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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, TUESDAY, SEPTEMBER 25, 2001 No. 126

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable PAUL WELLSTONE, a Senator from the State of Minnesota.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You promised through Isaiah that ''You will keep him in perfect peace, whose mind is stayed on You, because he trusts in You.''—Isaiah 26:3. We need this peace, the peace that passes understanding; the peace that settles our nerves and gives us serenity in these perplexing times. Your promise through Isaiah reminds us that You are the source of perfect peace, true shalom/shalom. You stay our minds on You: Your grace and goodness, Your faithfulness, Your resourcefulness, and Your forgiving heart.

Therefore, we commit all our worries and concerns to You. True peace can never be separated from Your Spirit. You are peace! Lasting peace is the result of a heart filled with Your Spirit of peace. Take up residence within us and spread Your peace into every facet of our being. Help us to receive Your gift of peace and be peacemakers in our relationships in the Senate family. ''Shalom/shalom to you today!'' says the Lord. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAUL WELLSTONE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 25, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, the Senate is going to resume consideration of the Department of Defense authorization bill. There will be 15 minutes of closing debate on the Bunning base closure amendment. The debate will be evenly divided between the proponents and the opponents of that matter. This debate will be followed by a vote on a motion to table the amendment.

There are going to be additional rollcall votes during the day. After this vote takes place, there will be a unanimous-consent request offered to again try to get a finite list of amendments. It is still the hope of the majority leader that we can complete this legislation by tomorrow. It would be great if we could do it tonight, but certainly by tomorrow we should be able to do that.

In addition to this very important legislation, before we finish tomorrow at 2 o'clock, we really need to take up the continuing resolution. We have a lot to do today. The Senate will be in recess from 12:30 until 2:15 for our party conferences.

There are a lot of very important hearings going on today. The Attorney General is here at 10 o'clock. The Secretary of State is here later in the day. People are going to have to work with us so we can have votes on these important amendments that are coming up on this legislation, some of which have already been filed.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1438, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1438) to authorize appropriations for fiscal year 2002 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 Services, and for other purposes.

Pending:

Bunning amendment No. 1622, to strike title XXIX, relating to defense base closure and realignment.

Inhofe amendment No. 1594, to authorize the President to waive a limitation on performance of depot-level maintenance by non-Federal Government personnel.

Inhofe amendment No. 1595, to revise requirements relating to closure of Vieques Naval Training Range.

AMENDMENT NO. 1622

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 15 minutes of debate remaining on the Bunning amendment numbered 1622.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I note that the Senator from Arizona is here. I assume, since we oppose the Bunning amendment, that he, along with the two managers, will be controlling the time.

I yield myself 1 minute at this point to put into the RECORD a letter that I,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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along with Senator WARNER, received from Gen. Shelton, who is the Chairman of the Joint Chiefs of Staff. These are his words:

. . . reiterate how critically important it is that Congress authorize another round of base closures and realignments.

We previously put in the RECORD a letter from the Secretary of Defense, Donald Rumsfeld, strongly supporting one additional round of base-closing authority to begin in the year 2003 and giving the reasons for that need.

I ask unanimous consent to have printed in the RECORD the letter I received this morning from the Chairman of the Joint Chiefs, Gen. Shelton.

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

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, September 25, 2001.

Hon. CARL LEVIN,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the full Senate deliberates the FY 2002 Defense Authorization Bill I would like to reiterate how critically important it is that Congress authorize another round of base closures and realignments.

Last Thursday the President outlined a sustained campaign to combat international terrorism. The efficient and effective use of the resources devoted to this effort will be the responsibility of the Services and the Combatant Commanders. The authority to eliminate excess infrastructure will be an important tool our forces will need to become more efficient and serve as better custodians of the taxpayers money. As I mentioned before, there is an estimated 23 percent under-utilization of our facilities. We cannot afford the cost associated with carrying this excess infrastructure. The Department of Defense must have the ability to restructure its installations to meet our current national security needs.

I know you share my concerns that additional base closures are necessary. The Department is committed to accomplishing the required reshaping and restructuring in a single round of base closures and realignments. I hope the Congress will support this effort.

Sincerely,

HENRY H. SHELTON,
Chairman of the Joint Chiefs of Staff.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to read two paragraphs of this letter from the Chairman.

Last Thursday the President outlined a sustained campaign to combat international terrorism. The efficient and effective use of the resources devoted to this effort will be the responsibility of the Services and the Combatant Commanders. The authority to eliminate excess infrastructure will be an important tool our forces will need to become more efficient and serve as better custodians of the taxpayers money. As I mentioned before, there is an estimated 23 percent under-utilization of our facilities. We cannot afford the cost associated with carrying this excess infrastructure. The Department of Defense must have the ability to restructure its installations to meet our current national security needs.

I know you share my concerns that additional base closures are necessary. The Department is committed to accomplishing the required reshaping and restructuring in a single round of base closures and realignments. I hope the Congress will support this effort.

Mr. President, both the Secretary of Defense and the Chairman of the Joint Chiefs are acting in accordance with the Commander in Chief, the President of the United States. This BRAC issue is clearly one that our President needs at this time given the extenuating circumstances facing the United States of America.

I yield sufficient time as he may need to our colleague from Arizona, Senator MCCAIN.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, how much time is remaining and how is it divided?

The ACTING PRESIDENT pro tempore. There are 5 minutes remaining to the opponents and 7½ minutes remaining to the other side.

Mr. LEVIN. Mr. President, I ask unanimous consent that the opponents of the Bunning amendment be given an extra 2 minutes.

Mr. WARNER. Mr. President, I want to make sure Senator MCCAIN has adequate time. How much time would he like?

Mr. MCCAIN. I would like to request that Senator LEVIN have 2 additional minutes at the expiration of the 5 minutes I have. I ask unanimous consent for 2 additional minutes for Senator LEVIN and 2 additional minutes for the Senator from Kentucky, if he wishes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BUNNING. Mr. President, Senator DORGAN will be the first speaker.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Who yields time?

Mr. BUNNING. I yield 2½ minutes.

Mr. DORGAN. Mr. President, I do not doubt that when there is excess capacity with respect to military installations we ought to take action to deal with them. But I think it ought to be action that is targeted, thoughtful, and timely. In my judgment, there are two reasons why we ought to strike the language from this bill at this point: One is military and the other is economic.

First, we do not know what the force structure is going to be. We are undergoing a quadrennial review at this point and yet, before we talk about force structure, we already presumably know what the base structure should be.

With the issue of homeland security and all the other changes that will occur as a result of this country's determination to protect itself, we ought to, at this point, reserve the question of what should be our base structure. And for that reason, I do not think this is the time to do this.

Second, on the economic circumstances, the potential of having a base-closing commission that says to every military installation in the country, by the way, we are going to look at you for potential closure, is, in my judgment, an opportunity to stunt the economic growth of virtually every community in every region in the country that has a military installation.

At a time when we have an extraordinarily soft economy, and one that is in significant trouble, can you imagine anyone making a decision to invest in any military installation community in this country if they know the prospect might exist that installation will be closed? The answer is, they will not make that investment. They will decide they cannot in good conscience do it.

We have been through this before. If we just say that every base is at risk with respect to a commission, it stunts the economic growth of every community in which a base exists.

I say to the Pentagon, I think it would make much more sense to narrow the focus of where they have excess capacity. When that is narrowed, then let's have a commission that evaluates that excess capacity and how to deal with it. But I really believe that both for military and economic purposes this amendment ought to be agreed to and this provision ought to be stricken.

I disagree with my friend from Arizona. I think he is an American hero. I have the greatest respect for him—and he is a good friend of mine—but we disagree. I believe we ought to take a chunk out of this excess capacity at some point but not now, given the question of homeland security. I certainly do not believe now is the time, given what it will do to the economy, the economy of communities, regions, and our country, if we say every military installation is at risk of closure. That clearly will dry up investment that we need in this country to try to uplift the American economy.

For that reason, I intend to support the motion to strike.

The PRESIDING OFFICER. The Senator has used his 2½ minutes.

Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield myself 5 minutes.

Mr. President, I would like to very briefly address some of the arguments that have been made. One is that the economy is too soft right now to consider further base closings and couldn't absorb the loss of jobs. The fact is that the provision gives the President the authority to consider a base closure in 2003, not 2001. If our economy is still bad in the year 2003, we will have other problems besides a base-closing commission.

Taxpayers for Common Sense and the Center for Defense Information prepared an independent report that they released in September 2001. Some of this data may surprise some of my colleagues who are citing economic concerns as to why they oppose further base-closing rounds.

This objective study studied 97 bases closed in four base-closing rounds. Eighty-eight percent of the bases closed experienced per capita personal income growth, as high as 36 percent, and averaging nearly 10 percent. Seventy-five percent of the bases closed experienced gains in average earnings per job. Eighty-seven percent of the bases closed had positive employment rates. Sixty-eight percent beat the national average. The average job replacement rate of all these bases closed—all bases is 102 percent.

By the beginning of 2001, only 3 of the 97 counties had higher unemployment rates than the BRAC announcement year; and 53 percent had unemployment rates lower than the national average.

I will be glad to share this information with my colleagues.

Everything has changed with regard to BRAC. The argument is, and as my friend from North Dakota has said, everything is changed now as of September 11. That may be the view of some, but it is not the view of the Chairman of the Joint Chiefs of Staff and the Secretary of Defense. In fact, in their view, the opposite is the case—the opposite—that we need now to provide the Secretary of Defense with more flexibility because we may be called upon to do things very differently.

The argument is made that we do not know what the force structure will be absent the QDR—the Quadrennial Defense Review—so how can we vote on further base closure rounds? Maybe we ought to remember that this issue has been around since 1970.

In 1983, the Grace Commission made recommendations for base closures. In 1997, the QDR recommended that after four closure rounds we must shed excess infrastructure. The 1997 Defense Reform Initiative and National Defense Panel strongly urged Congress and the Department of Defense to move quickly the base realignment, and BRAC has been recommended—basic realignment—by Presidents Reagan, Bush I, Clinton, and now President George W. Bush.

Finally, Mr. President—and I think this is important—this is a time we should place trust in the judgment of the Commander in Chief and the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. If we adopt the Bunning amendment, we will be acting in direct contradiction to their views. I think it is important that there is not a single military expert in this country of any credibility who doesn't believe that we need a base-closing round.

I ask my colleagues to consult anyone—Gen. Schwarzkopf—retired or active. Who does not believe we need another base closing round? I hope we will vote down the Bunning amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUNNING. I yield Senator TED STEVENS 1 minute.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. Mr. President, I support the Bunning amendment to strike the base realignment and closure language from this year's Defense authorization bill.

It is my view that this is the wrong time for our country and our military to move forward with BRAC legislation.

There are serious questions about the adequacy of the costs and savings estimates upon which the Department bases its claims for savings in the near term.

My concern has been that over the past 12 years, we have spent over $22 billion to close and realign bases throughout the United States. These costs are substantial and must be figured into DOD's future budgets. There is still considerable work to be done to clean up previously closed bases.

However, the Department of Defense has not put aside funds in the future year Defense plan to pay for BRAC. They have not budgeted for the up-front costs. A reasonable estimate that an additional BRAC round would cost $3 to $4 billion a year—starting as early as 2004.

In recent General Accounting Office reports, they state that ''net savings from BRAC were not generated as quickly as initially estimated because the costs of closing bases and environmental cleanup were high and offset the savings.''

The up-front money must be found and it will most likely come from the Department's investment accounts. The diversion of billions of dollars to support an additional BRAC round could have a serious impact on the transformation of the services for the 21st century.

There has been a lot of discussion about savings. We found that in the past, most of the savings came from the elimination of civilian and military positions. This was consistent with the downsizing of our Armed Forces through the 1990s—not necessarily related to closing bases. Many of the military personnel were simply realigned to other bases.

Further, I know of no comprehensive assessment of the mission impact of the totality of the closure and realignment decisions made to date.

Particularly with the considerable uncertainty about the future size of the force and its requirements, it would seem the more prudent approach would delay this legislation until we have a better picture of our future requirements.

I urge you to vote to support the Bunning amendment to strike the BRAC language.

Mr. President, there will be a lot of discussion about the elimination of these bases and the impact on the economy. This is not the time to do it.

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

Who yields time?

Mr. KYL. Mr. President, I rise in opposition to the amendment proposed by my good friends and colleagues, Senators BUNNING and LOTT, concerning eliminating the authorization for another Base Realignment and Closure review in 2003.

In February of 2001, the Business Executives for National Security, a nonprofit organization focused on improving the Nation's defense business policies reported that nearly 70 percent of the defense budget is spent on support functions including bases and infrastructure.

In the 1997 Department of Defense Report on Base Realignment and Closure, Secretary Cohen noted that our force structure has been brought down significantly, 33 percent, but our domestic infrastructure has decreased only 21 percent.

In June of this year, Secretary Rumsfeld stated that he needed ''greater freedom to manage,'' and he pointed out that a ''reduction in excess military bases and facilities could generate savings of several billion dollars annually.''

This year, the Joint Chiefs testified before the Armed Services Committee, and each one—General Ryan, Admiral Clark, General Jones, General Shinseki—agreed to a need for an additional round of base closures or realignments. In their comments they pointed out that savings from excess capacity are real and that the excess infrastructure burdens their ability to efficiently execute their national strategy.

On September 3, 2001, Admiral David Jeremiah, former Vice Chairman of the JCS, and General Richard Hearney, former Assistant Commandant of the USMC wrote in commentary that ''Every billion not spent on unneeded bases is a billion that can be re-directed toward building an even stronger military.''

To those of my friends and colleagues who say that we are in a different time than in 1997, or in February 2001 or even August, and that we must support our military at this time, I say I agree with you. We must support our soldiers, sailors, airmen and women and Marines. We must give them the financial tools and operational and administrative flexibility to effectively carry out their mission, especially at this time.

I draw my colleagues' attention to September 21, 2001, as it is after the horrific events of September 11. On that date Secretary Rumsfeld communicated to the Congress, once again, his strong support for converting ''excess capacity into warfighting ability.'' My colleagues, a stronger more applicable comment could not have come at a more critical time.

To my colleagues who may point out that in that letter Secretary Rumsfeld noted that ''our future needs as to base

structure are uncertain . . .'' I point out that he goes on to emphasize that the DoD, ''simply must have the freedom to maximize the efficient use of our resources.'' By authorizing another round of realignments and closures we let our war fighters mold their infrastructure to fit their requirements. Let us not burden them for political reasons with infrastructure that should have been retired with the P–51, the Enfield rifle and the Sherman tank.

I stand with the Secretary, the Joint Chiefs of Staff, and the Senate Armed Services Committee in opposition to this amendment.

Mrs. BOXER. Mr. President, I support the amendment of the Senator from Kentucky to strike language from the fiscal year 2002 Defense authorization bill that would authorize a new base closure and realignment round in 2003.

I feel very strongly that the time is not right for another painful round of military base closures, and my opposition is only strengthened in the aftermath of the tragedy that occurred on September 11. As a result of the terrorist attacks at the World Trade Center and at the Pentagon, I believe we must reevaluate our military force structure needs—both at home and abroad—in a new and very different light.

In fact, I was extremely skeptical about the need for additional base closures even before the terrorist attacks. On August 14, Congressman GEORGE MILLER and I sent letters to the chairmen and ranking members of the House and Senate Armed Services Committees outlining our reasons for opposing a new base closure round. I ask unanimous consent that those letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 14, 2001.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate.

Hon. JOHN W. WARNER,
Ranking Member, Committee on Armed Services, U.S. Senate.

DEAR CHAIRMAN LEVIN AND SENATOR WARNER: We write to express our deep concern about the round of military base closures proposed by the Pentagon for 2003, and the enabling legislation that the Armed Services Committee will be considering. Since the late 1980s, in a series of Congressionally mandated base closures, 97 major military facilities have been closed or ''realigned''—29 of them in California.

These closures have been extremely painful for the communities involved, and it has proven extremely difficult to convert these bases to other, economically viable uses. As you know, the primary obstacles to converting closed bases are the enormous costs and huge technical challenges associated with cleaning them up. In our state of California, while some sites have made great progress, none of the 29 bases closed since 1988 have been fully cleaned up or converted to non-military uses. And until a base is cleaned up (or at least a fully funded clean up plan is in place), it is virtually impossible for a community to attract the vendors, developers and others who can help make a base's conversion an economic and social success.

We believe it would be unfair and inefficient to close even one more base while the Pentagon continues to raise financial and bureaucratic hurdles to communities that are doing everything in their power to adjust to new civilian economic realities. The Pentagon must work in good faith with communities in California and across the country to expedite and complete the clean up and conversion efforts now underway.

Instead of devoting time, money and energy to developing a new base closure round, we ask that you work with us and our communities to finish the job we started so long ago.

Sincerely,

BARBARA BOXER,
U.S. Senator.

GEORGE MILLER,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 14, 2001.

Hon. BOB STUMP,
Chairman, Committee on Armed Services, House of Representatives.

Hon. IKE SKELTON,
Ranking Member, Committee on Armed Services, House of Representatives.

DEAR CHAIRMAN STUMP AND CONGRESSMAN SKELTON: We write to express our deep concern about the round of military base closures proposed by the Pentagon for 2003, and the enabling legislation that the Armed Services Committee will be considering. Since the late 1980s, in a series of Congressionally mandated base closures, 97 major military facilities have been closed or ''realigned''—29 of them in California.

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Instead of devoting time, money and energy to developing a new base closure round, we ask that you work with us and our communities to finish the job we started so long ago.

Sincerely,

BARBARA BOXER,
U.S. Senator.

GEORGE MILLER,
Member of Congress.

Mr. LEVIN. Mr. President, we have heard basically three arguments. One is that this is the wrong time to do this, following the events of September 11. It seems to me, the compelling answers are set forth in the letters from Secretary Rumsfeld and GEN Shelton on that issue.

Secretary Rumsfeld: ''the imperative to convert excess capacity into warfighting ability is enhanced, not diminished,'' because of those events because we need to maximize our resources—in his words—''the finite use of resources.'' And the authority to realign and close bases and facilities will be a critical element to ensure the right mix of bases and forces within our warfighting strategy.

We are asking our troops to take risks. It seems to me, at a minimum, we ought to be willing now to set aside our own back-home concerns and do what is essential in order to have the efficient use of resources. We cannot afford infrastructure which is excess at any time but surely when we are asking our troops to go into combat. There is no justification for us to continue to say we are going to preserve excess infrastructure. This begins in 2003. I emphasize this because some or our colleagues have said, if you don't know the force structure, how can you know the base structure? We don't know what our force structure is going to be. That is why in the bill itself we require that before 2003, before this base structure plan is put into place—and here the words of the bill are being quoted:

> The Secretary shall carry out a comprehensive review of the military installations of the Department of Defense . . . based on the force-structure plan submitted under subsection (a)2. . . .

There must be a force structure plan submitted under this law prior to the base restructuring proposal.

Finally, in terms of savings, we heard that at times you cannot prove the savings. We have shown, it seems to me, through GAO report after GAO report, that—and now I am going to quote from one of the more recent ones:

> Our work has consistently affirmed that the net savings for four rounds of base closure and realignment are substantial.

That is the GAO talking. And we have had a report from the Department of Defense, a very specific report, showing the savings in a chart which lays them out line by line. I ask unanimous consent that the Department of Defense chart showing specifically where the $6 billion annual recurring savings comes from be printed in the RECORD.

That is a significant amount of money. We cannot afford to waste this money. We cannot afford to ask our forces to go into combat if we ourselves will not do what is necessary to give them the resources.

This is excess baggage. They should not be going into combat with the belief that we are not willing to strip the excess, at least starting in the year 2003, at least starting after there is a new force structure that has been decided upon, if they are going to be taking the risks we are going to be asking them to take.

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

SUMMARY OF FY 2002 BRAC BUDGET ESTIMATES; SUMMARY OF ALL BRAC COSTS AND SAVINGS BY FISCAL YEAR—INCLUDES ANNUAL SAVINGS (INFLATED) AND ENVIRONMENTAL COSTS

[Current dollars in millions]

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	Total
ONE TIME IMPLEMENTATION COSTS													
Military Construction	345.6	478.8	298.1	812.4	985.5	915.6	1244.7	719.1	506.5	224.4	65.7	12.8	6,609.1
Family Housing—Construction	0.0	0.0	0.3	0.0	0.7	0.0	0.0	38.4	46.8	2.0	0.0	0.0	88.2
Family Housing—Operations	0.0	0.1	0.5	1.4	0.3	0.0	0.1	0.0	0.4	0.3	0.0	0.0	3.1
Environmental	0.0	366.4	621.9	487.3	540.5	643.1	847.0	676.9	830.5	750.4	360.7	770.1	6,894.8
Operations and Maintenance	111.8	120.6	98.9	409.3	784.6	1029.3	1513.9	1057.3	709.7	671.3	270.1	213.3	6,990.2
Military Personnel—PCS	0.3	1.3	2.2	13.7	23.7	26.9	14.8	17.9	11.9	19.7	1.5	5.4	139.4
Other	13.6	17.9	4.1	40.4	89.6	160.8	119.4	33.1	17.7	10.1	2.4	0.6	509.6
Homeowners Assistance Program	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	13.5	18.5
AF Move Bill From O'Hare Airport	0.0	0.0	0.0	0.0	0.0	0.0	0.0	94.6	0.0	0.0	0.0	0.0	94.6
Commission Expenses	0.0	0.0	13.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	13.0
Prior Year Financing	0.0	0.0	0.0	0.0	0.0	0.0	1.3	3.5	0.0	19.0	0.0	0.0	23.8
Total One Time Costs	471.3	985.1	1,039.0	1,764.5	2,425.0	2,775.7	3,741.1	2,640.8	2,123.5	1,697.2	705.3	1,015.7	21,384.3
Estimated Land Revenues	(4.3)	(4.2)	(40.6)	(12.7)	(0.1)	(7.4)	(6.2)	(113.5)	(48.9)	(59.2)	(39.1)	(0.3)	(336.4)
Appropriations For 90–01	467.0	980.9	998.4	1,751.8	2,424.9	2,768.3	3,735.0	2,527.3	2,074.5	1,638.0	666.2	1,015.4	21,047.8
COST FUNDED OUTSIDE THE ACCOUNT													
Military Construction	0.0	0.0	23.2	0.0	5.9	0.4	0.0	0.0	0.0	0.0	0.0	0.0	29.4
Family Housing	0.0	0.0	0.8	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Environmental	38.0	0.0	25.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	63.6
Operations and Maintenance	0.0	0.0	95.5	13.0	61.4	60.4	111.4	85.6	96.5	67.0	20.2	2.1	613.1
Other	0.0	0.0	12.2	4.9	0.0	4.8	2.4	2.9	2.1	2.0	0.0	0.0	31.2
Homeowners Assistance Program	0.1	0.1	0.2	51.1	30.9	98.7	2.3	2.3	0.0	0.0	0.0	0.0	185.6
Total Costs Outside of the Account	38.0	0.1	157.5	69.2	98.2	164.3	116.1	90.8	98.5	69.0	20.2	2.1	924.0
Total BRAC Cost [Incl. land revenues]	505.0	981.0	1,155.9	1,821.0	2,523.2	2,932.6	3,851.1	2,618.1	2,173.1	1,707.0	686.4	1,017.5	21,971.8
Cumulative BRAC Cost	505.0	1,486.0	2,641.9	4,462.9	6,986.1	9,918.7	13,769.8	16,387.8	18,560.9	20,267.9	20,954.3	21,971.8	
SAVINGS													
Military Construction	16.8	16.9	236.9	82.1	165.4	141.9	124.4	88.4	27.9	47.1	1.3	15.5	964.7
Family Housing—Construction	12.6	16.9	59.6	9.7	18.7	3.5	11.6	0.8	1.7	38.8	1.5	1.5	176.9
Family Housing—Operations	0.0	15.0	22.8	47.1	100.7	113.2	134.0	154.2	186.3	202.2	210.1	216.8	1,402.5
Operations and Maintenance	6.5	48.4	148.4	241.3	806.4	1,225.9	1,873.0	2,268.2	2,762.8	2,978.8	3,269.0	3,561.1	19,189.8
Military Personnel—PCS	(0.5)	25.4	78.7	362.6	722.0	925.0	1,152.2	1,357.8	1,489.3	1,572.4	1,627.2	1,682.9	10,994.9
Other	0.4	0.5	19.7	98.4	104.6	179.5	887.1	879.7	753.0	673.0	704.6	724.5	5,025.0
Total Savings	35.8	123.0	566.1	841.2	1,917.8	2,588.9	4,182.2	4,749.2	5,221.0	5,512.3	5,813.9	6,202.4	37,753.9
Cumulative Savings	35.8	158.9	725.0	1,566.2	3,484.0	6,073.0	10,255.2	15,004.4	20,225.4	25,737.7	31,551.5	37,753.9	
NET IMPLEMENTATION COSTS													
Net Cost/(Savings) [Incl. land revenues]	469.2	858.0	589.8	979.7	605.4	343.6	(331.1)	(2,131.1)	(3,048.0)	(3,805.2)	(5,127.5)	(5,184.9)	(15,782.1)
Cumulative Net	469.2	1,327.2	1,917.0	2,896.7	3,502.1	3,845.7	3,514.6	1,383.4	(1,664.5)	(5,469.8)	(10,597.2)	(15,782.1)	

Cost $B:22.0; Savings $B: 37.8; Net $B: 15.8; Recurring Savings $B: 6.2.

Mr. LOTT. Mr. President, I know we are about to vote. I yield myself some leader time.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. LOTT. Mr. President, it is no secret that I have always opposed the BRAC process. I think it is an abdication of the responsibility of the Congress. For years and years, the Pentagon made recommendations for Congress, and Congress considered them, acted on many of them, and bases were closed.

Second, we know for certain that the BRAC process severely disrupts the local economies of communities in States across the Nation. We also know there is still a question about the BRAC savings from the past base closures. For instance, I know that in the military construction appropriations bill that will be coming up, perhaps later today or tomorrow, there is $150 million for cleanup as a result of previous base closures, most of it going, I guess, to California, some to Texas, and some I think maybe to New York. We are still in the process of trying to expend money so that the process can be completed.

Also, I think the timing is bad. We are arguing about exactly what we should do now, but I saw an Air Force general talking the other day about how our fighters had been looking outward up until 2 weeks ago; now they have to look inward. The world did change. I think that at a time of our Reserves being called up, the National Guard being called up, communities being told to support the military, we are going to be together, we have been attacked, and we are going to respond appropriately, but we are going to say: By the way, we are going to look at closing your base.

I don't think the timing is good. While I have never supported BRAC, it is not to say I won't someday. I realize we have excess capacity and duplication. I think we could do this. Maybe we could even look at it in a few weeks or months when we see exactly what the force structure is going to be, what this conflict is going to look like. After more consultation, in my opinion, we will know about how this would look.

I was interested and appreciative of the language Senator LEVIN pointed out about the force structure. Obviously, before we go forward on this, we should match base infrastructure with force structure. We still have a lot of questions out there about this homeland defense. And Secretary Rumsfeld is still working on his strategic review and is currently executing the congressionally mandated quadrennial defense review. It is underway, but it is not completed.

Also, my concern is that every base, every community, every State is going to be affected by this. They are going to be alarmed by this. They are going to hire consultants and all kinds of people to make sure their case is made appropriately. I think that is the wrong way to go. Where we have excess capacity, identify it and say we are going to look here. Where we know we may not have sufficient capacity now, why have a question about that particular base?

I continue to wonder why we have not done more about overseas bases. We gave the Pentagon authority a few years ago to move in that area. Have they done it? No. Have they consolidated missions and looked at closing bases? No. Do we need bases in Europe? Yes. We need to have air and naval bases where we can project power from Europe. We have 523 activities in Europe, 116,000 troops. We have spent well over a half-billion dollars since 1997 on MILCON in Europe. So should we not take a look at that before, or at least at the same time we are looking at bases in our own country?

Mr. President, I support the Bunning amendment. I think this is a classic case of getting the cart in front of the horse. I am committed and prepared to work with Senator WARNER and Senator LEVIN and the Defense Department to see if there can be a way to do this. I don't think the way this is set up in the bill is appropriate. I think the timing could not be any worse.

I urge a vote for the Bunning amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky controls just under 6 minutes.

Mr. BUNNING. Mr. President, I want to make sure I get to close. Do we have any other speakers?

The ACTING PRESIDENT pro tempore. The time of the opponents has expired. The Senator would have the last word.

Mr. WARNER. Mr. President, I hope the Chair will recognize me for the purpose of a tabling motion at the conclusion of my colleagues' presentation.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, we are embarking on a new war like nobody has ever seen before. We are not experts in knowing what the landscape of the 21st century warfare will look like. None of us knows for certain that we need to downsize our military infrastructure under these extraordinary circumstances.

I have heard it said here today, and before, that DOD has a certain amount of savings. I show you two reports. One is from the GAO on military base closings. In the report, it says: The estimates are imprecise and should be reviewed as rough approximations and not likely savings. These prospects apply as well to the Department's updated net savings estimates.

So even the GAO and the CBO say the savings are not really savings because they didn't consider everything. They can't even back up their own numbers. If you agree with DOD on savings—and they also say the cost upfront actually is more, which was brought out by Senator STEVENS. BRAC has been a political football. Anybody who has been involved in it knows it has been a political football. First it was the commission; then it was the administration. So it cannot be done objectively.

I know our good chairman and the ranking member have tried to do that in this BRAC round. But I am not sure it won't become a political football again. So that is BRAC as usual, and I am not for BRAC as usual.

The new home security cabinet, as Senator LOTT has said, may decide they need these bases to make our homeland secure. I think it is very good that we keep in mind that when Governor Ridge is confirmed, he may decide how important certain bases are. Our economy and BRAC don't go hand in hand. If we slow it down, it may fall off the edge. I know that is not as necessary a reason, but it is a reason for not doing BRAC at this time.

The DOD's Quadrennial Defense Review is not even completed. It is premature to act on BRAC when we don't even know what the quadrennial report proposes regarding our infrastructure.

Please vote no on the tabling motion that is coming.

The ACTING PRESIDENT pro tempore. Does the Senator from Kentucky yield back his remaining time?

Mr. BUNNING. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—53

Akaka	Graham	McCain
Allard	Gramm	Miller
Allen	Grassley	Nelson (FL)
Bayh	Hagel	Nickles
Biden	Harkin	Reed
Byrd	Hollings	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Santorum
Chafee	Kennedy	Sessions
Corzine	Kerry	Smith (OR)
Daschle	Kohl	Stabenow
Dayton	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Leahy	Voinovich
Ensign	Levin	Warner
Enzi	Lieberman	Wellstone
Feingold	Lincoln	Wyden
Frist	Lugar	

NAYS—47

Baucus	Craig	McConnell
Bennett	Crapo	Mikulski
Bingaman	Domenici	Murkowski
Bond	Dorgan	Murray
Boxer	Durbin	Nelson (NE)
Breaux	Edwards	Roberts
Brownback	Feinstein	Sarbanes
Bunning	Fitzgerald	Schumer
Burns	Gregg	Shelby
Campbell	Hatch	Smith (NH)
Carnahan	Helms	Snowe
Cleland	Hutchinson	Specter
Clinton	Hutchison	Stevens
Cochran	Inhofe	Thomas
Collins	Inouye	Torricelli
Conrad	Lott	

The motion was agreed to.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, I ask unanimous consent that my vote on the last amendment be changed. I erroneously voted aye becasue I thought I was voting for the amendment. That was a tabling motion. I now ask unanimous consent to change my vote, and it will not in any way change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I believe there is an order sequenced for two amendments. Am I correct?

AMENDMENT NO. 1594

The PRESIDING OFFICER (Mr. EDWARDS). The pending business is amendment No. 1594 offered by Senator INHOFE from Oklahoma.

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

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

AMENDMENT NO. 1594, AS MODIFIED

Mr. INHOFE. Mr. President, we have talked about the amendment that is under consideration, No. 1594. We have agreed to change it. I send to the desk the amendment, No. 1594, as modified.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, it is so ordered.

The amendment (No. 1594), as modified, is as follows:

At the end of subtitle D of title III, add the following:

SEC. 335. REVISION OF AUTHORITY TO WAIVE LIMITATION ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

(a) Section 2466(c) of title 10, United States Code, is amended to read as follows:

''(c) WAIVER OF LIMITATION.—(1) The Secretary of Defense may waive the limitation in subsection (a) for a fiscal year if—

''(A) the Secretary of Defense determines that—

''(i) the waiver is necessary for reasons of national security; and

''(B) the Secretary of Defense submits to Congress a notification of the waiver together with—

''(i) the reasons for the waiver; and

''(2) The Secretary of Defense may not delegate the authority to exercise the waiver authority under paragraph (1).''.

(b) The Secretary of Defense shall provide a report to Congress not later than January 31, 2002 that outlines the Secretary's strategy regarding the operations of the public depots.

Mr. WARNER. Mr. President, may we have a minute?

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, the chairman has advised me that the Inhofe amendment is acceptable to the other side.

Would you restate the number of that?

Mr. INHOFE. Yes.

Mr. LEVIN. I ask unanimous consent to vitiate the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Amendment No. 1594.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

Mr. WARNER. Mr. President, can we adopt the Inhofe amendment?

Mr. INHOFE. Mr. President, we have reached agreement on the amendment having to do with depot maintenance. We have made two modest changes from that which was introduced. One is, instead of sending it to the President in lieu of the service chiefs, it now

goes to the Secretary of Defense. No. 2, it says we need to have the report from the Secretary of Defense as to the future use of depots. That is essentially it. It is agreed to, and I ask it be accepted.

The PRESIDING OFFICER. The Senator has the right to modify the amendment.

The question is on agreeing to the amendment, as modified.

Mr. LEVIN. I understand there is no objection to the amendment, as modified, on our side.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 1594), as modified, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 1674

Mr. WARNER. Mr. President, I ask unanimous consent that I be allowed to send an amendment to the desk and ask for its immediate consideration.

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

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 1674.

The amendment is as follows:

Strike section 821 of the bill.

Mr. WARNER. Mr. President, this is an unusual step, but as a manager of the bill I have the responsibility to keep this bill moving. We have exercised good-faith efforts on both sides to reconcile an issue which is deserving of the attention of the Senate. The amendment of the Senator from Virginia would strike from the bill that language referred to generically as the prison issue of materials made by prisoners and sold to the Department of Defense.

I support the bill, and I am going to vote against my own amendment, but in order for the Senate to move expeditiously, to continue to have this bill go forward, because at the moment we cannot hope to achieve finalization of this bill—the desire of both the majority leader and the Republican leader—by tomorrow unless we get finalization on the list of amendments.

I do not, in any way, disparage my distinguished colleague who is exercising, perfectly within his rights, certain procedures. But I think this will enable the Senate to address this issue now and to come to some resolution on it so that we can move on with this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I move to table the amendment.

Mr. GRAMM. I suggest the absence of a quorum.

Mr. WARNER. Mr. President, we need to have some debate, I think.

Mr. THOMAS. Mr. President, I would like to have some debate, so I will, at the appropriate time, move to table the amendment.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. WARNER. I thank my colleague. I think it is important that debate take place on this amendment, and at the appropriate time the Senator may seek recognition for that purpose.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say I want to make it clear that—reserving all of my rights under the rules of the Senate to offer substitutes or amendments—I am hopeful that in the midst of a national crisis we can find a way to gather new information and commit to make a decision on this divisive issue next year.

We have voted on this issue probably four or five times in the last decade. To this point, in each and every case we have preserved prison labor in America. Our new chairman of the Armed Services Committee, who has consistently sought provisions in the bill that would effectively end the current program, is now chairman of the committee and has the provision eliminating the program for all practical purposes—I will explain that—has put that in the bill itself which has produced the situation in which we find ourselves.

Now let me try to talk about this problem. I want to begin by talking about the history of prison labor in America. I want then to talk about the point at which we came to a fork in the road, and took the wrong fork, in my opinion. And that occurred during the Great Depression.

I want to talk about the Levin amendment, as to why it violates every principle in the bill. Then I want to outline the prison labor system and why it is so critically important to our system of criminal justice, and why the program, at least in our last study, which was in 1998, was given very high marks. At that point, I will have made this case, I hope.

We do have some Members of the Senate who are voting on this issue for the first time, and I believe it is important that a full presentation be made.

Let me begin with de Tocqueville. We all remember that de Tocqueville came to America and wrote the greatest critique ever on democracy in America, the great classic which people read even today to understand the special nature of America and to understand the genius of our economic and political system.

Many of us forget that de Tocqueville came to America not to study democracy but he came to America to study our prison system. In fact, his first book was about the American prison system. He basically concluded that we had the finest prison system in the world, and the foundation of the excellence of the American penal system, as de Tocqueville found in the 1830s, was a comprehensive program where, for all practical purposes, every prisoner in America worked.

We had a system where prisoners engaged in manufacturing, prisoners engaged in agriculture, and substantial amounts of the cost of incarceration were paid for by prison labor, lifting the burden on the taxpayers of the 1830s in America to fund our prison system; but most important, in de Tocqueville's opinion, was the humaneness of labor in prisons. In fact, de Tocqueville went to great lengths to talk about the prison system and to talk about how humane it was that people in prison in America, unlike Europe, worked.

Let me read you a quote from de Tocqueville:

It would be inaccurate to say that in the Philadelphia Penitentiary labor is imposed. We may say, with more justice, that the favor of labor is granted. When we visited this penitentiary, we successively conversed with all its inmates. There was not one single one among them who did not speak of labor with a kind of gratitude and who did not express the idea that without the relief of constant occupation, life would be insufferable.

In 19th century America when someone went to prison, they went to work, and they worked 12, 14 hours a day, 6 days a week, and in working several good things happened. One, they weren't idle. And as we all know from Poor Richard's Almanac, ''idle hands are the devil's workshop.''

Secondly, they produced food, they produced products that could be sold, and they dramatically reduced the cost of incarceration in 19th century America. From 1900, where virtually every prisoner in America worked—and I would have to say there is some justice to requiring people in prison to work and to share the burden of their incarceration with working people who today pay $30,000 per Federal inmate to put people in prison and keep them there. It is cheaper to send somebody to Harvard University than it is to send somebody to the Federal penitentiary.

Now, by the turn of the century, we had an effective prison system all over America. In Texas, I am proud to say, we had a model program where every prisoner worked, and they worked hard. They grew their own food, they made their own clothes, and they produced products that were sold in the economy. Attention was given not to glut local markets, so generally products were not sold in areas where prisons were located. And by all accounts, beginning with de Tocqueville and ending with anybody who studied the penal systems of the world, at the turn of the century, in 1900, we had far and away the finest prison system in the world. And the recidivism rate relative

to the current day was low because prison was not an experience that people wanted to repeat. They had generally accumulated productive skills in prison by working, and they were blessed that when they left prison, they knew how to do something and it gave them a chance to go back to society and to try to do it—and do it for pay.

This system took a dramatic turn in the 1930s. In the 1930s, we passed three laws: Hawes-Cooper in 1929, Summers-Ashurst in 1935, and Walsh-Healy in 1936. The Hawes-Cooper Act made it illegal to sell prison-produced goods in America across State lines. The Summers-Ashurst Act made it illegal to transport prison goods in interstate commerce. The Walsh-Healy Act, in essence, said, if you produce things in prison, you have to pay prisoners union scale.

The net result of these three laws was it killed the prison industry in America. So, today, we have 1.2 million people in prison. Almost all of them are young men in their peak years, in terms of ability to work. Yet all over America, they are idle because of prohibitions against prison labor. So it is all right to let working people work, it is all right to tax people at confiscatory rates to pay $30,000 a year to have people in the Federal penitentiary. But it is not all right to force them to work and to have a process whereby there is productive work to be done.

The only vehicle left—the only work that is currently done in America by prisoners is work to produce items that are purchased by the Government. That is a pale comparison with the program that we had in 1900. But it is all that is left today.

Now, the Levin amendment would effectively kill that program with regard to the Defense Department, which is the largest purchaser of goods from our Federal prison industry. Senator LEVIN is going to say that all we want is competition. But I am sorry that I have to say that nothing in this bill is aimed at competition except the prison labor standard. This bill is full of provisions that ban competition, that force the Defense Department to pay a higher price. Not one contractor in America can bid for a job with the Defense Department unless that contractor pays union wages, unless that contractor pays the highest wage scale that anyone is paying in that labor market.

That is not competition. You are going to later hear Senator LEVIN say: All we want is competition.

All his bill has is the absence of competition. The only place it calls for ''competition'' is in the prison labor industry. This, in reality, is not a competition provision; this is a special interest provision supported by organized labor and supported by private manufacturers. Senator LEVIN and proponents of this provision will say: What could be wrong? Business and labor are together on this issue, and if the two great special interests of America are for it, surely it must be America's interest.

I beg to disagree. The special interests of labor and business are not in America's interest. And I remind my colleagues that by idling these prisons who are beginning to pay victims restitution, who are beginning to pay funds that displace taxpayers' money, what we are going to do is to impose a heavier and heavier burden on the American taxpayer. We are going to destroy the only system we have that effectively trains prisoners so when they get out, they can go out and get a job and hope to hold a job—and America will be a loser.

Part of the problem here is that all the political interests are on the side of the amendment that is now in this bill. I am proud to say that in the last decade we have voted on this thing four or five times, and each time we have saved prison labor in America. I don't know where the votes are here, and I would have to say that I am profoundly disappointed that in a year where we are facing an imminent crisis, that instead of focusing on defense, we have a special interest provision in this bill that is aimed at killing prison labor.

I want my colleagues to know that I have proposed doing an independent study through the General Accounting Office where the report would be made in May and where we could have a comprehensive debate and, hopefully, have a compromise that would allow us to solve this problem once and for all. Senator LEVIN and I have fought over this issue for a decade.

Let me go back and complete the story. Where we are is that we have a provision in the bill that basically claims that the Defense Department is a loser from the prison labor system. I want my colleagues to understand the Defense Department did not ask for the Levin amendment. You might ask: How come they didn't send a letter down here saying they opposed it? If you were the Secretary of Defense and the chairman of the Armed Services Committee in the Senate had a provision related to prison labor, would you write a letter saying you are against it? No, you would not.

I want my colleagues to understand, the Secretary of Defense did not ask for this provision, and the Attorney General and the Justice Department are adamantly opposed to the provision in Senator LEVIN's amendment.

Senator LEVIN apparently is going to make the argument, which he has made for the last decade, that the prison labor system is unfair to the Defense Department. I simply make two comments: One, how come every other noncompetitive purchasing provision in the pending bill is not unfair to the Defense Department? Why only prison labor? What is this about?

I can tell you what it is about. It is about greedy special interest. That is what it is about.

Let me tell you what the facts are, and they are old facts. One of the reasons we ought to do a study is to update the facts so we know exactly what we are talking about. There was an audit report mandated by the Congress that was submitted to Congress on August 5, 1998, 3 years ago. It was submitted by the Office of Inspector General of the Department of Defense. This is basically what it concluded. It was a comprehensive study. I have the study here if anybody would like to look at it.

Basically, what the study concluded was that when they looked at a random sampling of procurement by the Defense Department from the Federal Prison Industries Program, in 78 percent of the products they looked at, the price the Defense Department got from the Federal Prison Industries was lower than the competitive market price. In 20 percent of the cases, it was higher. In 2 percent of the cases, it was the same.

Also, when they looked at waivers—that is where the Defense Department concluded that the property that was being procured was not being sold at a competitive price or at competitive quality or on a timely basis—in over 80 percent of the cases where the Defense Department sought a waiver because they believed it was not a good deal, that waiver was granted.

When you look at the overall aggregate situation that existed in 1998 when we last studied the Federal Prison Industries, in 78 percent of the cases, the Prison Industries sold the product at less than the competitive price in the private sector; 20 percent of the time, it was more; 2 percent of the time, for all practical purposes, it was the same. The quality of the product was found to be excellent. There were problems in terms of deliverability and, in fact, in 1998, a series of reforms were implemented to try to deal with the deliverability problem.

Senator LEVIN will say that all his amendment does is require competition. My answer is, let's require competition in everything the Defense Department buys from anybody. If the Senator will change his amendment to simply give the Secretary of Defense the ability to buy competitively so that the Secretary can have competitive bidding and buy the highest quality product at the lowest price across the board, I will support that amendment. But that is not going to happen because this bill is not a competition bill. This bill is full of restrictions on competition everywhere except prison labor.

Another provision I would support and would rejoice to the heavens about would be to eliminate the Federal Prison Industries Program at the Department of Defense and in the rest of the Government and let's allow the Federal Prison Industries to compete with anybody else in Government procurement with no special arrangement, but then, subject to simple restrictions, let's let them sell in the private sector.

What would those restrictions be? A, you cannot sell in the area where the

prison is located because you do not want to glut the market; B, you cannot sell products that are in excessive supply where the price is falling precipitously; and C, let's focus production where prisoners are producing things we are importing—component parts, for example.

Unless I am sadly misinformed by the last 10 years of the debate, I do not expect the proponents of the provision in the bill to say they want competition. In fact, not only do they not want prisoners to work and produce things to sell in the private sector, they do not want prisoners to work to produce things in the public sector. That is our dilemma.

We have before us a provision in the bill which was not sought by the Defense Department, which is adamantly opposed by the Attorney General and the Department of Justice, a provision that the Federal Prison Industries Program believes will be extraordinarily detrimental to their program. It is a provision which is now a part of the entire bill. If there were a provision in the bill that said the Secretary of Defense, in promoting the public interest, shall be driven by the same motivation which motivates every consumer and every producer in America, and that is to buy the best quality product at the lowest possible price and they shall be in no other way constrained, I would support that amendment, and I would think it was enlightened policy.

I want my colleagues to remember when they hear this impassioned argument about competition, there is no competition in this bill save for prison industry. If the bill had a general competition provision, I would be for it because the benefits to America of having competitive procurement in defense would greatly outweigh the problems it would produce in the American prison industries, but there is no competition in this bill, save an effort to kill the prison industries in America.

Part of our problem in this debate, and it has been one for the whole decade—I do not know why it is that I always end up on these issues where there is no constituency—the taxpayers, by and large, hardly know this issue is even being debated today. In fact, they would be stunned. If somebody turned on the television, they would say: What in the world is that guy doing standing up talking about prison labor when the Nation is hearing the drumbeat and the bugle to march off to war? I wonder why we are doing that, too. I did not bring this up.

The point is, the American public does not understand we have an effort underway to kill what is left of prison labor. So we have 1.2 million young men, at their peak productive period, who are rotting away in prison and not working. Why is this being killed? Because of the power of special interests, the two biggest ones in America, labor and business.

If anybody cares, I want to make an additional argument, and that is about recidivism. I am sorry I did not offer this amendment today. I was getting ready to debate it when it was offered by the ranking member of the committee, and so I have to thumb through my book to try to find it, but let me summarize it rather than reading the number. Those prisoners who work have a dramatic decline in the recidivism rate or, in English, if people work in prison, they are far less likely to come back to prison when they leave. Why? For one thing, because they accumulate skills in prison.

What we really ought to be debating today and every day is turning our prisons into industrial parks. We ought to have American manufacturers in joint ventures with our prison systems producing the component parts in prison that we are buying from other parts of the world. We ought to have every prisoner working 10, 12 hours a day, 6 days a week, bringing down the cost of incarceration and building up the skill level, and when they are not working, they ought to be going to school, building up the skill level, so when they get out of prison, they know how to do something.

Amazingly—almost astounding to me—is not only are we not going in that direction but we are trying to kill the last remaining vestige of prison labor.

I want to ask my colleagues, on the basis of a couple of things, to support the Warner amendment to strike this provision.

No. 1, I am willing to support a comprehensive study. We have not had one since 1998. In all fairness, the study was done by the inspector general of the Department of Defense, and that is part of the same executive branch that is for prison labor. So what I proposed, which has not yet been accepted—I am hoping it will be—is we have the General Accounting Office, which is part of the legislative branch of Government, do a comprehensive study of the prison labor system and procurement by the Defense Department and report back to us by May, so we have it for next year, how competitive is prison labor production? What is the quality like?

We know in 1998 that 78 percent of the time it was cheaper, 20 percent oftimes more expensive, 2 percent oftimes about the same.

We should have a report on quality. We know in 1998 quality was excellent. And we should have a report on the problem that was uncovered in 1998, which was deliverability.

With that report, I then commit to seeking a compromise within our Government, or voting one way or the other on the program.

So I hope my colleagues will vote to strike this provision now, knowing we will have an opportunity next year, hopefully under very different circumstances than today, to deal with this problem.

The second thing I ask people is to not kill the remaining vestige of prison labor in America. I know my colleagues are hearing from furniture manufacturers, from some electronics manufacturers, saying: We do not want to compete with prison labor. We want to force prison labor into a—we want to eliminate the special status they have.

I say, and have said to manufacturers in my State: Look, if you will let prison labor compete in selling in the private sector, in a no glutting of the market system, then I will support taking away their special relationship with government. I would support that. But they do not want to do that. They do not want to compete with prison labor anywhere.

The problem is, if you do not let prisoners work, you have 1.2 million young men idle—idle hands are the devil's workshop—and you eliminate the building programs of victims' restitution and self-funding of prisons. In fact, since the 1930s we have largely destroyed the greatest prison system in history by destroying prison labor.

Finally, let me ask my colleagues to look very closely at the recidivism rates. Look at what is happening with people who are working in prison and what is happening when they leave prison versus people who are not privileged to work in prison and their recidivism rate. What you are going to find is the probability of people coming back to prison when they are released falls dramatically if they have worked in prison; it goes up dramatically if they have not worked in prison.

So I understand we do not have any prisoner PACs. We do not have any organized lobby from people in prison.

I am not sympathetic to people in prison. I think they ought to have to work. I am sympathetic to working people who are going to have to work harder to pay this $30,000 a year to keep people in prison because special interests want to kill off the prison labor system because some desk that the Defense Department is buying or some component part of some item the Defense Department is buying is being produced by prison labor.

So remember, if the issue were, let us buy everything competitively in the Defense Department and have the Secretary constrained in no way, save by the best product, the lowest price, put me down as a cosponsor, but there is no such provision in this bill. In fact, there are pages in this bill that prohibit competition. If I am a paving contractor and they are paving a road at the Pentagon or a parking lot at the Pentagon, I cannot even bid on pouring of the concrete unless I pay the highest wages in the region. What kind of competition is that?

So when you hear this chest thumping about all we want is competition—that is all they want—where is it? Where is it except for Prison Industries?

Secondly, if people think Prison Industries should not have a special agreement with the Government to buy products it produces, let Prison Industries produce and sell in the private

sector and eliminate the special privilege. But there is no proposal for competition. There is no proposal for allowing Prison Industries to sell in the private sector.

Cloaked in the righteousness of competition—and what special interest in American history has ever cloaked itself in anything other than the public interest?—cloaked in the public interest is this demand by unions and by manufacturers to kill the prison labor system in America. Reform it, yes. Study it and find better ways of doing it, yes. Bring competition to defense procurement in general, yes. Let anybody bid on a prison contract based on pricing and quality, yes. But kill prison labor in America, no. That is what the issue is.

I urge my colleagues to vote for this amendment and let us settle this issue. But this issue will not be settled if this amendment is rejected because there are other amendments and other ways of doing this, and I think it is very important. We are talking about the lives of real people. We are talking about the burden on taxpayers. They are not represented. I assume no taxpayers know what is going on here. Nobody has heard from one. I don't take calls from prisoners myself, so they are not busy lobbying. But the AFL–CIO and furniture manufacturers, in particular, are very active on this issue.

One will say: All they want is competition. What about competition in selling to the private sector? They do not want that. This is a special interest provision aimed at killing or dramatically reducing the Federal Prison Industries. I think that is a mistake. It is wrong. I am opposed to it.

This is a debate that ought to be taking place, but on another day, on another bill, not on our defense authorization bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I rise in support of tabling this amendment. I have listened to my esteemed friend from Texas. I am not going back to Plato. I will start closer to the current situation. I am surprised, when we talk about giving the private sector an opportunity to compete for contracts put out by the Defense Department, that that is special interest. That is difficult for me to understand.

This is defense authorization. It is absolutely the appropriate place to talk about how we do that, how we pay for it, and who does the work. It is also important we get moving with this program.

This is not an amendment that came in; this language is in the committee bill.

I have worked for several years, as many have, on a fair amendment designed to give the private sector an opportunity to bid on Government businesses. We have been successful. We have had many agencies look at what they are doing instead of doing it internally, instead of putting it out for contract. It seems reasonable. This is competition. The prisons will continue to have the opportunity to compete under a very unfair—for them, favorable—situation. They don't have to pay taxes; they don't have to pay minimum wage; they don't have to do any of the things they do in the private sector.

This has been in place since 1934. Talk about a study. The study was not even made by the congressional group. The study did not come up with the real facts. It is time to do something. It is time to deal with this idea that the private sector ought to be able to participate, to compete. That is the bottom line.

As to the notion that this does away with Federal Industries, only 18 percent of the Federal prisoners are involved. The other 82 percent are doing food service, plumbing, carpentry, other things. It is not a fact that this does away with the industry. As a matter of fact, as a good example, New Mexico, a State that had a mandatory source situation such as this, lifted it. The New Mexico Prison Industries operated under that until the State legislature reformed it. They are very happy with the result of that transformation which does, indeed, provide for competition, which is exactly what we want.

The Senator from Texas, a proponent of the private sector for the most part, is calling the private sector private interest. That is peculiar. We have a Government monopoly and we are saying this is an opportunity for people to compete. This does not eliminate the prison production. It makes it competitive.

As I mentioned, there are a number of opportunities for them. The competitive advantages are retained: Inmate wages, from $.23 to $1.15, compared to the private sector; factory space furnished by the host prison, with no cost to the actual production; equipment, utilities, taxes, insurance, workplace benefits—none of those things offered. Yet they will be able to compete. That is what it is, competition.

We have had meetings about the private sector and trying to strengthen the economy. Yet we seem to be reluctant to allow the private sector to help the economy by moving into this area. It is very timely and appropriate to do it on this bill. The idea of setting it off I don't think makes much sense.

There are many other products beyond defense, less vital to the time. We have had, for 45 years, a policy in this Government that we ought to go to the private sector to provide for governmental needs. That has been the policy. Yet we still have a monopoly to do it the other way. There are plenty of jobs prisoners can do. I, too, support the idea that there ought to be work for prisoners. But there are lots of jobs that can be done in the prison realm that would be outside of this competitiveness as to who can do the supplies and the necessary equipment for the defense.

This idea is also supported as a special interest by the U.S. Chamber of Commerce, by the small business NFIB, by labor unions, which also favor all these opportunities for the private sector to supply the needs of Government. It is not a new idea. It makes sense to me.

Also, we will find it is difficult for the Defense Department to have various contracts. They are not the ones that supervise the contract. They lose some control when it goes to this prison authority. It is difficult when we have a mandatory source for the needs that are required in defense.

I don't know that we need to go into a great deal of detail. The facts are that prison workers can still continue. Most support the idea that we ought to have competition for these expenditures. Most support the idea the private sector ought to have an opportunity to compete with Government in any circumstance where the private sector can do that. That is what strengthens it.

We are in a time that anything we can do to increase the activity of the private sector is good for the economy. We are fighting on two fronts: terrorism on one side and strengthening the economy on the other. These are the things we need to do.

The policy for doing this is 46 years old. We have strengthened that in the last several years to get more emphasis on the idea that there needs to be competition, there needs to be private sector involvement. In my view, the more the private sector can do in terms of the Government realm, the better off we are. What the Government ought to do is strengthen their ability to let contracts and review the contracts and make sure it is done that way.

Prison Industries has been in place since 1934. I think it has not been improved. This is not going to change it. Only 18 percent are involved out of 22,000.

So we are going to find ourselves with an opportunity that they can find ways to continue to do it. We will find a way to put the private sector in, have more efficiency, less cost, and if they cannot compete, then the prisons will continue.

I am not going to take an awful lot of time. It seems to me the issues here are fairly basic. Let me just review them again. This was not an amendment. This was part of the bill of the committee. This is a time when we ought to be looking for more opportunities for the private sector. This is a time when we ought to have competition. I think we have an opportunity to do that here and yet continue to have a program which works for the prisoners.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, if I may speak for a couple of brief moments about the Gramm amendment?

Mr. WARNER. Mr. President, the Senator's remarks are welcome even though they might be contrary to the views of the Senator from Virginia. But I arranged this debate. It is quite unusual to put on a fellow Senator's amendment, but it was necessary to keep this bill moving. We welcome the debate. I shall be voting against it eventually. My distinguished colleague from Wyoming will be seeking recognition for purposes of a tabling motion in due course.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I will not keep the body long. I do rise in support of the amendment of Senator GRAMM of Texas regarding Prison Industries. This has come after some considerable review, and visiting the prison in Kansas at Leavenworth, the Federal Penitentiary of Leavenworth. I note: visiting, not occupying. This is a maximum security facility. Men are in this facility for years, frequently for life, and at these Prison Industries at this facility.

I visited with the warden about 2 months ago—a month and a half ago, actually—about this particular issue, and also with the head of Corrections for the Federal Government. Both insisted that if we do not allow Prison Industries to effectively be able to compete—there are questions about that in the language, but if we don't allow Prison Industries to effectively compete, they are going to have difficulty at the penitentiary keeping these gentlemen occupied, working with them, and being able to effectively run that prison. Otherwise, these men are going to be sitting around, and idle hands present a great deal of difficulty.

I have worked with the Senator from Wyoming on privatization efforts within the Federal Government. I think he is absolutely on the mark on these issues. From a personal perspective and the perspective of Kansas, having a penitentiary that has long-term inmates, people who are going to be incarcerated frequently for life, or at least 10 to 20 years, prisoners need something that is going to keep them occupied and working or else we are going to have a great deal of difficulty with them.

Prison Authorities don't know what they are going to do with these inmates otherwise, and they pleaded with me, saying: Don't allow this to go forward. This is going to be very difficult for us in the system.

I bring that word to my colleagues from a State with a major Federal penitentiary facility housing long-term inmates. They don't know how they are going to be able to handle it. Some say it will still allow them to compete and do the work all right, but reading this, within the system, it will cut back their ability to effectively have jobs for these inmates, and they need jobs for these inmates. It helps with restitution pay, helps them build self-worth; more than anything, it helps manage this population that is very violent, very difficult, and if you do not give them anything to do, the idle hands are the devil's playground. This has a great deal of difficulty.

I appreciate my colleagues allowing me to put those sentences forward, and I will be supporting the Gramm amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the amendment that strikes section 821 of our bill. Section 821 is a good government provision. It simply says the private sector should be allowed to compete when it comes to selling items to the Department of Defense and that Federal Prison Industries should not establish a monopoly and say the Department must buy an item made in the prison, even though the private sector might be able to make it more cheaply.

I think everybody wants prisoners to work. But I hope everyone also wants the private sector to be able to survive and compete and be able to offer products to its own Government. I think if anything would shock taxpayers, it would be that the private sector—private businesses, private industry—is precluded from bidding on items the Department of Defense wants to buy.

I think it also would come as a shock that the private sector can produce something more cheaply than can a prison at times. The Senator from Texas said about 20 percent of the time the prices are lower in the private sector, according to a study, than they are from a prison. That is not bad savings—20 percent of the time.

Of course we want prisoners to work. The Senator from Kansas just said we should not stop the prisons from competing for purchases by the Department of Defense. We are not stopping the prisons from competing. What we are trying to do in this legislation is allow the private sector to compete, instead of saying Prison Industries can establish a ''must buy from us'' policy.

The Senator from Texas also said this is the only provision in the bill which talks about competition. There are probably dozens of provisions in this bill that promote competition explicitly. This is but one of them. The Senator from Texas said: Why don't we, then, say competition will be everywhere; eliminate Davis-Bacon—which of course he favors anyway. If he wants to offer an amendment to eliminate Davis-Bacon, that is his right. But that is not in this bill. What is in this bill is the opportunity for private businesses to bid. If they are underbid by prisons, that is the way it is.

Prisons have tremendous economic advantages when it comes to bidding. Obviously, 25 cents or 50 cents or a dollar an hour is an incredible advantage to prisons when it comes to bidding. But even with that advantage, the private sector can produce things more cheaply and at better quality at times. At those times, how in Heaven's name can we tell a Government agency that they must buy from a prison if they can buy more cheaply from the private sector? How in the name of Heaven can we tell someone in a private business, or an employee in a private business, that he cannot bid on something that his Government is buying? That is all this language does. It doesn't end the Prison Industries program, or come close.

There are all kinds of things prisoners can and should be doing, by the way, including focusing on things the Government buys that it currently imports. There are all kinds of opportunities.

We talk to Federal Prison Industries about this year after year. They always say they are going to do something about it, and they have not.

The Senator from Texas says let's do a study. We just had a study, in 1999, April. This is what the joint study of the Department of Defense and the Federal Prison Industries did. This is the result of that study:

On price, 54 percent of Department of Defense electronics buyers, 70 percent of Department of Defense clothing and textile buyers, 46 percent of Department of Defense furniture buyers, 53 percent of Department of Defense office case goods buyers, and 57 percent of Department of Defense systems furniture buyers rated the Federal Prison Industries prices as average, fair, or poor. There is a lot of room in there to save money for the Department of Defense.

On delivery, the figures are approximately the same: Roughly 50, 60 percent say: average, fair, or poor. On quality, about 50 percent say average, fair, or poor. Those are averages. These are buyers at the Department of Defense.

So we ought to be very clear what this provision does and does not do. It allows, for the first time in a long time, a private person who is working hard on the outside of prison to make a product and be able to bid when his Government is buying that product and not be stopped from bidding by an establishment of a monopoly by Federal Prison Industries.

There are letters which we received, to which I think my friend from Virginia will also refer. I will place one of the letters in the RECORD. It comes from the AFL-CIO, urging us to oppose any effort to weaken or eliminate the Federal Prison Industries reforms contained in the bill. It says at the end that the AFL-CIO supports prison work programs and recognizes that they make prisons safer for correctional staff. They say:

> However, we do not believe that the Federal Prison Industries should enjoy a monopoly that unilaterally deprives other firms and workers of job opportunities. Section 821 represents a more balanced policy and we urge you to support it.

Finally, my friend from Texas talks about letting prisons sell in the private

sector. We have laws going back 50 years which say that they can't. The reason we say that is because it is obviously totally unfair to say that 25 cents or 50 cents an hour should be able to compete commercially against people who provide products when they are paying a decent wage. We prohibit imports from China that are made with prison labor. Yet the suggestion of the Senator from Texas is, hey, let's just, across the board, allow prisoners to make anything that goes into the commercial world at the scale that they are paid.

In that case, he said he would favor the language and broaden it to include anything. He says that is real competition. That sure is. That is totally unfair competition.

You can't compete. If an employer pays a decent wage to somebody, you can't possibly compete with somebody who is paying 25 cents or 50 cents an hour. Yet that is the approach which the Senator from Texas really favors and says so openly on this floor.

That is not an approach which too many of us—I hope—would favor. I surely don't favor that. To hold that up as being what is desirable, and short of that we should not allow a private business in this country to offer to supply its own Government a product because Federal Prison Industries has said you may not bid because we have a monopoly on this item, it seems to me, is just highly wrong.

The language in the bill has been carefully constructed; it simply allows for competition. It doesn't say that Federal Prison Industries can't compete at all, as the Senator from Kansas suggested. That is not what it says at all. It simply says, allow private businesses to compete, as I think most Americans would think that the private sector surely can now compete when it comes to providing the Department of Defense with products.

We received many letters from owners of businesses across this country. From an office supply company in Biloxi, MS:

> I could go on and on about how we could have sold the product much cheaper which would have saved taxpayers' money, faster delivery, which would have increased productivity, and, finally, better service. You get the picture.

From Tucson, AR:

> The Prison Industries' representatives routinely refuse waivers. The answer is the standard ''we have products which will meet your needs.'' No explanation. They refuse to answer waiver requests in a timely fashion. I had a $110,000 order for the Arizona Air National Guard in Tucson literally taken away by Prison Industries. The representative demanded the designs—the company's—and said that Prison Industries would fill the request. No waiver, no discussion.

Fairfax, VA:

> You know, it is not just the impact that Federal Prison Industries has had on our businesses. It is the waste of everybody's tax dollars when furniture costs more and doesn't even do the job.

According to Economy Office Products of Fairfax, VA:

> Federal Prison Industries tells their customers what the customer can have rather than the needs of the customer.

I hope this language will remain in the bill and that the effort to table it on the part of Senator GRAMM will fail. When the time comes for a tabling motion, I hope that tabling motion is agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thoroughly support what my distinguished chairman has said, and indeed the Senator from Wyoming.

For purposes of clarity, I submitted the amendment to keep the bill moving and to frame the issue so it could be debated. We have now had a very good debate on this subject.

Just for clarity, I will be voting against my own amendment, which I said at the time I introduced it. There will be a motion to table, and therefore Senators who desire to have the bill remain intact would then support the motion to table.

The distinguished chairman alluded to certain letters. I think it is important that colleagues understand that while the labor unions, which Senator LEVIN addressed, are strongly in favor of keeping the bill intact, there is an equal strength among the private sector organizations.

The National Federation of Independent Business, the voice of small business, addressed a letter to the Senate signed by the senior vice president.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD, together with a letter from the Chamber of Commerce, which I will shortly address.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, September 20, 2001.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I want to express our support for your language in the FY 2002 National Defense Authorization Act that would allow the Department of Defense to purchase products from the private sector rather than from Federal Prison industries if it would benefit the taxpayer and the DOD. We will oppose any effort to strike this language from the defense authorization bill.

Eighty-nine percent of NFIB members do not believe that prisons should receive preference over small businesses for federal contracts. NFIB's members have long fought against unfair government competition with the private sector. Federal Prison Industries (FPI) has become one of the most egregious examples of unfair government competition. FPI, also known by its trade name UNICOR, is a government-owned corporation operated by the Federal Bureau of Prisons. From a small program when it was established in 1935, FPI has grown to be a large enterprise. According to its most recent annual report, FPI operates a centrally managed chain of over 100 prison factories that employed 20,966 inmate workers in 1999. With sales to the Federal Government of $566.2 million, FPI would rank 36th among the top 100 contractors to the Federal Government.

FPI would be a formidable competitor for even the most accomplished small business experienced in the Federal market, but FPI does not have to compete. FPI simply takes its contracts from its captive Federal agency ''customers.'' Under FPI's Depression-era statute, FPI is a mandatory source for all Federal agencies, meaning that they are not required to compete with private businesses for Federal contracts. A Federal agency must actually obtain FPI's authorization, a so-called ''waiver,'' before it can even solicit competitive offers from the private sector. FPI, rather than the Federal agency, determines whether FPI's product, delivery schedule, and non-competitive price meet the agency's needs.

FPI's advantages don't stop there. FPI pays its workers at hourly rates of $1.25 per hour or less, rather than market-driven wages. FPI's facilities are built as part of a prison. FPI has access to production equipment excess to other Government agencies at no-cost. Congress even gave FPI direct access to the Treasury with authority to borrow up to $20 million, at rates far below what would be available to even the largest commercial enterprise.

Your language provides for fundamental change, making FPI less predatory to small business government contractors and a more responsible supplier to Federal agencies and taxpayers. it would require that FPI compete for its contracts with the Federal government. small businesses do not want to prohibit prison industries from entering the market, they just want a fair and level playing field upon which to compete against the FPI. Thank you for your support for small business and fair competition.

Sincerely,

DAN DANNER,
Senior Vice President, Public Policy.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, September 20, 2001.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: The United States Senate is expected to very shortly consider A. 1416, the Fiscal 2002 National Defense Authorization Act. Contained in that measure is a provision (Section 821), based on legislation authored by Senators Carl Levin and Craig Thomas, that would allow the Department of Defense to purchase goods and services in the private sector rather than from Federal Prison Industries (FPI), if doing so would be in the best interests of the taxpayer and DOD. Be aware that efforts may be made to strike or alter this provision.

The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million organizations of every size, sector, and region urges you to support Section 821 and oppose amendments to weaken or strike this pro-defense, pro-business, pro-taxpayer, pro-worker provision.

Under current law, federal agencies, including the Department of Defense (DOD), must purchase needed goods from FPI rather than buy them following a competitive procurement process. As a result, DOD and other Federal agencies subject to the FPI monopoly, waste taxpayers dollars purchasing inferior-quality prison made goods and services at inflated costs.

By supporting the Levin-Thomas FPI provision you will signal your support for freeing up needed defense dollars for other vital needs and you will save jobs in your state just as many workers and their employers are facing layoffs and cutbacks.

Prisoners should work and learn skills, but can be occupied with work and skills development activities that do not mean that DOD and other agencies waste taxpayers dollars and cost jobs in the private sector.

The language in Section 821 has broad bipartisan support as well as support from both the business community and organized labor. Please join the U.S. Chamber, the AFL–CIO, and scores of other organizations, large and small, in opposition to any attempt to strike or amend Section 821. The U.S. Chamber may use votes on or in relation to Section 821 in our annual ''How They Voted'' guide to Congress.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President.

Mr. WARNER. Mr. President, it says:

On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I want to express our support for your language in the FY 2002 National Defense Authorization Act that would allow the Department of Defense to purchase products from the private sector rather than from Federal Prison Industries if it would benefit the taxpayer and the DOD. We will oppose any effort to strike this language from the defense authorization bill.

Eighty-nine percent of NFIB members do not believe that prisons should receive preference over small businesses for federal contracts.

That is what we are talking about here.

The Chamber of Commerce:

The United States Senate is expected to very shortly consider S. 1416, the Fiscal 2002 National Defense Authorization Act. Contained in that measure is a provision (Section 821), based on legislation authored by Senators Carl Levin and Craig Thomas, that would allow the Department of Defense to purchase goods and services in the private sector rather than from Federal Prison Industries (FPI), if doing so would be in the best interests of the taxpayer and DOD. Be aware that efforts may be made to strike or alter this provision.

On behalf of the Senator from Wyoming and myself, I move to table the amendment.

Mr. GRAMM. 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. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the Senator from Texas has been very cooperative on this unusual procedure. He advises the managers that he and two other Senators wish to participate in this important debate, that debate by these total of three Senators could be concluded prior to 2:15. The leadership is prepared to agree to have a vote at 2:15.

Mr. REID. Mr. President, the Secretary of State is going to be here for a briefing at 2:30. We would have to have that vote at 2:15. The time between now and 12:30 when we recess would be taken. I understand the Senator from Texas says he has at least one other person who wants to come to speak in addition to him. I am sure the two managers will fairly divide the time between now and when we recess. But if we could have an agreement, we first ask for the yeas and nays on Senator WARNER's motion to table and then agree that the vote would be at 2:15 this afternoon. I ask that in the form of a unanimous consent request.

Mr. WARNER. I ask the Senator from Texas, is that agreeable? We would now ask unanimous consent that a vote would occur on the tabling motion which I, together with the Senator from Wyoming, will make at 2:15, subject, however, to a continuation of this debate up until, should we say, no later than 1 o'clock.

Mr. GRAMM. That is fine.

Mr. REID. Why don't you make it 12:40 or something.

Mr. LEVIN. 12:30.

Mr. WARNER. 12:30.

Mr. GRAMM. That is fine. All I want to do is answer the three speeches that have been given. I have two other people who say they may want to speak. They may not get over to the Chamber. If they cannot, they cannot.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. REID. Mr. President, I only ask unanimous consent that we vote at 2:15, that the time until 2:15 be divided between the two managers, and that prior to that motion to table there be no amendments in order.

The PRESIDING OFFICER. Is there objection to the unanimous consent request proposed by the Senator from Nevada?

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have been trying to get an amendment up, amendment No. 1595. That is the Vieques amendment, not the energy amendment. And this somehow got in front of me.

Mr. REID. This has nothing to do with that amendment.

Mr. INHOFE. I understand that. After that vote, could we then take up this amendment?

Mr. REID. It recurs automatically, so we do not have to do anything.

Mr. INHOFE. OK.

The PRESIDING OFFICER. Is there objection to the unanimous consent request propounded by the Senator from Nevada?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I don't object. I would just like to be recognized.

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

The Senator from Texas.

Mr. GRAMM. Mr. President, I have listened to our three speeches. In listening to them, you get the idea that what they want is competition in defense procurement. I would, therefore, like to ask unanimous consent that the pending resolution be set aside and that an amendment be adopted by unanimous consent, which says the following:

All defense procurement shall be on a competitive basis, and the Secretary of Defense shall buy products at the highest possible quality at the lowest possible price.

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMM. Mr. President, I wanted that objection because I wanted to make a point. And that point is, this bill is completely full of noncompetitive provisions. This bill is full of provisions that say who can do business with the Pentagon and who cannot. This bill prohibits someone from even bidding on a contract with the Pentagon unless they pay the highest wage rates paid in their region. There is no price competition in this bill. This bill is the antithesis of price competition. When our colleagues talk about price competition, their bill has none, save they want to destroy Prison Industries.

The point I want to make is the following: This amendment has nothing to do with price competition. This bill has to do with killing Prison Industries. Now, look, if you listen to our colleagues, it sounds as though they are saying, we do not want to compete with prisoners. It sounds as if prisoners are getting all this money that would have gone to some private sector producer.

Mr. President, I ask unanimous consent that a letter from The National Center for Victims of Crime be printed in the RECORD.

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

THE NATIONAL CENTER FOR VICTIMS OF CRIME,
Washington, DC, September 24, 2001.

Hon. PHIL GRAMM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAMM: The National Center for Victims of Crime wishes to express its strong opposition to Section 821 of the National Defense Authorization Act for Fiscal Year 2002 (S. 1438), concerning purchases from federal prison industries. This amendment raises a panoply of concerns at both the federal and state levels, and will literally take desperately needed funds away from victims who are trying to piece their lives back together in the aftermath of crime.

At the federal level, we are deeply concerned that this provision would thwart the Federal Bureau of Prisons' (BOP) efforts to collect millions of dollars each year to support victim assistance and pay crime victim restitution.

In addition, we have spoken to state officials who are extremely concerned that this federal provision may set precedent for state level action, significantly affecting the ability of crime victims to collect restitution. Many states require a percentage of money deposited into inmate accounts—including inmate earnings from prison industries—to be collected to support statewide funds for crime victim assistance programs as well as to satisfy court-ordered restitution for victims. For example, in California, during fiscal 2000–2001, the state Prison Industry Authority (PIA) deducted 20% of the inmate

wages and transfers (or the balance of victim restitution orders of court-ordered fines, whichever was less) to pay for crime victim assistance programs and restitution orders. The total payment from PIA wages for crime victim restitution during that year was $440,000 dollars. In Florida, the statewide private Prison Rehabilitative Industries and Diversified Enterprises (PRIDE) collected $264,000 in crime victim restitution during the last fiscal year. To take away those desperately needed victim assistance funds is a slap in the face of the already wounded.

Furthermore, we believe that prison work programs can prepare inmates for a productive return to society, reducing recidivism. Section 821, by introducing competitive bidding into the procurement process, will reduce the availability of prison work. The result will be fewer prisoners returning to society with the necessary skills and work history to gain employment.

We strongly urge you to support restitution for victims of crime and oppose Section 821 of the National Defense Authorization Act.

Sincerely,

SUSAN HERMAN,
Executive Director.

Mr. GRAMM. The point of this letter is, some of the money that is being earned by producing goods in prison is going for restitution to their victims. Prisoners get approximately 5 percent of the value of the products that are sold. This is not benefiting prisoners in any real sense. Who it is benefiting really boils down to three groups of people: One, restitution to victims, where some of the money goes for that purpose; two, we are beginning to develop a program whereby we can pay some of the $30,000 per-prisoner cost of keeping somebody in the Federal penitentiary by having them work; and, finally, indirectly prisoners benefit by a reduced recidivism rate.

Our colleagues say: Well, look, why should the Government give to Prison Industries the right of first offering to sell products to the Government? Why shouldn't we just do it competitively?

Let me say, Madam President, I would be perfectly happy—in fact, I ask unanimous consent that the current amendment be set aside and that the following amendment be adopted:

The Federal Prison Industry Program and its special relationship to the Defense Department shall be terminated and the Federal Prison Industies shall have every right to sell products in the private sector of the economy except with two limitations: No. 1, no products shall be sold in the immediate vicinity of the prison; and, No. 2, no products shall be sold in a market where price has declined more than 10 percent in the last year.

I ask unanimous consent that be adopted.

The PRESIDING OFFICER (Mrs. CLINTON). Is there objection?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMM. Madam President, I wanted that objection because I wanted to make the point that when our colleagues are talking about wanting prison labor to compete; they do not want prison labor to compete; they do not want it to work. The unions and the furniture manufacturers pound their chest and talk about: We want to compete with prison labor. But they are not telling the truth. They want to take away the only market that is left for prison labor.

They killed off the market for prison labor in the 1930s where virtually everybody in American prisons worked and where they produced their own food, where they produced their own clothes, where they paid for part of the cost of their incarceration, and where they learned skills. So having killed that, now they want to kill the last vestige of prison labor; and that is selling to the Federal Government. They cloak themselves in the righteousness of competition, but they want no competition.

Now, lest anybody think the relationship the Federal Prison Industries has is a relationship which is unfair to the Government, I remind my colleagues that in the 1930s we killed the prison industry as it related to producing and selling goods in the private marketplace with three Federal statutes: One, forbid the sale of prison goods in interstate commerce; another, forbid the transportation of prison goods in interstate commerce; and another one said: You can work, but you have to pay them union wages. The simple English was: Prisoners are not going to work. What happened? We drove up the cost of keeping people in prison.

The only thing left is Government procurement. Every other kind of production by prisoners is now illegal in the United States of America.

Let me recite these facts: In the last comprehensive study by the Office of the Inspector General, Department of Defense—let me remind my colleagues, the Defense Department did not ask for the Levin amendment. The Justice Department is adamantly opposed to the Levin amendment. But you get the idea in listening to the proponents of this provision that, well, these prison products are overpriced and are no good. When we did a comprehensive study that was reported to Congress on October 5, 1998, here is what it found:

In 78 percent of the procurements that the Defense Department engaged in with Federal Prison Industries, the cost of the product was actually lower than the cost of the product that was available in the private sector. So 78 percent of the time it was cheaper buying from the prisons; 20 percent of the time, in the survey, it was higher; 21 percent of the time it was roughly the same.

When the cost is higher, the Defense Department has the ability to apply for a waiver so that they don't have to buy from Prison Industries if they think it is not a good deal. Well, in listening to the proponents of this provision, you would get the idea that the answer every time they asked for a waiver was no. The plain truth is that in 89 percent of the cases where they said they didn't want this product from Prison Industries, that waiver was granted.

Let me summarize by making the following points: First of all, by roughly a 4-to-1 margin in the surveys that have been done, it is cheaper to buy from Prison Industries than from the private sector.

Secondly, in those cases where it is not cheaper, almost 90 percent of the time a waiver was granted so that the Pentagon did not have to purchase the item from Prison Industries.

Our colleagues talk about competition, but they don't want competition. When I asked unanimous consent to have competition for the Pentagon to buy the best quality at the lowest price, just as Mr. and Mrs. America try to do every day—and as every business in America tries to do every day—they claim it is what they want, but when I ask that we do it by unanimous consent, they object. They say they want prison labor to have to compete, but when I ask unanimous consent that it be able to compete for both Government contracts and private contracts, save the limitation that you could not sell things right around the prison when you glut the market and you could not sell in markets where prices were falling because of an excess supply—when I tried to take the principle they argue on and apply it across the board, they object.

So what is the principle? The principle is, having killed prison labor in the private sector, having gone from a system where virtually every prisoner in America worked 12 hours a day, 6 days a week to pay restitution to victims, to pay for their incarceration—having killed that in the private sector, we have an effort before us today to kill it in the public sector. That is what this amendment is about. It is not about competition.

Now, it is true that our colleagues hold up letters from the AFL-CIO and from the NFIB, and those letters say they are for this bill, and that is true. We do have a letter from labor unions. We have a letter from people who produce items and who would like to see prison labor killed so that they can sell the items to the Federal Government. But I ask my colleagues, who benefits from that? It is true that the workers of a furniture manufacturing plant that might get more jobs or higher wages by killing the Federal Prison Industries—maybe they will benefit. It is probably true that the furniture manufacturer who would sell the product if we kill Federal Prison Industries will benefit. But there are 285 million people in America who are paying $30,000 per year to incarcerate one person in a Federal penitentiary. We have 1.2 million people nationwide in prison. Does that cost, borne by 285 million people to keep someone in prison, carry no weight? Do we only care about the labor unions and the manufacturers who would benefit by killing the Federal prison system? And do we not care about the 285 million people who would lose by losing victim restitution, by losing our ability to develop a system

where prisoners will help pay some of that $30,000 a year? Do we only hear from the voices of the few who would benefit by killing the Federal prison system and not hear from the 285 million people who would lose?

What a skewed debate this is. But the problem is, the unions know who they are; they have sent letters and they have called Members of the Senate. My dear friends at the NFIB—one of the great organizations in America, which is a special interest organization—have sent out letters, and they have called and lobbied. Where are the lobbyists for the 285 million people who are going to pay $30,000 a year to keep somebody in prison? Have we heard from them? No. They can't figure out why we are talking about killing Federal Prison Industries when the Nation hears the drum roll and the bugle of war. They don't even know this is being debated.

So we have Members of Congress, and over their left shoulder are all those special interest groups that want to kill the last vestige of prison labor in America. They are all going to send letters back home telling people—whether you care about the manufacturer or the labor union, they are going to send those letters. Nobody is going to send a letter back home saying that you cared about 285 million taxpayers because the American public thinks that we are in a crisis and they are paying attention to it.

That is how bad laws are made. I urge my colleagues to defeat the Levin amendment. We had a very unusual thing happen. I must say, in all the time I have been here I don't remember it happening before, but it is perfectly within the rules. We had the Senator from Virginia offer a tabling amendment on behalf of another member—in this case, myself—before I was ready to debate the issue, before I could get together my supporters to come speak on behalf of it. I am sure that was not his intention. His intention was to get on with this bill.

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

Mr. GRAMM. Did we have a unanimous consent agreement dividing the time? If so, I did not hear it.

The PRESIDING OFFICER. The time was to be equally divided.

Mr. GRAMM. That was in the unanimous consent request?

The PRESIDING OFFICER. Yes, it was.

Mr. GRAMM. I ask unanimous consent for one additional minute.

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

Mr. GRAMM. The issue is not going to be decided on this tabling motion unless this provision is stricken because I have not yet had an opportunity to offer an amendment. I would like to have a compromise. I would like to get new data, and I would like to try to improve the Federal prison system. I would like to respond to the legitimate concerns that have been raised. But I am not willing to step aside and allow prison labor to be killed in America. We have 1.2 million people sitting around in idleness, and the cost of keeping people in prison is driving up taxes all over America.

If, in fact, this amendment is taken out of this bill, it will settle this issue for this year, but if it is not taken out of this bill, it will not settle this issue for this year. I urge the distinguished chairman of the committee to compromise, to come to a reasonable solution so we can deal with the Nation's problems.

This is an important issue. There are 285 million people paying $30,000 a year to keep people in prison. We have 1.2 million people in prison. I just cannot be indifferent about that. As a result, I am opposed to the Levin amendment. I will vote against this tabling motion. If it is not tabled, the amendment will be pending and it can be amended. If it is tabled, then another amendment can be offered, so I do not know that we have settled anything.

We have had a good debate, and I think the more people hear about this, the better off we are. I cannot imagine an objective American siding with killing the Federal Prison Industries.

I thank the Chair.

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

Mr. LEVIN. Madam President, very briefly, there are a number of points which the Senator from Texas has made which deserve, again, to be refuted. I will pick two of them.

First he says Mr. and Mrs. America, if they only knew, they surely would say that we have to allow the Prison Industries to establish a monopoly so that the Defense Department must buy a product from Prison Industries, even though the Defense Department is paying more for it from Prison Industries than they do from a private firm.

I think Mr. and Mrs. America would be stunned, would be shocked if they heard that a private firm is not allowed to bid on a product that the Government is buying.

I think Mr. and Mrs. America would probably shake their heads in disbelief and say: Wait a minute, you mean that the office supply company down the street my husband or wife works at is not allowed to bid even if they have a lower price than Prison Industries at 50-cents-an-hour labor? You mean that firm, that company, where my spouse has a job, cannot even bid on it? Talk about being stunned. That would stun Mr. and Mrs. America.

There is something else, by the way, about Mr. and Mrs. America to which I want to make reference. We do not allow Americans to buy products made by Chinese prison labor. We prohibit it. We just do not think it is right that we should be competing with Chinese prison wages. It is tough enough to be competing with wages of people who are not in prison in other countries, but we have a prohibition on that.

Yet our friend from Texas says we ought to let prison labor sell in the private sector. That is really what is at issue by the way. The issue is much more than the language which is in this bill which would simply allow the private sector to compete. What the Senator from Texas is really after and has said he would support would be a provision that would let prison labor make products and sell in the private sector.

I want to see whether or not the American public will support a system where our workers not in prison have to compete with prison wages. I do not think they want to do it any more than we want to compete with Chinese prison wages. I do not think they want to do it. Yet that is what the Senator from Texas says he will support.

I hope this Senate will reject that as being really what the Senator from Texas is after and, according to his own words, something he will support.

The issue before us is a narrower issue. Although the issue I mentioned may be the underlying issue, the narrower issue is the language in this bill. The language in this bill simply says that if a private firm wishes to bid on a product that the Department of Defense is buying, it ought to be allowed to do so and that Prison Industries should not be able unilaterally to say a private company may not bid, that Prison Industries is going to have a monopoly.

The Senator from Texas repeated perhaps 20 times that the effort here is to kill prison labor, kill Prison Industries. Of course, it is not. It is to permit the private sector to compete. Indeed, the statistics, which he cited a number of times, support our language. It was his statistics which said that in 78 percent of the procurements by the Department, the price paid to Prison Industries was actually lower. Fine. We are not trying to change that. All this language does is take care of the other 20 percent, which is also one of the statistics cited by the Senator from Texas.

In the other 20 percent, according to the Senator from Texas, it would actually be cheaper for the Department of Defense to buy from the private sector than it would from Prison Industries. He cites that statistic as proving that in most cases it would be cheaper for the Department to buy from Prison Industries. Fine. We are not trying to stop that. We are not trying to stop the Prison Industries from competing. We just want to allow the private sector to compete so that in 20 percent of the cases where the Department of Defense would save money by buying from the private sector, it would be allowed to do so.

Madam President, I hope this language will stay in the bill. It has broad support. It is also, it seems to me, so fundamentally fair that American citizens not in prison be allowed to bid on items that their Government is buying. That to me is so obvious and so fair that it would come as a shock to American citizens to learn that is anything other than what the current system is.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER FOR RECESS SUBJECT TO CALL OF THE CHAIR

Mr. REID. Madam President, I ask unanimous consent that following the 2:15 p.m. vote, the Senate be in recess subject to the call of the Chair as a result of the briefing that will take place by Secretary of State Colin Powell.

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

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, we have a minute before we recess. I feel so strongly about this notion that we favor private enterprise, that we favor the opportunity for competition, and that we have worked at this problem for a number of years and now to pick out a portion of it and say somehow private competition should not work surprises me a great deal.

I understand the number of Federal prisons in Texas. Talk about special interests. It is there. What we ought to do is follow the policy we have had for a very long time and see if we can move as much activity to the private sector as possible when they can compete, when they can make the best product, and that is the case here.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, we have a couple minutes remaining, and I would like to have that time, if I may.

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

Mr. GRAMM. Madam President, first of all, I am not in a Federal prison, and I do not have any kinfolk in a Federal prison, so I do not know how I would benefit from that.

Second, it is interesting, all this concern about competition. The Defense Department sent the chairman a recommendation that they be allowed to be more competitive in purchasing items by not requiring defense contractors to pay inflated wage rates in order to bid. They estimated that next year they could save $180 million if they were allowed to be more competitive, and that provision was struck and not included in this bill.

The Defense Department sent the chairman and the ranking member a letter saying: If you will just let us have a little bit more leeway in getting competitive bidding on small contracts of less than $1 million, that could have saved $180 million in 1 year.

Our colleagues who are so concerned about competition today say basically we do not want to save $180,000 if it means competition, and so they rejected that provision. Yet when it comes to Federal Prison Industries, now all of a sudden everything should be different.

So I hope my colleagues will vote on this on the merits. Do you want to kill Federal Prison Industries or not? Do you think a handful of workers and a handful of manufacturers who would benefit by killing Federal Prison Industries are more important than the 285 million taxpayers who are paying $30,000 a year to keep somebody in prison where those costs can be ultimately partially paid by prisoners working and where we could use some of the money for victims' restitution? That is the issue, and I hope people will vote on that basis.

Mr. VOINOVICH. Madam President, I rise today in support of the preservation of the Federal Prison Industries Program. Language that is currently in the Defense authorization bill would gut this program within the Bureau of Federal Prisons, effectively withdrawing hope for thousands of incarcerated Federal prisoners and fostering a dangerous number of idle hands within our Federal prison system.

Today, the Federal Prison Industries Program employs and provides valuable skills training to the greatest practicable number of inmates incarcerated within the Federal prison system. Overall, FPI has some 21,000 inmates in more than 100 Federal prisons working in 100 industries, from textiles to electronics to graphic design. In Ohio, the Federal Correctional Institute at Elkton has up to 450 inmates working in data processing and electronics recycling. This employment of prisoners does more than just occupy time, it teaches prisoners the skills they need to obtain a job once they leave prison.

By giving prisoners an opportunity to change their lives, the FPI program contributes to security inside prisons, and it reduces the rate of recidivism among those it trains. Indeed, inmates in FPI's work programs are 24 percent less likely to be repeat offenders after being released. In addition, 55 percent of inmates' wages go toward meeting their financial obligations, such as victim restitution, child support, and court fees.

When I was Governor of Ohio, we had a similar program to FPI and saw firsthand the success and value of giving inmates a second change at being productive members of society. In Ohio, we had inmates who had been trained in horticulture take part in groundskeeping throughout the Governor's residence. We had inmates working in the Governor's office mailroom and copy center operations, where they put together news clippings, distributed mail and did a good portion of the photocopying. Overall, I had an extremely good experience with the work these inmates did, and I have to say that for the most part, the work they performed was excellent. For some inmates who had exemplified themselves, I even wrote letters of recommendation to help them get jobs when they got out of prison.

The experience that I have had at the State level by employing State inmates is one that is replicated at the Federal level through the FPI program.

I understand that some private sector companies desire to compete for FPI contracts, however, I believe that FPI provides an invaluable opportunity for inmates, and the communities to which they will eventually return, that cannot be ignored.

While I find merit in pursing possible reforms to the FPI program, I do not believe the answer is to completely obliterate FPI, as the current language does. Therefore, I urge my colleagues to support to ensure the viability of FPI, the safety of our Federal prisons and the rehabilitation of our Federal inmates.

Mr. BYRD. Madam President, I oppose section 821 of the Fiscal Year 2002 Defense authorization bill because I fear that this section would undermine what has proved to be a successful program in helping to manage Federal prisoners.

Section 821 would effectively eliminate the mandatory source requirement for the Department of Defense, which ensures that Federal prisoners are employed in sufficient numbers, and thus is fundamental to the security of our Federal prisons.

Moreover, since this section would significantly affect our Federal prisons, it is an issue that the Senate Judiciary Committee should first consider before the Senate takes action on it after only 2 hours of debate.

I support competition for the provision of goods and services to the Federal Government. However, this competition should not be sought at the expense of a successful prisoner management program, and that program should certainly not be repealed without some alternative program to replace it.

Mr. BROWNBACK. Madam President, I rise to support my colleague from Texas in his effort to strike section 821 from S. 1438. I have outlined why I believe that the Federal Prison Industries is important for the continued orderly function of our prisons.

Today I have received a letter from Fraternal Order of Police President Steve Young. In his letter, Mr. Young made an interesting point that a healthy Federal Prison Industries is not only important for the orderly function of our prisons but also for the safety of our corrections officers.

I ask unanimous consent that Mr. Young's letter be printed in the RECORD.

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

FRATERNAL ORDER OF POLICE,
Washington, DC, September 25, 2001.

Hon. SAM BROWNBACK,
U.S. Senate,
Washington, DC.

DEAR SENATOR BROWNBACK: I am writing on behalf of the more than 299,000 members of the Fraternal Order of Police to advise you of our strong support for Amendment No. 1674 to strike Section 821 from S. 1438, the "FY 2002 National Defense Authorization Act;" and therefore urge a "no" vote on the motion to table this important amendment.

Reform of Federal Prison Industries has been an issue which has received much attention over the past several years. For our

organization, any reform proposal put before the Congress must be viewed from the perspective of its potential impact on both the safety of Federal correctional officers, and the safety of the public from recidivist offenders.

With the large number of Federal prisoners incarcerated in Bureau of Prison (BOP) facilities, now is the time to seek increased opportunities for inmates to gain meaningful employment through FPI. In so doing, we can reduce the rate of recidivism, enhance public safety, provide restitution to victims of crime and their families, and require these inmates to truly pay their debt to society at no additional cost to the American taxpayers. In addition, it will create a safer environment for the thousands of correctional officers who work in BOP facilities.

On behalf of the membership of the Fraternal Order of Police, I wish to thank you for your continuing leadership on this issue and your support of America's law enforcement officers. Please do not hesitate to contact me, or Executive Director Jim Pasco, if we can provide you with any additional information or assistance.

Sincerely,

STEVE YOUNG,
National President.

Mr. THURMOND. Madam President, I rise to express my strong support for the amendment to strike section 821, the Federal Prison Industries provision of the Defense Authorization Act. I commend Senator GRAMM for his leadership and excellent remarks today on this critical issue.

FPI or UNICOR is an essential correctional program that keeps thousands of prisoners working every day without any cost to taxpayers. It helps maintain prison safety and security because inmates that are productively occupied are less likely to be involved in mischief and violence.

FPI has existed since the 1930s, but it has never been more important than it is today in these times of rising prison populations. Just on the Federal level, the prison population today is twice what it was in the late 1980s. While the number of inmates in State prisons may be leveling off now, the number of Federal prisoners is continuing to rise and is expected to expand by 40 percent in the next seven years. The Congress is approving 28 more medium or high-security prisons to accommodate this continuing increase, which is needed to keep our streets safe and keep the crime rate declining. It is prisons of this type that most need the work programs that FPI provides.

Moreover, Prison Industries helps provide prisoners a future when they are released. The program teaches inmates meaningful job skills that they can use when they return to society, and has proven to be the most successful government initiative in helping prevent prisoners from returning to a life of crime. It is an extremely popular work program, through which inmates volunteer to participate. In fact, the prisons have long waiting lists for inmates to be involved. It is worth repeating that FPI requires no government funding and sustains itself as a government corporation.

We should not destroy what keeps the growing correctional population occupied in a way that benefits prisoners and protects the prisons and our communities. Yet, Section 821 of the Defense authorization bill could do just that. It would essentially exclude the Defense Department from FPI and endanger this program and its essential mission.

The Defense Department is critical to FPI's continued success. It is one of FPI's most important customers, constituting about 60 percent of FPI sales. Also, FPI is an important part of the military supply network. DOD and FPI have a good working relationship, and there is no basis for us to create a special carve out of DOD from FPI's very long-standing Federal Government preference in procurement.

Section 821 would eliminate the preference that FPI has over the private sector for sales less than $2,500, for products that are part of a national security system, or for products that are components of items that FPI does not sell. This would essentially exclude Defense from the mandatory source because the great majority of DOD orders fit into one of these three categories. In fact, for any remaining purchases, DOD would be required to conduct ''market research'' before making purchases. This provision is simply unworkable in practice and, considering that DOD constitutes about 60 percent of FPI sales, would severely harm FPI, and even endanger the program.

The arguments that opponents of Prison Industries are making are certainly not new. These issues were raised by Senator LEVIN years ago in a previous Defense authorization bill, and the Congress required the Defense Department and the Justice Department to complete a major study regarding their relationship. The results of that joint study were released in 1999, and show that the changes we are considering today are not warranted. The study found that they have a beneficial and cooperative relationship, and the suggestions it made for improvement have been implemented. It specifically concluded that no statutory changes in the procurement process are warranted, which the provision we are considering today entirely disregards.

Moreover, the current Bush administration opposes this type of piecemeal effort to harm FPI, just as the Clinton administration and others did in the past. The Bush administration has expressed great concern about the effect that Section 821 could have on the safe and effective administration of Federal prisons.

This concern is entirely appropriate. The fact is that Section 821 would eliminate many FPI jobs and create problems for the safe and efficient operation of Federal prisons. Also, many opportunities for inmates to earn marketable job skills would be lost or have to be subsidized with scarce Government funds. Given the severe budget constraints and demands for Federal money caused by the September 11 terrorist attacks, this is definitely not the time to be creating an additional need for Federal dollars.

The operation of Federal prisons is a matter within the jurisdiction of the Judiciary Committee, and that committee is the appropriate place to consider matters related to FPI. In fact, reform legislation that we should consider in the Judiciary Committee is currently pending there.

I agree that it is time to move away from the mandatory source preference that FPI has in the Federal market. However, we must do so in a reasoned, comprehensive way that creates more opportunities, not less.

Senator HATCH and I have introduced a bill that is pending in the Judiciary Committee which would eliminate the mandatory source in a way that would not endanger FPI. Our legislation, S. 1228, would give private businesses the opportunity to partner with FPI to make products in the private sector.

Most importantly, it would permit prisoners to make products for private companies that otherwise would be made overseas, such as electronic toys and televisions. This has the potential to return jobs to America that have been lost to foreign labor. FPI already purchases over $400 million per year in raw materials and equipment from United States companies, most of which comes from small businesses. This bill would expand those opportunities for private industry.

Also, under S. 1228, when inmates made products in the domestic market, they would earn comparable locality wages. Additional money that they earned would be used to pay restitution, child support, and a portion of their room and board costs. This would be in addition to the millions of dollars that FPI inmates already contribute annually to their families and to crime victims. I think we should make FPI a partner with the private sector as part of a comprehensive solution to this long-standing issue.

Any argument about forced labor, whether in FPI today or in this bill, has absolutely no merit. FPI is a program that inmates volunteer to participate in, and S. 1228 would require that participation be voluntary. Also, the facilities would comply with standards established by OSHA, the International Labor Organization, and the American Correctional Association.

I am prepared to work with all interested parties to help resolve this matter once and for all. However, the Defense Authorization Act is not the right place and section 821 is clearly not the right approach to reforming Prison Industries. With the recent terrorist attack, many want to limit the Defense authorization bill to our military and national security needs. This bill certainly should not be used to interfere in the orderly operation of Federal prisons. Thus, I encourage my colleagues to support this important amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, do I have any time remaining?

The PRESIDING OFFICER. There is no time remaining.

Mr. LEVIN. I ask unanimous consent for an additional 2 minutes.

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

Mr. LEVIN. Madam President, if the Senator from Texas wants to offer an amendment to modify the Davis-Bacon law to accomplish what he talked about, he ought to offer it. Nobody offered it in committee, but the Senator from Texas is free to offer it.

What troubles me is we have a bill which is of critical significance to the Armed Forces of the United States. We have pay increases in the bill. We have housing allowances. What the Senator from Texas is saying is, unless he gets his way on this issue, he is not going to allow that bill to go forward. It seems to me that is wrong, and that is the problem. That is what has caused this particular situation.

That is the only reason the Senator from Virginia obviously offered the amendment and moved to table it, to see whether or not there is support for the position of the Senator from Texas. If the Senator from Texas prevails on his position, fine. If he does not prevail on his position, this bill is too important, has too much in it that matters to the security of this country, to be held up by one Senator who insists he is going to get his way even if the majority of the Senate disagrees with him. That is what the issue is. It seems to me that is the overriding issue.

Back to competition, if the Senator from Texas believes there should be an amendment that would modify Davis-Bacon, I would urge him to offer that. Let us debate it. Let us vote it, but let us not hold up the Defense bill as his position would.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I ask unanimous consent that the request of the Defense Department that they have the right to engage in competitive bidding on contracts of less than a million dollars be accepted.

Mr. LEVIN. I object. I have said very clearly that the Senator should offer the amendment if he wants to do so. Send the amendment to the desk. Let's debate that amendment. Win or lose, modify Davis-Bacon if he wishes. Send an amendment to the desk. We will debate it. But what I object to is holding up the Defense bill on this ground. We do not do this by unanimous consent.

Mr. GRAMM. Not to keep dragging this dead cat back across the table, but I am not asking for any special privilege. I wanted to offer my own amendment, which someone else offered. The Senator can deal with his bill as he chooses. I have been a private in the Army, but I believe I am a private in the right. I want this issue to be heard, and I want to debate it. I don't understand why that is somehow unreasonable.

When people want to pass special interest legislation, they can cloak themselves in the righteousness of the moment. I do not understand why it is even in this bill. I think, quite frankly, people ought to be embarrassed that it is in this bill.

In any case, I am not asking for any special privilege whatsoever. I want to exercise my right as 1 of 100 Senators. That is all I am doing.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the hour of 12:34 p.m. having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to ordered by the Presiding Officer (Mr. NELSON of Nebraska).

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. DASCHLE. For the interest of all Senators, we will stand in recess immediately following this vote in order to accommodate Senators who wish to attend the briefing that will be held in room 407 this afternoon. That briefing will be to hear the Secretary of State give an update on the current circumstances.

MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2002

Mr. DASCHLE. I ask unanimous consent the Senate proceed to the consideration of H.J. Res. 65, a continuing resolution.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A joint resolution (H.J. Res. 65) making continuing appropriations for the fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the resolution be read three times, passed, and the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 65) was considered read the third time and passed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Virginia, Mr. WARNER, No. 1674.

Mr. DASCHLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. WARNER. We have no objection.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Delaware (Mr. CARPER) are necessarily absent.

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

The result was anounced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—74

Akaka	Domenici	Lugar
Allard	Dorgan	Mikulski
Allen	Edwards	Miller
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Bingaman	Frist	Nickles
Boxer	Grassley	Reed
Breaux	Gregg	Reid
Bunning	Hagel	Rockefeller
Burns	Harkin	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Cleland	Inhofe	Smith (NH)
Clinton	Inouye	Smith (OR)
Cochran	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kerry	Stabenow
Corzine	Kyl	Thomas
Craig	Landrieu	Torricelli
Crapo	Leahy	Warner
Daschle	Levin	Wellstone
Dayton	Lieberman	Wyden
Dodd	Lincoln	

NAYS—24

Bond	Graham	McConnell
Brownback	Gramm	Murkowski
Byrd	Hatch	Roberts
Chafee	Hutchison	Santorum
DeWine	Jeffords	Stevens
Durbin	Kohl	Thompson
Ensign	Lott	Thurmond
Fitzgerald	McCain	Voinovich

NOT VOTING—2

Biden	Carper

The motion was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, the Senate, at 2:48 p.m., recessed subject to the call of the Chair and reassembled at 4:06 p.m., when called to order by the Presiding Officer (Mr. MILLER).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I understand the amendment of the Senator from New Mexico has now been cleared on both sides. We welcome that news. He has been working hard on this