United States, which has no parallel anywhere else in the world, and we are selling it. The fact that we are selling it is nothing new. The United States has done that for years. But this technology is so important and sensitive that the people who buy it automatically acquire a capacity, a capability that they have never had in their history. In other words, our expertise, our knowledge, our technological skill is being sold.

What makes this particularly important is that this very technology has the capacity to give to the purchasing country the skills and abilities that they have never had before to develop things that are very positive, on one hand, but also potentially very negative. I was reminded of a quotation that is attributed to Mr. Lenin in the early days of his establishment of the Soviet republics. He said that it was his belief that ''a capitalist would sell you the rope that you would use to hang him.'' I thought about that over and over, as we discussed this question of selling these computers to countries like China and Russia, which have the capacity to allow them to develop extraordinary military capability.

Recent news accounts about sales of supercomputers to Russian nuclear weapons labs and the Chinese Academy of Sciences—in apparent circumvention of United States export control regulations—have raised troubling questions about the control that the United States exercises over supercomputer exports.

China has purchased at least 46 United States supercomputers. Of these, 32 are one particular model that is faster than two-thirds of the classified computer systems available to our own Department of Defense, including the United States Naval Underwater Weapons Center, United States Army TACOM, and United States Air Force/National Test Facility.

The Commerce Department and the Justice Department are investigating the unlicensed sale—unlicensed sale—of four over-2000 MTOPS computers to the Russian nuclear weapons facility Chelyabinsk-70.

The computers recently sold are 10 times more powerful than anything Russia ever had before, and we sold it to them.

There is ample room for mistakes and confusion in the current dual-use export control system for supercomputers.

According to a New York Times article on February 25 of this year, in an effort to circumvent United States export controls, Russia's nuclear weapons establishment obtained a powerful IBM supercomputer through a European middleman and said they planned to use it to simulate nuclear tests.

I was on this floor 2 weeks ago giving a speech about a test ban, recalling the speech given by President Kennedy before American University in 1963. I came to the floor with Senator HARKIN and said it is time for us to have a comprehensive nuclear test ban, moving toward the day when there are no nuclear weapons threatening this world. In the world we live in today, you don't need to detonate a nuclear weapon. If you have a supercomputer, which can simulate that detonation, you can derive the same information—or a lot of it—through this model and through this technology. These are the very same computers and capabilities that we are selling.

The Nation's export controls for supercomputers ''amount to a kind of honor system,'' according to one U.S. official quoted in the Wall Street Journal. Companies that have doubt about a customer's activities are expected to call the U.S. Government for advice.

Think about that. You have a computer company and you have a sale worth millions of dollars and you don't know whether it is going to be used for a peaceful purpose or a military purpose. Well, the honor system says it is time to call the Department of Commerce and check it out and see if they have any records or classified information. They may not share the information with you, but they may tell you there is some concern. But it is an honor system. There is nothing built into the law to guarantee this kind of surveillance, this kind of supervision.

Companies may fail to obtain licenses to sell supercomputers ordered for civilian purposes, such as weather forecasting or air pollution studies or natural resources prospecting and development, but these computers end up in places which do design work for nuclear weapons programs—not a civilian use. Companies may knowingly ignore licensing requirements or, alternatively, companies may unwittingly fail to recognize a suspect end-user.

The first step toward better export controls is better communication. Increased accountability and interaction between industry and the Federal Government called for by this amendment will help facilitate that interchange.

Even William Reinsch, the Undersecretary for Export Administration for the Commerce Department, quoted by Senator COCHRAN with whom I share the sponsorship of this amendment, testified at the Governmental Affairs subcommittee hearing last week, agreed that better communication is essential. He invited and encouraged companies to consult with the Commerce Department when faced with challenging sales decisions.

The current system for supercomputer exports involves controls on high-power computer exports set forth in Federal regulations that divide the countries of the world into various categories, or tiers.

The licensing policies vary depending on which category the country falls into. There are countries for which no export license is required—tier 1—some countries for which licenses are required for extraordinarily high performance machines—tier 2—some for which licenses are required, depending on whether the end-use is military rather than civilian—tier 3—and countries for which sales are totally banned—tier 4.

The tier 3 countries include India, Pakistan, all of the Middle East/Maghreb, the former Soviet Union, China, Vietnam, and the rest of Eastern Europe.

Under current rules, export licenses are required to export or re-export computers with a composite theoretical performance, known as CTP, greater than 2000 MTOPS to military end-users and end-uses and to nuclear, chemical, biological, or missile end-users and end-uses in tier 3 countries.

However, for civilian end-users or end-uses that don't fall into a military or proliferation category, licenses are not required for export or re-export of computers under 7000 MTOPS to these countries.

What this means is that for many sales, no Government oversight or decisionmaking takes place at the front end if the exporter determines that he is selling to a company that portrays itself as a civilian user because no license is required.

Because of the differences in the licensing rules that apply to exports for military and proliferation uses than those governing sales for civilian use, the U.S. Government plays no upfront role in determining whether the end-use of a supercomputer under 7000 MTOPS sold to a buyer in a tier 3 country is indeed to be used for a civilian purpose.

I know this is involved, I know that it is complicated. Let me try to cut to the bottom line. If a company in the United States seeks to sell a supercomputer, one of great capacity, and the end-user, the company that is buying in another country, says this is strictly for a civilian purpose, it is not going to be used for anything of a military capacity, there are virtually no controls on that sale; nor is there much of anything done to track that sale, once it is made, as to where that computer actually ends up.

The responsibility is all on the shoulders of the manufacturer or exporter to make the determination on whether or not a license is needed, whether or not the computer might be used for military purposes. Exporters run the risk

of relying on assurances of the purchasers or their own intelligence information about end-use, rather than the resources of the Government. Either intentionally or inadvertently, exporters have made sales to destinations for which a license should have been obtained, because of end-use, but was not.

The Cochran-Durbin amendment would require that all U.S. exports of supercomputers above 2,000 million theoretical operations per second—a measure of the computer's speed—to a tier 3 country be licensed by the Commerce Department.

The presently more lenient requirements for civilian end-use sales in this category would be made identical to stricter ones applicable to sales for military proliferation purposes.

The amendment would shift responsibility from industry to the Government for deciding the propriety and conditions of the sales.

By subjecting all such sales above 2,000 MTOPS to licensing requirements, the United States may be able to prevent the uncontrolled flow of technology for unauthorized use or diversion to purchasers in countries who may have vastly different interests than those of the United States.

Civilian sales of supercomputers above 2,000 MTOPS to purchasers in tier 3 countries would be reviewed and approved by the Commerce Department, using the same standards used in licensing military and proliferation sales to these countries.

In addition, the amendment expresses the sense of the Senate that Congress should enact legislation requiring that any computer exceeding 2,000 MTOPS exported to a tier 1 or tier 2 country shall only be reexported to a tier 3 country, or reexported by a tier 3 country to another tier 3 country, pursuant to an export license approved by the Secretary of Commerce.

We are trying to track these computers, once sold, and determine where they are going to end up. We are saying to those countries, whom we consider to be our allies and friends, that we are going to ask you to bear responsibility for the end-use of the computer. We don't want you to be a conduit for the sale of a computer to a country where the United States suspects it may be used for military purposes.

The sense of the Senate would call for legislation that would require any reexport to a tier 3 country would have to be done under U.S. export license. This amendment is clearly necessary. I urge my colleagues to join Senator COCHRAN and myself. If you had listened to the testimony, as we did, you would have discovered, as I did, that there has been a dramatic increase in technology and expertise in this field. It is estimated that every 9 months to a year most of the computers that we are talking about become obsolete and move on to higher standards.

The United States is where these computers are made and the country from which they are sold. As we are concerned about the proliferation of those items that can be used for the construction of nuclear, biological, and chemical weapons, we should also be concerned about the potential that we are selling technology that can also be used for proliferation of military weaponry. If we are truly seeking a peaceful world—and we are—the United States should take care not to sell that technology which allows another country to develop weapons of destruction.

I think the Cochran-Durbin amendment strikes an appropriate balance. It brings our Government into the decision process. It protects those exporters in the United States who truly are trying to do the right thing and sell for civilian use. But it gives them a backup, and it leaves some assurance that will be another party investigating when it comes to sales of a suspect nature.

This amendment is an important step toward addressing some of the growing concerns about U.S. export control policies governing sales of dual-use technology and whether those policies may be permitting access to sophisticated American technology to aid in the buildup of nuclear weapons capability of other countries.

Recall the words of Mr. Lenin: ''A capitalist will sell you the rope that you will use to hang him.''

Let's not have that occur. Not in the name of free trade and good commerce should we forget our responsibility to national and world security. I believe the Cochran-Durbin amendment is a sensible and responsible way to bring some order to what is becoming a very chaotic situation.

I urge my colleagues to join Senator COCHRAN and me in support of this amendment.

I yield the remainder of my time.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Illinois for the great force of his argument and for the clarity of his statement in support of this proposal.

I ask unanimous consent that the Senator from Michigan [Mr. ABRAHAM] be added as a cosponsor to the amendment.

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

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

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

Mr. WARNER. Mr. President, on behalf of the chairman and distinguished ranking member present here, I wish to inform Senators that there will be a vote at 7:15 tonight on the amendment by the senior Senator from California [Mrs. FEINSTEIN]. Essentially, this vote is a legislative measure to criminalize, under Federal laws, the willful disclosure of technology and other information that would enable an individual or individuals to make—manufacture a bomb.

The time between now and 7:15 will be equally divided between myself and the distinguished ranking member. Hopefully, within that time we can accommodate the distinguished colleague from Virginia, also. But, just a few words about the amendment to advise Senators with regard to the subject of the vote.

It is entitled, ''Distribution of Information Relating to Explosives, Destructive Devices, and Weapons of Mass Destruction.''

DEFINITIONS.—In this subsection—

(A) the term ''destructive device'' has the same meaning as [another section of the code];

(B) the term ''explosive'' [same meaning].

These terms are defined within the code, the existing code.

(C) the term ''weapon of mass destruction'' has the same meaning as in [another part of the code].

PROHIBITION.—It shall be unlawful for any person—

(A) to teach or demonstrate the making of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intention that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a State or local criminal offense affecting interstate commerce; or

(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal criminal offense or a State or local criminal offense affecting interstate commerce.

And the penalties are then recited.

Mr President, I yield to my distinguished colleague.

The PRESIDING OFFICER. The Senator form Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that of the time remaining between now and 7:15, that 5 minutes be allocated to Senator ROBB and that——

Mr. WARNER. To be charged equally, Mr. President, to both sides.

Mr. LEVIN. That would be great, and 3 minutes be allocated to Senator FEINSTEIN.

The PRESIDING OFFICER. Is the Senator also asking we return to the Feinstein amendment?

Mr. LEVIN. I ask unanimous consent that we return to the Feinstein amendment immediately after the Senator from Virginia has completed his 5 minutes.

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

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

The defense authorization bill before us today does a pretty responsible job of providing adequate funding for personnel readiness, quality of life and modernization.

It also makes a concerted effort to accommodate many of the recommendations of the Quadrennial Defense Review. I remain concerned, however, as do many colleagues on the Armed Services Committee, that we will face a serious funding shortfall in just a very few years as we try to replace and modernize aging vehicles, ships, and aircraft that will be exiting the inventory in droves just after the turn of the century.

By accelerating some of the funding for major procurement items in this authorization, we help head off this funding crisis at least to a small degree.

As a ranking member of the Readiness Subcommittee, I compliment the chairman, Senator INHOFE, for his diligence in supporting U.S. military readiness.

I am pleased the bill funds many of the high-priority readiness increases requested by the service chiefs in the operations and maintenance accounts, as well as the ammunition accounts. Military construction is well funded, but all adds were subjected to the strict criteria established in the Senate years ago to ensure we only fund projects truly needed by the military.

The bill does not go far enough, however, in my judgment, in taking on the issue of excess infrastructure. One of the best ways we can pay for future modernization is through reducing the Department of Defense's large ''tail'' of infrastructure and support, which is taking away critical funding for the ''teeth''—our warfighting troops and equipment that will fight the next war.

The best place to reduce tail is to cut more bases. An effort to authorize a new base closure round failed in a tie vote in committee, but in spite of its political unpopularity, I hope the full Senate will, for the good of the Nation's defense, support a new BRAC round.

We have reduced force structure by over 30 percent since 1989, but four rounds of base closures have yielded an infrastructure reduction of only 21 percent. Reductions enacted so far will yield, in the long term, over $5 billion a year.

To gain additional, badly needed savings, the only responsible course of action, in my judgment, is to begin reducing additional excess right away. Although I certainly understand the reservations of those Members who are concerned about the integrity of the BRAC process, in light of the attempts to privatize in place the work at Kelly and McClellan Air Force depots, I hope once those issues are resolved, those Members will support a new BRAC round as well.

The depot issue remains a difficult one, to say the least. My view is that we must significantly reduce the excess capacity at the air logistic centers, that the spirit of the BRAC was to reduce roughly two ALC's worth of capacity, and that the BRAC did allow for some level of privatization of work at Kelly and McClellan.

But in no way did the BRAC intend to privatize in place excess capacity. Preserving that excess capacity will cost hundreds of millions of dollars, and we simply cannot afford this kind of waste anymore.

I applaud my counterpart on the Readiness Subcommittee, Senator INHOFE, for his willingness to strike the controversial depot maintenance sections of the original bill that threatened to prevent us from proceeding to consider this bill.

Mr. President, there are other ways to save money so that we can properly fund modernization.

One is to invest in new technologies that promise to deliver more lethality for less cost.

This bill aggressively funds the Army's efforts to ensure battlefield dominance through better intelligence, communications and smart weapons. It adds significant funds for the Navy's impressive information Technology 21 initiative, which will enable the warfighter to exchange all types of information on a single desktop computer, shorten decision time lines and better utilize information for combat.

I will be addressing another technology, smart card technology, that promises to save millions in an amendment later on in our consideration of this bill.

The bill also sensibly allows a new approach for funding the next carrier, the CVN–77.

By letting the contractor maintain a steady supplier and workforce base through early funding in fiscal year 1998 for construction in 2002, the taxpayers stand to save over $600 million on this program alone. By authorizing an innovative teaming arrangement for the new attack submarine, we achieve additional savings over a noncompeted, sole-source procurement while preserving two nuclear-capable shipyards.

Let me offer one other area the bill addresses that could lead to billions in savings without undue risks to military capability. We generally assume that any money for force modernization must come from force structure cuts, end-strength cuts or infrastructure cuts.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBB. I ask unanimous consent for 1 additional minute.

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

Mr. ROBB. Mr. President, we generally assume that there are no prospects for savings in readiness. The reality is that we maintain most of our active force units at very high levels of readiness at considerable expense, when, in fact, we could relax readiness levels for certain units, especially those not slated to go into combat early. Senator MCCAIN included language in this and last year's bill requiring an evaluation of a concept he refers to as ''tiered readiness'' where four tiers of readiness are established for our units based on their likely time of deployment to battle.

I have included language in this bill asking for an estimate of savings from a related concept I refer to as ''cyclical readiness.'' It would involve alternating a high state of readiness between units, where the units at the high state of readiness would be slated for a first major theater war, and the other lower readiness units would be available for a second theater.

The services tell us that their operational and personnel tempos are too high to relax the readiness of any units. I have come to the conclusion that much of that problem is self-inflicted through excessive training and contingency requirements.

I have included another provision in this bill that requires a look at how much of the demands on our troops are, in fact, self-inflicted.

The reality is that come October, our largest overseas contingency commitment will be about a third of an Army division in Bosnia.

In my judgment, we don't need to maintain all ten active Army divisions at a high state of readiness, and I believe we need to take a hard look at this matter.

With that, Mr. President, I look forward to our continued consideration of this bill and yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for 1 minute charged to the time of the chairman.

I just wish to say what a valuable contribution to the work of the Armed Services Committee from my distinguished colleague from Virginia. We work together as a team on behalf of our Nation but, obviously, caring for the specific needs of our State which are directly related to national security.

We are fortunate in Virginia to have a very significant concentration of activities relating to national security, and I know of no one better qualified than my distinguished colleague to work together as a partner in fulfilling our obligations to country and State.

Mr. ROBB. Mr. President, I thank my senior colleague.

AMENDMENT NO. 419

Mr. BIDEN. Mr. President, I rise in support of the Feinstein-Biden anti-bomb-making amendment. The bill would make it a Federal crime to teach someone how to use or make a bomb if you know or intend that it will be used to commit a crime.

As my colleagues know, I fought to pass nearly identical legislation last

year. Senator FEINSTEIN and I tried several times to have it enacted as part of my anti-terrorism initiatives. The bill passed the Senate on two occasions, but unfortunately, it was rejected by the House both times.

Critics of the bill claimed that it was unnecessary, unconstitutional, and would outlaw legitimate business uses of explosives.

To respond to these claims, we asked the Justice Department to examine each of these questions. The report supports Senator FEINSTEIN and my position on each and every criticism.

So now that we have cleared away the basis for some of the opposition, I hope we can quickly enact this important legislation. And let me tell you why.

I think most Americans would be absolutely shocked if they knew what kind of criminal information is making its way over the Internet. This information is easily accessible. It's proliferating by leaps and bounds.

Let me give just one example. A guy named ''War-Master'' sent this message out over the Internet about how to build a baby food bomb. Here is how his message goes:

These simple, powerful bombs are not very well known even though all the material can be easily obtained by anyone (including minors). These things are so [expletive deleted] powerful that they can destroy a car. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of the house out if you mess up while building it. Here's how they work.

And then the message goes into explicit detail about how to fill a baby food jar with gunpowder and how to detonate it. The message observes that the explosion shatters the glass jar, sending pieces of razor sharp glass in all directions. The message continues with even more deadly advice:

Tape nails to the side of the thing. Sharpened jacks (those little things with all the pointy sides) also work well.

As a result, the message concludes:

If the explosion doesn't get 'em then the glass will. If the glass don't get 'em then the nails will.

I am not making this up. And this is only one small example.

Mr. President, we hear about this happening time and time again: A bomb goes off. People are killed. A criminal is apprehended. And we learn that the criminal followed—to the letter—someone else's instructions on how to make a bomb and how to make it kill people.

Indeed, the Justice Department report indicates that numerous notorious terrorists—including the World Trade Center bombers and the murderers of a Federal judge—have been found in possession of bomb-making manuals and internet bomb-making information.

And there is another situation that we are hearing about more and more frequently. We read about it in our local papers across the country. These bomb-making instructions are having an ever increasing impact on children.

In Austin, TX, a boy lost most of one hand and part of the other after following bomb-making instructions he found on the internet. This boy once had plans to serve in the Marines. But that dream is now gone.

And in Massachusetts, several boys—in separate incidents throughout the State—were maimed when they tried to mix batches of napalm on their kitchen stoves. These experiments were direct results of kids finding a bomb-making recipe on the internet.

And what is even worse is that some of these instructions are geared toward kids. They tell kids that all the ingredients they need are right in their parents' kitchen or laundry cabinets.

These stories illustrate what can happen when the literally millions of kids today sit in front of their computer and type ''explosive'' on their keyboard. In minutes, they can have instructions for making all sorts of explosive devices they never knew even existed.

I know that some say that going after people who only help other people make bombs is not the way to go. They say that bomb-making instructions are protected by the first amendment. And I agree—to a point.

I take a backseat to no one when it comes to the first amendment. I have always argued that we must take great care when we legislate about any constitutional right—paticularly our most cherished right of free speech.

But let's not forget the obvious. It is illegal to make a bomb. And there is no right under the first amendment to help someone commit an illegal act.

Our bill says you have no right to provide a bomb-making recipe to someone if you know that person has plans to destroy property or innocent lives. You have no right to help someone blow up a building.

The Justice Department has concluded that our legislation—with some minor modifications which we have incorporated into this bill—is entirely consistent with the first amendment.

I am glad that the Senate voted last year to join Senator FEINSTEIN and me in making this type of behavior a crime. I hope this time around, we can pass this legislation through the full Congress and send it on to the President so he can sign it into law.

Mr. LEVIN. Mr. President, the amendment has been cleared on this side. I commend my good friend from California for her amendment. It is carefully worded. It has been cleared on this side, and I believe that there are 2 minutes allocated to the Senator from California under the unanimous-consent agreement and that the remainder of the time is to be divided as indicated.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Dr. Kim Hamlett, who works on the Veterans' Affairs staff, be allowed the privilege of the floor during the time of consideration of the Defense Authorization Act and the conference report thereto.

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

Mr. LEVIN. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the Feinstein amendment is primarily a judicial amendment, but it is a very worthy amendment, and I intend to support it.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I thank the chairman and the ranking member for their comments, and I thank all the Members for their support of this amendment.

Essentially, this is the third year that I have submitted this amendment. It has been put on the terrorism bill and on this bill in prior times. It was removed in conference. Part of the terrorism bill asks the Department of Justice to take a look at the situation that exists out there with respect to the teaching of bombmaking and the knowledge and intent that such teaching will be used for a criminal purpose. In fact, the Department of Justice has submitted a report indicating that they believe that the amendment is necessary and will stand a constitutional test, and they have, in fact, approved the drafting of this amendment. I believe it is important and timely. I believe it will stand a constitutional test. I am just delighted that it has been cleared on both sides. I thank the Chair, and I yield the floor.

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

Mrs. FEINSTEIN. I will be most happy to yield to the distinguished Senator.

Mr. BENNETT. Mr. President, I was present at a hearing on the issue of terrorism and raised the question of domestic terrorism, specifically in terms of information that is put on the Internet by groups that are opposed to fur farming; that is, opposed to the raising of animals for their fur. On the Internet, these groups describe how to build a bomb for the purpose of destroying a fur farm.

The PRESIDING OFFICER. The remaining time is under the control of the Senator from Michigan.

Mr. BENNETT. It was my understanding the Senator from Michigan yielded to the Senator from California.

The PRESIDING OFFICER. The Senator from California had 2 minutes.

Mr. LEVIN. Mr. President, I yield the remainder of my time to the Senator from California. She can yield to the Senator.

Mr. BENNETT. I will finish my question. This group opposed to fur farming put on the Internet a description of how to build a bomb to blow up, say, a mink farm. They did say in their Internet thing, make sure no animal, including a human, is present in the building when you blow it up.

I ask the Senator from California if, in her opinion, her amendment would make that kind of information on the Internet subject to Federal prosecution?

Mrs. FEINSTEIN. I thank the distinguished Senator. My answer is I believe it would if the individual had the knowledge that any attempt would be used for criminal purpose, which this would be. The answer to the question is yes.

Mr. BENNETT. I thank the Senator.

Mrs. FEINSTEIN. I thank the Senator from Utah very much.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. 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 amendment No. 419. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from South Dakota [Mr. DASCHLE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

I also announce that the Senator from South Dakota [Mr. DASCHLE] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Iowa [Mr. HARKIN] would vote ''aye''.

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—94

Abraham	Enzi	Levin
Akaka	Faircloth	Lieberman
Allard	Feingold	Lott
Ashcroft	Feinstein	Lugar
Baucus	Ford	Mack
Bennett	Frist	McCain
Biden	Glenn	McConnell
Bond	Gorton	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Gramm	Murkowski
Brownback	Grams	Murray
Bryan	Grassley	Nickles
Bumpers	Gregg	Reed
Burns	Hagel	Reid
Byrd	Hatch	Robb
Campbell	Hollings	Roberts
Chafee	Hutchinson	Rockefeller
Cleland	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Jeffords	Sarbanes
Collins	Johnson	Sessions
Conrad	Kempthorne	Shelby
Coverdell	Kennedy	Smith (NH)
Craig	Kerrey	Smith (OR)
D'Amato	Kerry	Snowe
DeWine	Kohl	Specter
Dodd	Kyl	Stevens
Domenici	Landrieu	Thomas
Dorgan	Lautenberg	Thompson
Durbin	Leahy	Thurmond
Torricelli	Wellstone	
Warner	Wyden	

NOT VOTING—6

Bingaman	Harkin	Inouye
Daschle	Helms	Mikulski

The amendment (No. 419) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND. 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. LOTT. 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. LOTT. Mr. President, first of all, I would like to announce there will be no further rollcall votes tonight. We have been working to make sure that the Members that we need to have here tomorrow, if necessary, on the Finance Committee and also the Budget Committee members are here so we can complete our work on the tax cut provision of reconciliation, so that the Budget Committee can meet tomorrow morning to package both the reconciliation spending provision and the tax cut bill. We are now satisfied we will be able to have Members here for that, even though we do not have recorded votes scheduled.

For the information of all Senators, the Senate will resume consideration of the DOD authorization bill. However, I have been assured that amendments will be offered. Therefore, votes will not occur during Friday's session.

The point I am making here is that we will be in session. We will continue to work on the DOD bill. We will have amendments that will be offered, but because of the request of a number of Senators, and the agreement we have been able to work out, we will not have to have votes during Friday's session.

As all Members know, the Senate will begin reconciliation on Monday. It is my understanding that Members will offer amendments to the reconciliation bill. Again, with a lot of requests from the Members and with the assurance and the cooperation in a number of ways, which I will not enumerate now, the votes that are required as a result of amendments being offered Monday will be stacked to occur on Tuesday, at 9:30 a.m. Therefore, no votes will occur on Monday.

Committees are expected to act in the morning on the tax reconciliation package. We will be in session tomorrow with some morning business time that we will have identified later, and the Department of Defense authorization bill will continue to be considered. We will be in session on Monday on the reconciliation bill, with amendments to be offered. But the next recorded votes will occur and be stacked—more than one, hopefully, and at least a couple, but maybe even more—to occur at 9:30 on Tuesday.

Mr. President, does the Senator from Kentucky wish to add anything?

Mr. FORD. Mr. President, we have been working back and forth all day. I think the water is calm. So, on Monday, we will debate reconciliation. There will be amendments offered. Votes will be stacked until 9:30 on Tuesday, and there will be votes—a minimum of four, probably, back to back.

Mr. LOTT. I appreciate that. That was an important component of us getting this agreement, to guarantee that we are, in fact, getting work done and making progress on the reconciliation bill.

Mr. FORD. I can guarantee the majority leader this. If we are here and alive, you will have at least two amendments from our side that we will vote on on Tuesday morning.

Mr. LOTT. We will have two from our side.

I yield the floor.

The PRESIDING OFFICER. The pending question is the Cochran amendment No. 420.

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.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that the following three members of the Senator KYL's staff be granted floor privileges during the consideration of the national defense authorization bill: Paul Iarrobino, John Rood, and David Stephens.

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

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.

MORNING BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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