

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, once again, I find myself in the unpleasant position of speaking before my colleagues about unacceptable levels of unnecessary spending in the defense appropriations bill. I fully understand the pressure facing the chairman and ranking member of the committee, but I would be remiss in my responsibilities were I not to go on record for those items in the bill of truly questionable merit that appear to represent the usual practice of inserting programs primarily for parochial reasons.

The total value of these programs is about \$5 billion, about twice as much as the Congress increased the President's overall defense budget request and, incidentally, about the same amount of wasteful spending added in the defense authorization bill. This amount does not include the \$300 million transferred from the Defense Department to the Transportation Department for Coast Guard activities, a perennial provision in defense appropriations bills.

Let me review some examples of items included in the bill and report that are, in my view, wasteful, unnecessary and designed simply to serve personal interests.

The bill not only funds an oceanographic research ship not requested by the Defense Department, it throws in an extra \$19.5 million for oceanographic and meteorological research. Are we to honestly believe the \$209 million in the budget request for that function is inadequate for the next fiscal year? Of course, the over \$200 million for C-130J aircraft—once again not requested and certainly not needed, as emphasized by the Air Force Chief of Staff—represents a particularly egregious waste of taxpayer money.

I wonder, Mr. President, if some day, some year we will stop buying C-130 aircraft. Many years ago, the Air Force said they didn't need any more C-130 aircraft. It is time—well, I say it every year. It gets a little ridiculous.

An especially troublesome expense, neither budgeted for nor estimated in any accompanying documentation provided by the Appropriations Committee, is the amount associated with the various "Buy America" provisions included in the bill. Such expenses include restricting to U.S. manufacturers procurement of shipboard anchor and mooring chain, carbon, alloy and

armor steel plate, and ball and roller bearings. Consequently, there is an automatic and generally substantial unknown cost tied to this bill that will only become known as contracts are signed with American manufacturers despite the availability of less expensive products from our trading partners.

Lest anyone feel that I am unsympathetic to American manufacturers, I need only point out the protectionist measures our European allies and customers are considering in retaliation for the "Buy America" statutes included in the appropriations bills that are routinely passed by Congress. Britain, a major purchaser of American platforms and systems, is understandably tired of the one-way street we pursue in defense acquisitions. I am fully cognizant of the need to protect certain vital industries for national security reasons, but the items protected in this and other bills hardly qualify.

The costly and unnecessary practice of earmarking appropriations continues: \$35 million for the Kaho'olawe Island Conveyance, Remediation and Environmental Restoration Fund; \$250,000 for a pilot project to "facilitate the transfer of commercial cruise ship shipbuilding technology and expertise to U.S. yards," provided the Jones Act restrictions are rigorously applied to the Hawaiian Islands; \$5.4 million for establishment of a small business development center, which is to focus on agricultural programs in Pacific islands; \$2.7 million to investigate new technologies in such areas as hyperspectral fluorescence imaging, work to be conducted at the Akamai project at Tripler Army Medical Center in Hawaii, with another \$10 million earmarked that the Department will be expected to spend for these programs; \$2.7 million of the oceanographic spending to which I referred earlier at the Naval Surface Warfare Center in south Florida; \$6.9 million for upgrading air traffic control simulators at Keesler Air Force Base in Mississippi; and \$8 million for continued activities at the Pacific Disaster Center.

Mr. President, that barely scratches the surface of what is in this bill: \$3 million is earmarked for the Caribbean radiation early warning system, which is to be spent at the Center for Monitoring Research, which brings me to the issue of Congress' tendency to create new centers for the study of every conceivable subject, research virtually all of which is already performed elsewhere. The defense authorization bill passed last week included \$5 million to establish a center for the study of the Chinese military. I can go to my office or the library and find numerous examples of competent studies on the Chinese military already available, whether from the Rand Corp., the American Enterprise Institute, or various studies published by scholars at various universities. The authorization bill also establishes a Center for Hemispheric Defense Studies for no apparent reason.

The practice of earmarking funds for centers knows no bounds. S. 1005 includes \$7 million for the Center of Excellence for Research in Ocean Sciences, just in case there was any risk of funds being spent for a center of mediocrity for research in ocean sciences; \$4 million for the Southern Observatory for Astronomical Research; \$4 million for the Center of Advanced Microstructure Devices; and on and on it goes. I do not doubt for one second that the sponsors of these programs can come before the Senate and offer an articulate and thoughtful defense of their pet projects. I do doubt very seriously whether any of these items properly belongs in the defense appropriations bill, especially during a period when vital accounts are regularly taxed to pay for ongoing and unforeseen contingencies, like Bosnia and Iraq.

Any time military equipment is prepared for shipment to and from deployment, it is inspected for damage and, in the case of equipment being returned to its home base, for foreign substances like dust that could contain bacteria alien to our country. Do we really need to earmark another \$1 million to expand that research specifically for brown tree snakes, which, to the best of my knowledge, are located only in Guam? Yes, it is true that we base a large number of forces on that island. It is also true that the brown snake is a dangerous snake. I simply find it hard to believe that we need to spend any defense dollars on an issue for which plenty of information already exists and is readily available.

Mr. President, I have touched on the tip of the iceberg. There is plenty more I could point to were time available. I only look forward to the day when my trips to the floor to highlight wasteful and unnecessary spending are no longer necessary.

Mr. President, I ask unanimous consent that a list of objectionable additions in the Department of Defense appropriations bill be printed in the RECORD.

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

OBJECTIONABLE ADD-ONS IN THE FISCAL YEAR 1998 DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

Procurement (in millions)

Army: C-XX	\$23.0
Navy:	
SSN-21 <i>Seawolf</i>	153.4
NSSN	2,599.8
Special Project Aircraft	7.0
Oceanographic Ships (TAG-65)	73.0
LCAC Landing Craft	17.3
Environmental Support Equipment for Oceanography	6.0
T-45 Training Aircraft Earmarked for NAS Meridian	10.0
Port Security Unit Equipment	13.5
Air Force:	
C-17 (MYP)	418.5
WC-130 Aircraft	177.0
Small CVX (C-37)	6.0
Supply Assets Tracking System	5.0
Defense-Wide: Automatic Document Conversion System	20.0

Reserves and National Guard:	653.0	Oceanographic and Atmospheric Technology:		Pacific Missile Range Facility	15.0
Including the following aircraft:		Natl. Oceanographic Partnership Program	16.0	Fallon Naval Air Station	3.2
C-9 Replacement aircraft	(40.0)	NCSW Test Facility	2.75	Air Force:	
WC-130 Spares/Support Equip-ment	(29.7)	Asbestos Thermochemical Conversion Pilot Plant—Puget Sound Naval Shipyard	2.0	Civil Air Patrol	4.4
C-130J	(95.8)	Freeze-Dried Blood Research	2.5	Spacetrack—Maui, Hawaii	1.4
EC-130	(70.5)	Photomagnetic Materials Research	0.35	Manufacturing Assistance Technology Program	2.0
KC-135 Re-Engining	(52.0)	Environmental Quality and Logistics Adv. Tech.:		B-52 Attrition Reserve Aircraft	42.4
<i>Research and Development (in millions)</i>		Permanent Fuel Cell	1.75	Defense-Wide:	
Army:		Visualization of Technical Info. Project	2.0	Legacy	10.0
Projectile detection and Cuing	\$2.5	Smart Base	6.25	Repairs to Federally-Funded Schools	10.0
Shortstop Electronic Protection system	3.0	Industrial Preparedness: Mantech	50.0	Exercise Northern Edge (PACCOM)	5.0
Solid-State Laser Dyes	4.0	Center for Integrated Manufacturing Studies	4.0	Partnership for Peace	44.2
Combat Vehicle and Automotive Technology:		Exploratory Development: Oceanographic and Atmospheric Technology	18.75	Civil-Military Programs (Challenge)	32.0
National Automotive Center	4.0	Industrial Preparedness	54.0	National Guard:	
High-Output Diesel Engine Testing	1.0	Air Force:		C-130 Force Structure	13.0
HMMWV Engine rebuild Program	4.0	HAARP	5.0	C-130 Operations	6.0
Alternative Vehicle Propulsion System	5.0	Inorganic/Organic Optical Limiters	1.0	<i>Other DOD Approps. (in millions)</i>	
Environmental Quality Technology:		Armstrong Lab Exploratory Development	3.0	Defense Health Program:	
Radford Environmental Development Program	6.0	Phillips Lab Exploratory Development	0.9	Hepatitis A Vaccine	\$25.0
Plasma Energy Pyrolysis System	8.7	Defense-Wide:		Military Health Service System	
Environmental Compliance Projects (WETO)	8.8	U.S.-Japan Management Training—University Research Initiatives ..	10.0	Info. Mgmt.	10.0
Pacific Island Ecosystems	4.0	Pacific Disaster Center	8.0	Uniformed Service Univ.-Health Sciences	13.0
Establish Small Business Center	5.4	Scorpius Support Technologies	10.0	Pacific Island Health Care Program	5.0
Bioremediation Science Center—for fragile Pacific Island Isolated Ecosystems	4.0	Joint Theater Missile Defense: Advanced Research Center	7.0	Brown Tree Snakes	1.0
Resource Recovery Technology Center	4.0	Kauai Test Facility	5.0	Cancer Control Program—Charleston Navy Hospital	9.0
Cold Regions Research Lab	1.0	Pacific Missile Range Facility upgrades	33.4	Army Research Institute	5.4
Center for Geosciences Atmospheric Research	10.0	Center of Excellence for Rsh. In Ocean Sciences	7.0	Military Nursing Research	5.0
Medical Advanced Technology:		Materials and Electronics Technology:		Disaster Management Training—Tripler Army Medical Center	5.0
Intravenous Membrane Oxygenator technology	1.0	Life Support Trauma and Transport	4.0	Health Care Cooperation between Military and Civilians—Holloman Air Force Base	7.0
MRE Nutrition Research	3.6	3-D Electronics	5.0	Diagnostic Ctr. of Excellence for Breast Cancer & Prostrate Cancer—Ft. Drum	4.0
Mustard Gas Research	1.0	Cryogenic Electronics	6.0	<i>Related Agencies (in millions)</i>	
Breast Cancer Research	175.0	Electric Vehicles	15.0	Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund	\$35.0
Prostate Diagnostic Imaging	5.0	Climate Fuel Cell Program	5.0	<i>General Provisions (in millions)</i>	
Electronics and Electronic Devices:		Southern Observatory for Astronomical Research	4.0	Shipbuilding Industrial Base Enhancement	\$0.25
Rechargeable Coin Cells	0.5	HAARP	3.0		
AA Zinc Air Battery	1.3	Advanced Electronics Technologies:		Mr. McCain. Mr. President, finally, I want to again thank the Senator from Alaska and the Senator from Hawaii for, as always, doing an outstanding and dedicated job in preparation of this very difficult and largest appropriations bill that we consider. We have had debate and discussion over my objections for many years. I am sure that will continue. But that debate and discussion has not been characterized by a lack of respect on my part for the outstanding job that both the Senator from Alaska and the Senator from Hawaii do.	
Rechargeable Battery System	0.6	Lithographic and Alternative Semiconductor Processing Techniques Ctr	23.0	I yield the floor.	
Reusable Alkaline Manganese Zinc	1.0	Point Source X-Ray Lithography Defense Techlink Rural Tech. Transfer	3.0	Mr. STEVENS addressed the Chair.	
Virtual Retinal Display	2.0	Center for Advanced Microstructures Devices	4.0	The PRESIDING OFFICER. The Senator from Alaska.	
Low Emissions Natural Gas Boiler Demo	2.0	Defense Research Initiatives	14.0	Mr. STEVENS. Mr. President, I await, sometimes with trepidation, the annual report of my good friend from Arizona. I know of no one who spends more time, other than Senator INOUE and I do, than the Senator from Arizona.	
Cold Regions Research Lab Repair Management	1.3	Agile Port Demonstration	10.0	His comments are to the point. We do disagree on some of the issues. But I	
Akamai Project	26.5	Electric Vehicles	15.0		
Including:		High Performance Computing Modernization Prgm	25.0		
Hyperspectral Floreence Imaging	(2.7)	<i>Military Personnel (in millions)</i>			
Theater Medical Infrastructure	(10.0)	Air Force: Additional B-52 Force Structure	\$4.5		
Aerostat Development	10.0	Reserve and National Guard:			
Instrumental factory for Gears Program	4.0	C-130 Force Structure (Air Force Reserve)	1.4		
Electronic Circuit Board Development Center	4.0	C-130 Force Structure (Air National Guard)	4.0		
University and Industry Research Centers	7.3	<i>Operations and Maintenance (in millions)</i>			
Army Data Analysis Center	5.0	Army:			
Battle Integration Center	22.0	Rooch Island arsenal Bridge	\$5.0		
DoD High Energy Laser Test Facility	15.0	North Star Borough Landfill	5.0		
Navy:		Saddle Road—Pohakuloa, Hawaii Training Area	3.0		
Natural Gas Cooling Systems	2.5	Navy:			
PMRF Sensors	5.0	Naval Meteorology and Oceanography Command	19.5		
LASH Hyperspectral	12.0				
Computer Technology:					
Second Source Carbon Fibers	2.0				
Photomagnetic Material Research	0.35				
Plasma Quench Technology	3.0				
Advanced Material Intelligent Center	2.5				
Defense Research Sciences:					
Marine Mammal Research Program	0.5				

want the Senate to know once again we are grateful to him for the amount of time he puts into the bill. He has led, through his comments from year to year, changes that we have tried to make in subsequent bills to reflect his guidance. We again will examine this bill as we go to conference to make sure that we have done the best we can to accept his advice and counsel. But I deeply, truly am grateful to him for the time he takes on the bill.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Alaska for his consideration of my remarks and the context in which they are intended. I appreciate the degree of cooperation he and the Senator from Hawaii have accorded me and my staff in the examination of the pending amendments. I am grateful for that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry. What is the floor situation right now? Is the bill open for amendments?

The PRESIDING OFFICER. A first-degree amendment is currently pending to the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that my amendment be put aside so we can consider the amendment of the Senator from Iowa.

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

AMENDMENT NO. 848

(Purpose: To prohibit the use of taxpayer funds to underwrite restructuring costs associated with a business merger)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 848.

Mr. HARKIN. 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 title VIII, add the following: SEC. . . None of the funds available to the Department of Defense under this Act may be obligated or expended to pay a contractor under a contract with the Department of Defense for any costs incurred by the contractor when it is made known to the Federal official having authority to obligate or expend such funds that such costs are restructuring costs associated with a business combination that were incurred on or after July 15, 1997.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I will take just a few minutes here to describe my amendment and what it does. I appreciate the chairman's willingness to set aside his amendment to take up this one.

Mr. President, this is an amendment similar to one that I offered a year ago to get the Government out of the business of paying defense contractors for exercising their own best business judgment in merging together to form larger corporations, because that is what we are doing right now. Even though defense contractors want to merge—it is in their own best business interest to do so—taxpayers are coming in and subsidizing it.

This is new. We have never done this before. Prior to July 1993, the Department of Defense had a longstanding practice of not permitting defense contractors to charge restructuring costs to flexibly priced contracts that were transferred from one contractor to another as a result of a business combination.

That was the longstanding policy of DOD. The rationale for this practice was that DOD should not have to pay increased costs merely because one contractor is combining with another contractor. That statement comes right out of a recent GAO report.

But in July 1993, DOD changed its longstanding practice and uniformly began permitting defense contractors to charge restructuring costs to the taxpayers of this country.

How did this come about? Did it come about because Congress passed a law permitting it? No. Was there ever any debate on the Senate floor about it? None whatsoever. Was there ever one hearing held on it? No, there was not one hearing held on it.

What happened was that in 1993, then Undersecretary of Defense, Mr. John Deutch by name, was Undersecretary for Procurement. He decided, single-handedly, to change the longstanding policy and made this change.

We raised the point at the time, I and others, that this was a change in the Federal Acquisition Regulations, [FAR]. To get a change like this in FAR, there was a process and procedure that one had to go through. It had to be published in the Federal Register. There had to be hearings on it. Congress had to act on it. None of that took place.

When we raised the point that regulations were not followed in changing the FAR, Mr. Deutch testified that in fact this was not a change in FAR, this was simply an explanation of existing law, that indeed the Department of Defense or any Federal agency had the authority to pay for the costs of mergers and acquisitions. So to get out from underneath violating the law, which I believe is what Mr. Deutch did at that time in terms of not going through the normal process, he then said, well, this really was not a change in FAR, it was simply an explanation of what was existing law.

That raised all kinds of questions, as I pointed out last year in the debate.

If this had been existing law for all these years, then it does not just affect the Department of Defense. It affects every agency of Government. That

means that if hospitals merge, if they have Government contracts, can now come in and say, we want help for our mergers and acquisitions.

This could go back years and years. People could come back from 20 years ago and say, Oh, well, we didn't know that that was existing law, so now we need to be reimbursed for the mergers we made in the past.

So we are hung up on the twin horns of this sort of dilemma. On the one hand, if it was indeed a change in FAR, then Mr. Deutch and the Department of Defense did not go through proper procedures to accomplish that. If, on the other hand, it was not a change in FAR, then we have opened a Pandora's box for providing for taxpayer funding for any merger or combination for any company that has any Government contract.

But I want to point out this is the Department of Defense, DOD, funding bill. And, you know, some of my colleagues argue that we are tight for money in this bill. We tried last week to transfer some money out of DOD to pay for veterans. We were told we did not have enough money in DOD for that. Now we have a subsidy the likes of which we have never seen in this country. I call it the "money for nothing" subsidy because that is exactly what the taxpayers are getting.

Let us look at the mergers and acquisitions that we have had.

Just last week Lockheed Martin announced it would purchase Northrop Grumman for an estimated \$11.6 billion. Well, besides a nice stock boost for Northrop Grumman, which closed up 21.12 cents on the stock market when the merger was announced, these merging companies are also eligible to receive millions of dollars from the American taxpayers just for doing what is in their own best business interest. So that is why I am offering this amendment, a commonsense amendment to prevent these large and profitable companies from receiving taxpayer subsidies simply for merging.

I am not saying they cannot merge. I am simply saying that the taxpayer should not fund it.

For the life of me, I cannot see the wisdom in paying these profitable companies for merging when they are doing it in their own best business interest, when they are making a lot of money on the stock market, and we are paying them with money that we just do not have. I thought we were trying to balance the budget.

Again, this is not money for any goods that we are going to receive at all. I just think that if these companies want to merge, fine—I know the Department of Defense has been urging them to merge for savings to the taxpayers, possible savings to the taxpayers. I do not know whether that is true or not. There may be some savings, but I do not think that has all been documented in terms of real savings. But even if there are savings to the taxpayers, the fact is, these companies are making a lot of money by

merging. These companies would not merge if it was not in their best business interests to do so. There is no one at the Defense Department holding a hammer over their heads saying, Lockheed, you must merge with Northrop Grumman. There is no one holding a hammer over the head of Boeing saying, You must merge with McDonnell Douglas. They are doing it because it is increasing their profits, increasing their bottom line for their stockholders. Otherwise they would never do it.

These mergers, aside from making more money for the companies, are in fact decreasing the amount of competition that we have out there now for Government procurements. But now they say that, well, these mergers are going to save us money.

Let me read a couple of passages from a recent DOD inspector general report, dated June 28, 1996. On page 9—let me read it in its full context:

Contractors' [meaning defense contractors] are submitting cost proposals for activities called concentration, transition, economic planning, and other terms that do not immediately suggest restructuring and make the cost issues difficult for the Government to review, administer, and resolve.

On page 10 of the same IG's report—this is still the DOD inspector general's report—they said that:

One contractor's restructuring proposal projected savings over 10 years. But the contractor's projections are highly speculative since the volume of Government business is not guaranteed. The same contractor also proposed savings based on "synergies in the work force"—

How about that one?

a term that is not defined in the existing procurement regulations, and is difficult at best to substantiate and evaluate.

Not my words, this is the DOD inspector general's words.

On page 16 the same IG report:

Amortization based on the projection of extended savings can almost make a marginal acquisition appear attractive by spreading costs over a long period, and comparing them to the projected savings to determine savings. In all cases, amortization periods were selected for arbitrary reasons. . . .

According to a GAO study of one business combination, they said:

The net cost reduction certified by DOD represents less than 15 percent of the savings projected to the DOD 2 years earlier when they sought support for the proposed partnership.

So DOD said, here is the proposed savings. GAO did the study of it and said the cost reduction was less than 15 percent of the proposed savings.

So, I believe, Mr. President, this practice is clearly an abuse of taxpayers' money. We never passed it in the Congress. I believe that if this had ever come up for a vote in the Senate to say that we are now going to pay for mergers and acquisitions for these companies who are going to make these huge profits, I do not think it ever would have passed.

If these companies are merging for business reasons, why do they need a

handout from the taxpayers? If they are not being ordered to do so by the Government—and they certainly are not; encouraged, yes, not ordered to do so—but if they are good, the mergers will happen anyway, and the taxpayers will receive any savings without paying anything out.

I know that is the point that is going to be made. We know that we can see some savings being made by these mergers. Fine. That is a great savings for the taxpayer if that is happening. But there is no reason we should have to pay for these mergers, because the companies are making much higher profits, much more money than they were before.

So, therefore, we should not have to pay for them. Lawrence Korb, former Under Secretary of Defense, pointed out that defense contracting is still a profitable business. Over the past year, Lockheed Martin stock increased 48 percent in value, Northrop Grumman stock is up 50 percent, and McDonnell Douglas went up a whopping 80 percent last year. That is fine. That is good. But then why do we have to come in and give taxpayers' money to them to merge?

You do not have to take it from me but from a very conservative think tank, the Cato Institute, which said, "The costs associated by mergers should not be absorbed by Federal taxpayers. This is an egregious example of unwarranted corporate welfare in our budget."

Taxpayers for Common Sense said, "It is time for the Pentagon to drop this ridiculous money-for-nothing policy."

The Project on Government Oversight said, "The new policy is unneeded, establishes inappropriate government intervention in the economy, promotes layoffs of high-wage jobs, pays for excessive CEO salaries, and is likely to cost the government billions of dollars."

Mr. President, it is time for the Pentagon to drop this ridiculous money-for-nothing policy. This policy is unneeded, it allows inappropriate Government intervention in the economy, and is likely to cost more because it will limit competition.

Mr. President, the GAO recently pointed out that in the last round of mergers and acquisitions they found the following: One, GAO was unable to account for savings for the Federal Government due to DOD's subsidies for mergers; second, the GAO reported that the mergers have led to the layoff of 15,000 workers, with an additional 4,000 expected. GAO also offered no evidence that the subsidy had resulted in any savings that would not have been achieved without Federal payments.

There is another effect that we have not factored in here: 15,000 hard-working blue-color Americans lost their jobs, most of them good union people, making pretty good wages—15,000 of them out of work. I suppose they belong to unions like the machinists and

a lot of other good unions, making good money. Fifteen thousand laid off because of these mergers and acquisitions. How many went on food stamps? How many drew unemployment compensation? That is another cost to the taxpayers that was not picked up by these merger and acquisition costs or factored into the studies.

Mr. John Deutch, in 1993, made a big mistake. We should not compound that mistake. Already, we have paid out \$179 million to pay for mergers and acquisitions. There is pending right now on the books about \$817 million that we can see. That is not counting the upcoming Boeing-McDonnell Douglas merger. How many more hundreds of millions of dollars will that add?

My amendment, Mr. President, says simply that all of those that we have—and I want to make sure the managers of the bill understand this—all of those with which we have contractual arrangements, obviously have to be paid. What my amendment says is that those that have not been contractually made, we will not pay for these mergers or acquisitions. So if we have made the contracts, I guess we have to live up to it. But my amendment says none in the future.

It is time to stop this ridiculous policy of paying highly profitable companies to do what is in their own best interests and which they would do anyway even if there were no Government subsidy.

I yield the floor.

Mr. STEVENS. Mr. President, I have discussed this matter with the distinguished Senator. I want to specifically call his attention to two sections that are in our bill that were in the bill the year before and the year before. One says:

None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

- (1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and
- (2) such bonus as part of restructuring costs associated with business combination.

Second, we have a provision in this bill on page 91 section 8090. "None of the funds available to the Department of Defense under this Act may be obligated or expended to reimburse a defense contractor for restructuring costs associated with business combination of the defense contractor that occurs after the date of enactment"—and it was in last year's bill, also; so it covers all of the mergers and consolidations that the Senator has mentioned—"unless:

- (1) the auditable savings for the Department of Defense resulting from restructuring will exceed the costs allowed by a factor of at least two to one, or
- (2) the savings for the Department of Defense resulting from restructuring will exceed the costs allowed and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to the Department, and

(3) the report required by section 818(e) of Public Law 103-337 be submitted to Congress in 1996 is submitted.

Now, what we have done in the past is we have said that if clearly there is a two-in-one savings resulting from the combination, the buildings can be paid associated with restructuring. If it is a situation where the savings and the costs are equal, then the Department can pay costs associated with restructuring where it finds that it is in the interests of the Department and the United States to have the consolidation because of its impact on our industrial base. That is the last part I want to mention to my friend.

We have reduced procurement costs by over 60 percent now of the Department of Defense. In so doing, we faced the problem of what happens to the industrial base. Many people have come to us and talked to us about this, come to the committee and talked to us about it. You have to maintain the industrial base that is necessary to provide this Nation with the systems that will be required in our defense. We have seen it in shipbuilding, in submarine building, in aircraft building, in tanks; we have seen it across the spectrum of procurement.

In order to do that, in some instances, there have been incentives to industry to consolidate in the past. In this time, however, in this go-round, there have been no incentives paid, there has been the right of the Department to pay a portion of the restructuring costs when they meet these two tests. If the savings projected are twice as much as the costs, then the Department may pay the costs.

I say to my friend, the problem of maintaining the industrial base is a very difficult one in a global economy. We are part of a global defense economy now, too. There are enormous entities in other nations that are competing with our people to provide new equipment, military equipment to nations throughout the world, that are able to purchase and maintain sophisticated new technology for their own defense.

Senator INOUE and I have visited nations throughout the Pacific almost annually, and we have seen that. We have seen the desire for the acquisition of new high-performance aircraft for aircraft carriers, for submarines. We have seen that in terms of the purchase from the Soviet Union, some of the nations in the Persian Gulf.

The point I am making is, if we are to be able to maintain the capability that we must have to compete, if necessary, once again, in restructuring our own industrial base and making it possible to expand any of these systems, we have to maintain the minimum amount of industrial base necessary to do that. These restructurings that have taken place, in my judgment, have enhanced the ability of the United States to maintain an industrial base, primarily the ones that my friend is talking about in the field of aviation and

that have happened just recently. Had those mergers, those consolidations not taken place, we would have seen the problem of the industrial basics exacerbated by some of those companies failing when they were under obligation to the United States to complete existing contracts.

These mergers and consolidations have enabled these companies to come together, and they will, in fact, fulfill existing contracts. There is still enough of a competitive structure within our Nation to assure competition for future contracts. I understand the Senator has a GAO report on this matter.

I think it is premature, really, to assess the impact of the laws we passed. By the way, there are other provisions in the authorization bill for the years past, and also in this year. I do not have the knowledge of every one of the items he mentioned on a personal basis, but I have the belief that the Department has before it a series of provisions that prohibit the reimbursement for the bonuses to start with. They are not part of this at all. They cannot be paid. But beyond that, there are limited cases when restructuring costs may be paid by the Department, either when the savings are 2-to-1 over the costs or where the Secretary finds it is at least equal savings to the costs, that those costs are in the interests of the Government in maintaining the industrial capacity to provide for our own defense.

I say to the Senator, I reluctantly have to again oppose his amendment and I will do so. I do not stand here to say that there have not been some excesses in American industry per se over the payment of bonuses and costs upon merger and consolidations, but I do think in terms of those that have taken place within the realm of industrial base and supplies to the Department of Defense we have acted in the past and we are maintaining again this year strict controls over what can be paid by the Department from taxpayers' funds as a result of costs resulting from such restructuring.

Mr. HARKIN. I appreciate my chairman's comments on this. I know that the law was changed last year; Commerce put these provisions in there.

Let me respond by saying that I think the GAO report points out that these are ephemeral, at best. It does say that you have to, if I could just have the chairman's attention, have the savings, the restructuring savings for DOD just has to be projected by at least 2-to-1.

Then here is what the GAO said about estimating these savings. It said:

Restructuring savings, on the other hand, are not recorded in a contractor's accounting records. Therefore, neither the amount nor the nature of the savings can be determined by reviewing the accounting records. Consequently, savings have to be estimated. For example, Northrop-Grumman's estimated 5-year savings from closing the Grumman corporate headquarters of about \$215 million, of which about \$100 million represents the labor

and fringe costs that would be avoided over the 5-year period by laying off approximately 250 workers. These savings are, therefore, an estimate of a cost avoidance over the 5 years, the cost of the additional people that would have been needed had the headquarters not been closed.

The savings from restructuring activities we examined were generally in the form of such future cost avoidances. The initial estimate of restructuring savings is simple in concept because it makes the critical assumption that everything else, except for the restructuring, is the same after a business combination as before. Because things are never the same, it is difficult to precisely identify actual savings several years after the initial estimate is prepared.

Basically, what they are saying is, all of this money is fungible. I know the chairman says that we put a provision in there saying they can't use any of this money to pay bonuses. Fine. But they can go ahead and pay big bonuses and they can shift the cost over somewhere else, and we pay for closing an office and laying off 250 workers, which is a cost avoidance.

So this money is all fungible. The GAO says there is no accounting principle that they can look to to determine that. So these are projected savings, not actual.

I say to my friend from Alaska, the distinguished chairman, projected savings, well, I can tell you, any defense industry that is going to merge is going to show you that the savings to the taxpayers is much more than 2-to-1 over the amount of money we are going to give them for merging. That is an absolute because they are going to be able to show those kinds of savings. That is not the point. The point is, they are going to merge because it is in their best business interest to do so.

Last week, Northrop-Grumman stock went up \$21.12 a share. That is a lot of money. The stockholders or shareholders are happy about this. They have the money to go ahead and merge. This is in their best business interest to do so. If the taxpayers get savings out of it, fine, I am all for it. We should get savings out of it. But why should we pay them to do something that they are going to do anyway? Let us get the savings. Let it be 2-to-1. I hope it is 3-to-1, or 4-to-1, or 5-to-1. But we don't have to give them this money to do it.

So that is in response to what the chairman just said. Yes, they have to project that the savings will exceed the allowed costs—that is the money we give them—by a factor of 2-to-1. Believe me, they are going to show that without any problem whatsoever. But if they can't, there is another loophole because if the projected savings to DOD exceeded the costs allowed, the secretary can determine if the business combination will result in the preservation of a critical capability. So there is another loophole if, in fact, they can't meet that test. Believe me they will meet that test.

My bottom line is still this: These defense contractors are merging because it is in their best business interest to do so. It is not in our best interest, I

don't think—not all the time—because I think we are destroying a lot of competition that was out there. But there is no reason for the taxpayers to subsidize it. That is what this amendment does. It simply stops it.

I yield the floor.

Mr. INOUE. Mr. President, I believe the measure before us has addressed this problem. The problem in issue is rather painful. On one hand, it is our intention, and the intention of our Department of Defense, to maintain and retain an industrial base. How do we maintain an industrial base if there are too many companies involved in one scope of work, adding to the cost of defense? We have found that by encouraging restructuring, they can bring about a definite reduction in costs—a reduction in costs to the taxpayers, a reduction in costs to the Department.

Mr. President, there is no question that when we do achieve cost reduction brought about by restructuring, men and women will find themselves without employment. And so we are faced with this predicament: Do we subsidize a company by paying large sums of money for services and products, knowing that it can be done less expensively, but since we don't want men and women to lose their jobs, we subsidize their company to maintain an overloaded work force?

We have decided that it would be in our national interest, in the interest of the Defense Department, and in the interest of the taxpayers that we bring down the cost of Government. We do have other programs—not in the defense bill, but in other accounts—such as labor, health and human services, Medicare, Medicaid, welfare to help, to the extent possible, those who may have become victims of restructuring. But we have, Mr. President—the chairman and I—the responsibility of presenting to the Senate a measure that we are confident would bring about the best service, the best product, at the least cost.

Mr. HARKIN. 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.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be no further debate on the Senator's amendment and that it not be subject to second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we are awaiting the arrival of another Senator.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that at 11 a.m. on Tuesday the Senate resume consideration of this bill, the DOD appropriations bill, and that the following be the only remaining amendments in order with relevant second-degree amendments in order:

First, there is a managers' package that we will offer;

There is a pending amendment, No. 846;

We have the Hutchison amendment on war criminals;

McCain amendment to strike section 8097;

The McCain amendment; we will call it the "Buy America" amendment;

The Dorgan amendment on flood relief;

A second Dorgan amendment on re-engineering authority;

A Feinstein amendment on land transfer;

A second amendment on NATO expansion cost cap;

Graham amendment, which I believe is cosponsored by Senator MACK, on electronic combat testing;

The Harkin amendment, which is the second pending amendment for which the yeas and nays were just ordered on, amendment 848;

Senator INOUE may have a managers' amendment in addition to mine;

The Robb Marc card amendment;

And that, following the disposition of those amendments, S. 1005 then be read a third time, the Senate proceed to vote on the passage of the bill;

That further, when the Senate receives the House companion measure, the Senate immediately proceed to its consideration.

I further ask that all after the enacting clause be stricken, and the text of the Senate bill S. 1005 be inserted in lieu of the House-passed bill, the bill be read a third time, and passed.

I further ask that the Senate insist on its amendment and request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my understanding that, other than those amendments that have now been qualified under this unanimous-consent agreement, no further amendments will be in order.

It will be our intention to try to move as quickly as possible once we are on the bill tomorrow morning at 11 o'clock to dispose of the amendments I have listed. And I would ask that all staff be notified that we shall seek time agreements on those amendments when they are called up.

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

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 11, 1997, the Federal debt stood at \$5,355,085,035,915.18. Five trillion, three hundred fifty-five billion, eighty-five million, thirty-five thousand, nine hundred fifteen dollars and eighteen cents.

Twenty-five years ago, July 11, 1972, the Federal debt stood at \$429,654,000,000—four hundred twenty-nine billion, six hundred fifty-four million—which reflects a debt increase of nearly \$5 trillion; \$4,925,431,035,915.18—four trillion, nine hundred twenty-five billion, four hundred thirty-one million, thirty-five thousand, nine hundred fifteen dollars and eighteen cents—during the past 25 years.

CONGRATULATIONS TO VERA FAIRBANKS CELEBRATING HER 100th BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Vera Fairbanks of Blue Springs, MO, who will celebrate her 100th birthday on August 2, 1997. Vera is a truly remarkable individual. She has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Vera's life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 100 years.

Vera's celebration of 100 years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join her friends and relatives in wishing Vera health and happiness in the future.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on July 14, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 1901. An act to clarify that the protections of the Federal Tort Claims Act apply to the members and personnel of the National Gambling Impact Study Commission.