SENATE—*Thursday, September 24, 1987*

(Legislative day of Tuesday, September 22, 1987)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up.—Deuteronomy 6: 4-7.

God of Abraham, Isaac, and Israel, as we hear this foundational commandment given by Moses, and Thy people Israel celebrate this new year, may we join them in this solemn time of repentence and preparation for the forgiveness of God and for their Day of Atonement. May the wisdom of God as expressed through Moses be taken seriously in the confidence that You hear and heal and forgive and renew. To the glory of God we pray. Amen.

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. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 24, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. BYRD. Mr. President, I yield my 5 minutes to Mr. PROXMIRE.

Mr. PROXMIRE. I thank my good friend, the majority leader.

LET'S HEAR IT FOR CONGRESS—NO. 3

Mr. PROXMIRE. Mr. President, this is the third in my series of speeches on what's right about the Congress. Keep in mind that I'm not talking about individual Members of the Congress. I'm talking about the Congress as a whole. And I'm not talking about 200 years of Congress. I'm talking about this 100th Congress and its immediate predecessors in the past 30 years or so.

Here is a body that has recently made an all-time botch out of fiscal policy. If the power of the purse is our main responsibility, and it is, we have failed more dismally in discharging that responsibility than Congress has ever failed before. The gigantic, swollen deficits and today's $2.4 trillion national debt can never let us forget that. Sure, this is a failure we share with the President, who originates the budget and has called on the Congress in the past 6 years for a taxing/spending combination that would have given us an increase in the national debt some $20 billion higher than it is. But we in the Congress have the ultimate spending authority. And we have failed.

And yet, fiscal policy is not the be-all and end-all of congressional activity. Congress has a much broader responsibility. Our business is enacting the laws in this American democracy that we proudly contend constitutes a government of laws and not of men. How has the Congress done in enacting the laws for this free society? For example, have we advanced justice? Have we provided a greater opportunity for all Americans regardless of race or creed, irrespective of economic position?

Mr. President, in the judgment of this Senator, the Congress has done a remarkable job in these areas in the past few years. We still have a long way to go, but in the past 30 years Congress has made great advances in giving 20 million black citizens the right to vote; a right largely denied many of them throughout American history. With the right to vote has come a spectacular improvement in access for blacks to places of public accommodation. Today, public restaurants, theaters, buses, and other public accommodations are available as a matter of absolute right to all persons everywhere in America. The Congress has passed laws that made facilities available that had been widely denied to blacks from the beginning of our country.

Congress continues to push effectively for much improved educational opportunities which could be so vital for the progress of our black minority. Congress also continues to struggle for the availability of improved housing for blacks.

Fifty years ago, the great Swedish scholar Gunnar Myrdal wrote a stinging indictment of American discrimination against its black citizens in "The American Dilemma." Myrdal's great book constituted a ringing challenge for this country. The Congress has answered that challenge. It has answered it well—not perfectly, but well. This struggle for civil rights has not been popular or politically rewarding in a country that is more than 80 percent white, but Congress has persisted. It is winning the battle.

In recent years, the Congress has responded as never before in providing assistance and opportunities for the physically and mentally handicapped. Our Constitution and years of custom have assigned to local communities the basic responsibility for education. But some educational responsibilities are simply too heavy for many local communities or even States to handle. This is specially true in the education of children who suffer cruel mental and physical disabilities that require extraordinary expenditure to overcome. Congress has stepped in and started to meet this challenge.

Mr. President, we are living through an era of failed Presidencies. And yet the American Government has in many respects progressed and improved. How can this be? Consider, the last six Presidents: Kennedy assassinated. Lyndon Johnson retired heartbroken in the ruins of the Vietnam war. Nixon driven out of office in disgrace. Ford repudiated after little more than 2 years in office. Carter overwhelmingly defeated by a landslide in his reelection attempt. And now Ronald Reagan leaving office with an administration which, in Iran, committed the most conspicuous foreign policy blunders in this century.

Through all of these executive branch sorrows and setbacks, the Congress has acted with responsibility and force. It has been the always belittled and never hailed Congress that has

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

again and again brought an irresponsible executive branch to account, pulled the Government upright, and pushed it back under full sail. In the years this Senator has served in Washington, the American Government has accomplished a great deal. And Congress has consistently led the way.

NEW LIFE FOR RURAL HEALTH CARE IN SOUTHWESTERN WISCONSIN

Mr. PROXMIRE. Mr. President, rural hospitals play a vital role in America's health care delivery system. But the rural hospital confronts a difficult set of problems in fulfilling its mission. Remote, isolated locations, less generous salaries, low insurance coverage of the population, fewer cultural and professional opportunities deter physicians from accepting rural job offers, frustrating smalltown hospitals' efforts to attract and retain a talented staff. Medicare's new DRG system institutionalized inequity in rural hospital reimbursement rates, contributing to lower admissions, shorter patient stays and major advantages to urban competition. Together these conditions threaten the rural hospital's economic viability.

In addition, many rural economies, especially farming-based ones, teeter on the brink of catastrophe. Nationwide rural Americans suffer the highest poverty rate in two decades, over 20 percent. Rural unemployment rates soar above the national averages. The Washington Post reports that 2,000 people give up farming each week: In the last few years the rural economy has given up a half million jobs. For those country residents that remain, the number without health insurance continues to grow.

Amidst all these pressures, Mr. President, how can rural hospitals survive? No simple national answer exists. But a group of smalltown hospitals in southwest Wisconsin pioneered a model of cooperation that enables those hospitals to meet these challenges. In 1979, six rural hospitals in five counties forged the Rural Wisconsin Hospital Cooperative to share resources and contain costs while maintaining a comprehensive health care system for rural residents.

The difficulties faced by hospital administrators in recruiting and retaining physical therapists spurred the formation of the cooperative. In the spring of 1980, the cooperative implemented a collective physical therapy service. This shared service reduced duplicated efforts at recruitment and eased the isolation that accompanies rural placements. It was a smashing success. Encouraged by the results, the cooperative expanded its shared services into respiratory therapy, audiology, and speech-language pathology. By the end of 1979, 12 hospitals had joined the cooperative, allowing it to begin to provide the same sophisticated services that urban hospitals offered at a price rural hospitals could afford. The cooperative's innovative programs bolstered the strength and quality of rural hospitals across southwestern Wisconsin.

In early 1983, a new challenge confronted the rural hospitals of southwestern Wisconsin, the advent of health maintenance organizations [HMO's]. Reeling from sky-rocketing health insurance costs, the Wisconsin State government revamped its health-benefits plan: State employees who chose traditional indemnity coverage would pay a greater portion of their health insurance than those who opted for HMO's. Rural hospitals worried that big-city HMO's would carve up the rural health care market, further promoting the flow of country residents to city hospitals. As Tim Size, executive director of the Rural Wisconsin Hospital Cooperative, said:

> Rural patients might not be a banquet for those urban-based plans, but they'd certainly be a healthy snack.

But the cooperative was ready. Together, the hospitals of the cooperative pioneered the first rural health maintenance organization by a grass roots effort of rural hospitals and physicians: the HMO of Wisconsin.

If the HMO of Wisconsin wanted to attract and maintain a large patient base, it had to provide low-cost, high-quality service. In order to do this, the HMO took a bold step. Unlike many HMO's, HMO of Wisconsin gave doctors direct control in management—doctors hold half the seats on both the board and executive committee. Because of this deep involvement, doctors have more scope in making medical decisions and exercise more discretion over costs. Under this unique system, rural physicians and hospitals assume the financial risk by-passing health insurance companies. Insurance premiums stay in rural communities, preserving local hospitals and fortifying local economies.

Since its birth in 1983 when 18 small-town hospitals served 2,600 members, the HMO has spread throughout southwestern Wisconsin, boasting over 29,000 members, 2,000 physicians, and nearly 46 hospitals in 1987. In fact, Mr. President, the National Rural Health Care Association recognized this outstanding innovation and achievement by honoring the HMO of Wisconsin and the Rural Wisconsin Hospital Cooperative with its 1985 Outstanding Rural Health Program Award.

The success of these programs has implications for both Wisconsin and the Nation. For across America the rural hospital serves not only as a provider of health care but also as a pillar of the community. Country hospitals are often the largest employer or second largest just behind the public school system. As Sam Cordes, professor of agricultural economics at the University of Wyoming explains:

> Some farmers have become more dependent on off-farm income than farm income. If one of the major employers closes, such as the hospital, it can be a very serious economic setback for the rural community.

With the cost of health insurance escalating, more and more farmers opt to drop their policies and go uninsured, an extremely dangerous decision. Rural health programs, such as the HMO of Wisconsin, offer the farmer a local, cost-effective alternative.

Mr. President, the creativity and ingenuity of the Rural Wisconsin Hospital Cooperative and the HMO of Wisconsin helps to give small-town hospitals in southwestern Wisconsin a fighting chance. These hospitals demonstrate that rural health care can survive and succeed on its own. The battle for rural hospitals promises to be full of political struggles and economic challenges. But in the end, the question is not of politics or profits, but of innovation and adaptation.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved for his use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 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 years for the Armed Forces, and for other purposes.
>
> Pending:
>
> Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

The ACTING PRESIDENT pro tempore. Under the previous order, the pending amendment, No. 712, will be temporarily laid aside for consideration of an amendment to be offered by the Senator from Arizona [Mr. McCAIN].

AMENDMENT NO. 686

(Purpose: To express the sense of Congress regarding Japan's contributions to global stability)

Mr. McCAIN. Mr. President, I have an amendment at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. McCAIN), for himself, Mr. WARNER, and Mr. DOLE, proposed an amendment numbered 686.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . SENSE OF THE CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributor to democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to both the United States and Japan have significantly increased since 1976, principally as the result of the Soviet Union's occupation of Afghanistan, the continued expansion and buildup of Soviet military forces (particularly Soviet expansionist efforts in the South Pacific and the buildup of the Soviet Pacific fleet), the Vietnamese occupation of Cambodia, and instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 Williamsburg summit meeting that "the security of our countries is indivisible and must be approached on a global basis", the Japanese government has raised its defense spending by an average of 5 percent per annum since 1981, rescinded a limit on annual expenditures for defense of 1 percent of the gross national product, and is fulfilling Prime Minister Suzuki's pledge to defend Japan's territory, airspace, and sea lanes to a distance of 1,000 miles by 1990.

(4) Congress applauds the actions referred to in paragraph (3) that have been taken by Japan and the Japanese commitment to implement a 1,000 mile defense capability. However, Japan has the world's second largest gross national product, is a major creditor nation, has a large private savings rate, but lags far behind other industrialized democracies in terms of the percent of gross national product devoted to national defense expenditures and expenditures for global security and stability.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

Mr. McCAIN. Mr. President, I bring before the Senate, for its consideration, an amendment that I think is very important.

Recent events in the Persian Gulf have highlighted the crucial importance of our allies, specifically the Japanese, in sharing the burden and responsibility that free world nations bear in maintaining freedom and economic stability throughout the world.

Mr. President, I would like to read the relevant parts of this amendment to make its intent clear to my colleagues. I would first like to emphasize that it is not an exercise in Japan bashing. It is a call to the Japanese to assert their rightful position in the community of nations, without rearming, to help maintain freedom throughout the world.

There are many ways to maintain freedom, Mr. President. One is through military buildup. Others, perhaps longer lasting and more permanent, involve economic assistance, development aid, and other economic means to help struggling nations throughout the world maintain their freedom and independence. This is best attained through a sound economy.

Mr. President, my amendment basically says it is the sense of the Congress—

that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

Mr. President, Japan has the free world's second largest gross national product. Today 7 of the 10 largest banks in the world are Japanese. Last year the Japanese enjoyed an $81 billion trade surplus. I would compare that with the United States, which has a $185 billion trade deficit.

There is no doubt that since World War II the United States of America has not only assumed the military protection of the Japanese islands, but has also assumed a major burden in protecting Japanese interests throughout the world. In the years since the war, a veritable economic miracle has taken place in Japan.

In the Persian Gulf, however, the United States of America is spending an additional $1 million a day to protect the oil supply lines that go through the Strait of Hormuz. We are implementing the Carter doctrine, which says that the United States will take whatever steps are necessary to ensure the unimpeded flow of oil through the Persian Gulf.

Who is gaining from this, Mr. President? Only 7 percent of the United States imported oil from the Middle East. We learned some lessons about 10 or 12 years ago: One was that it is in the U.S. interest to decrease our dependence on gulf oil. Sixty percent of the Japanese oil supply, however, today comes from the Persian Gulf. The Japanese oil supply lines are being protected by the men and women of the U.S. Navy, Air Force, Army, and Marine Corps.

Mr. President, what is happening in the Persian Gulf only highlights the degree to which the United States is protecting Japanese vital national security interests.

I think it is important to point out on the amount that is being spent as far as percent of gross national product by the leading Western nations in the world: The United States of America is spending 7.14 percent of its gross national product on combined defense and economic foreign aid; West Germany, 4.87 percent; France, 4.88 percent; United Kingdom, 5.54 percent; Japan, a total of 1.29 percent. I believe, Mr. President, that that is totally unacceptable in a day and age where there is much need for not only military and security assistance, but also for economic assistance throughout the world.

The Japanese recently went over a landmark number. This year, 1 percent of their gross national product will be spent for defense. Is it in the United States or the world's interests for the Japanese to increase defense spending to 4 or 5 percent of GNP? I would suggest not.

First of all, it is not in our interests for that to happen. Second of all, and perhaps more importantly, it would be impossible, given the nature of the Japanese people and the nature of the Japanese constitution, for us to expect a large military establishment in the country of Japan.

I think it is clear that their construction, which many ascribe to General MacArthur, clearly indicates that whatever expenditures they make militarily will be strictly in the area of self-defense. Indeed, then Prime Minister Suzuki, in 1981, indicated that the Japanese would defend their sea lanes within 1,000 miles of their shores. It is very clear, however, that we cannot expect a military presence in the gulf on the part of the Japanese.

I would also suggest very strongly that if the countries of Asia saw a rapidly and dramatically rearming Japanese nation, it would send tremors throughout that part of the world, and cause great concern on our part.

What can the Japanese do? The Japanese clearly have the ability but lack the desire to greatly increase aid to countries throughout the world that are in need.

Mr. President, we are debating and we will continue to debate the amount of our military assistance to the Contras in Central America. No one knows exactly how that issue will be resolved. But the fact is that no matter what happens to the Contras, the United States of America is going to have to invest billions of dollars over the years in order to build up and maintain the economies of Latin America. I would suggest that one area in which the Japanese could be of enormous assistance to us is helping implement the Caribbean Basin Initiative which, unfortunately, is struggling for life.

Mr. President, I am not asking for an enormous increase of expenditures on the part of the Japanese, particularly given the size of their economic base. If the Japanese complied with this sense-of-Congress amendment they would simply go from presently 1.29 percent of gross national product to 4 percent of gross national product on spending for global security and stability. That would still place them lower in ranking than the major Western industrialized nations.

So, I reject any interpretation that this amendment is somehow a call for the Japanese Government and people to make enormous sacrifices. In fact, I believe this amendment could only be interpreted as a call for the Japanese to take up their rightful position in the world and fulfill an obligation that all wealthy nations have to help those who are less fortunate.

Mr. President, I have discussed this amendment with many people. I have received the assistance of staff on the Senate Armed Services Committee for which I am very grateful; my own staff; and I have consulted with other people who are perhaps much more knowledgeable on this issue than I.

One of the individuals that I have consulted with is Mr. Brzezinski, former National Security Advisor under President Carter. I received a letter back from him that I would like to quote:

> I fully endorse the proposed initiative, for it provides a constructive formula for enhancing Japan's international security role without at the same time stimulating political divisions or stirring anxiety among Japan's immediate neighbors. The time is certainly ripe for Japan to assume a larger global security role and the proposed legislation would do so in a non-threatening manner while contributing also to broader economic growth.

Mr. President, I do not view this amendment as threatening and I would not support one nor submit one to this body of that kind. But I think we must be aware of the realities of the political situation in the United States and throughout the world.

The American people are convinced that the United States is carrying a burden for the Japanese security-wise that we can no longer bear without significant change in Japanese policy. I agree.

I suggest that if the Japanese Government does not respond in a positive fashion to this kind of amendment, we may be coming back to this body and proposing amendments which are far more binding and could be perceived as threatening to the Japanese nation.

So, I hope that the Japanese Government and people will understand that there is enormous dissatisfaction today with the inability or disinclination of the Japanese people to take up their proper share of the burden. All nations should enjoy the wealth and prosperity that the Japanese, the United States, and the West Europeans do, in order that we may enhance not only the security of present Americans and Japanese but that of future generations.

Mr. President, one of the problems associated with Japan's economic assistance in the past is that they have used it as a method, often very effective, to take over markets in certain small Asian countries. That is understandable. It is not, however, what this amendment has in mind.

The kinds of contributions that we are seeking from the Japanese are not those which will lead to market dominance for Japanese products. In fact, it is crucial that much of this aid be funneled through multilateral organizations such as the World Bank, which will ensure that this aid not be used simply as another tool to gain economic advantage over trading competitors.

Again, Mr. President, I urge not only this body but the Japanese Government to fully understand and appreciate what we are intending here. We are not engaging in Japan-bashing nor are we threatening Japanese security, but I think they should be well aware that the patience of the American people has grown thin. Unless there is relatively rapid response by the Japanese to these kinds of initiatives, it could lead to an atmosphere of confrontation. That is certainly not in the best interest of Japan or the American people.

Mr. President, I yield to my colleague from Illinois for his comments.

Mr. DIXON. Mr. President, as usual, my distinguished friend from Arizona has made a very compelling case in support of his position.

I am privileged to announce that the majority side supports this amendment.

My understanding of the procedure, may I say, Mr. President, is that we will usefully employ the entire day in considering a great many amendments. Several quite controversial amendments will be considered this afternoon including a nuclear test ban question and I think at least two chemical amendments, and I believe that the order of business will be that all of these amendments will be stacked and voted upon after sunset this evening in view of the fact that this is a religious holiday.

I understand that my friend from Arizona does want a rollcall.

Mr. McCAIN. Yes.

Mr. DIXON. So he is asking for the yeas and nays.

Mr. McCAIN. Yes, I ask for the yeas and nays under the provisions of the unanimous-consent agreement.

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

There is a sufficient second.

The yeas and nays were ordered.

Mr. DIXON. Mr. President, would my friend from Arizona be willing to agree that this evening when the majority leader is prepared to do so this amendment in its appropriate order be voted upon? I do not think there is any problem about its having the highest priority and being voted upon first, but I am not prepared to say precisely what time that vote will take place. I presume sometime shortly after 6:30 in the evening.

Mr. McCAIN. I would appreciate my friend from Illinois giving me that courtesy and whatever time that that vote is most appropriate to be called for is certainly satisfactory with me.

Mr. DIXON. I might interrupt by suggesting the majority leader is on the floor and may want to add to the understanding of the Senator from Arizona about when it might be voted upon.

Mr. BYRD. Mr. President, I believe the understanding is that we start voting at 6 o'clock today.

So I ask unanimous consent that at 6 o'clock the Senate proceed to vote on

or in relation to the amendment by Mr. McCAIN and that no further amendments be in order at that time to that amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. I thank the majority leader for his courtesy.

I think the reason is obvious that I am requesting a recorded vote on this amendment, which I am convinced that the overwhelming majority of my colleagues are agreed to. I think it is important for every Member of this body to be on record as to our strong feelings concerning this very important issue.

Mr. President, I have no further comments on this amendment. I yield back the floor.

Mr. DIXON. Mr. President, I thank my friend from Arizona and the order will be that his will be the first rollcall then after 6 o'clock this evening.

AMENDMENT NO. 717

(Purpose: To amend section 2320 of title 10, United States Code, relating to rights of the United States in technical data developed under DOD contracts)

Mr. DIXON. Mr. President, on behalf of the managers of the bill, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the McCain amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON), for himself, Mr. BINGAMAN, and Mr. GLENN, proposes an amendment numbered 717.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . RIGHTS IN TECHNICAL DATA

(a) IN GENERAL.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the responsive rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense.";

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) by redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of technical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release or disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release or disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means, in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

Mr. DIXON. Mr. President, I rise to offer an amendment to the fiscal year 1988 Department of Defense authorization bill that will clarify the provisions in existing law regarding the appropriate relationship between the U.S. Government and its contractors and subcontractors in the important area of rights to technical data.

Mr. President, in 1983 I began a review of the Government's policies and practices in this area of rights to technical data, during the extensive review undertaken by the Senate Small Business Committee on ways to increase competition in Federal procurement policy. We recognized then, as today, that there is a need to carefully balance the rights of the United States to have access to the supporting technical data relating to the products and processes it purchases from its contractors. By the same token, it is critical that our contractors know that the results of their innovation are protected from others.

Within that context, the Congress, in 1984, tried to carefully spell out the respective rights of the Government and of contractors in the provisions of law enacted in the fiscal year 1985 DOD Authorization Act, and in the Small Business and Federal Procurement Competition Enhancement Act. Those laws directed both the civilian agencies and the Department of Defense, to develop within 1 year appropriate implementing regulations to carry out the policy guidance given by the Congress. Regrettably, the regulatory efforts were a failure. The civilian agencies were not able to meet their deadline at all. In fact, the civilian agencies did not publish a final rule until several months ago. Within the Department of Defense, a proposed rule was issued in September 1985. It was highly controversial and almost

unanimously opposed by Congress, and by both the large and small business defense communities. In light of this controversy, DOD withheld issuing this version of the regulations, and issued only limited changes to the prior regulatory scheme in order to comply with the new law.

Hearings by the Senate Armed Services Committee and others, led to our consideration of the need for greater specificity in the legislative guidance given to the Department of Defense. As a result, in 1986, Congress revised the basic rights in technical data provisions applicable to the Department of Defense. Again, the Department was directed to develop implementing regulations. In response to that legislative mandate, on January 16, 1987, the Department of Defense issued proposed regulations for comment. Not surprisingly, these proposed regulations were also extremely controversial, and drew a great deal of comment and criticism from the intellectual property legal community, from the large and small business defense communities, and from the Hill. To its credit, the Department of Defense conducted its own public hearing on the proposed regulation, and the Defense Acquisition Regulatory Council used two field seminars to further explain the rationale for their recommendations. Further hearings by the Senate Armed Services Committee, under the leadership of Senator BINGAMAN, focused additional attention on the deficiencies of the Department's proposed implementing regulations. Nevertheless, while the Department did make significant revisions in the proposed rule in their final recommendations issued on April 16, 1987, there are still several areas where, in my judgment, the regulations fail to follow the clear mandate of the 1986 revised technical data rights provision of law.

I have received a letter signed by seven major defense and aerospace associations which calls attention to their conclusion that the final DOD technical data rights regulations do not conform to the law. I ask unanimous consent that this June 5, 1987, letter be inserted in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. DIXON. It is because of this failure to comply with carefully balanced policy which Congress has previously spelled out, and the apparent unwillingess of the Department to make any further changes to their regulations, that I believe it is necessary for us to again consider clarifying the provisions of law relating to rights in technical data. That is what this amendment is all about, Mr. President.

I am pleased to be joined in this amendment by the chairman of the Senate Armed Services Committee's Subcommittee on Defense Industry and Technology, Mr. BINGAMAN. In addition, the distinguished Senator from Ohio, the chairman of the Senate Government Operations Committee, Mr. GLENN, is a cosponsor of this amendment. Senator GLENN was instrumental in initiating the changes made in the 1986 provisions.

EXPLANATION OF PROPOSED CHANGES TO TECHNICAL DATA STATUTE

Section 2320(a) of title 10 includes the basic "rights in technical data" provisions applicable to the Department of Defense.

(A) The law has always been a "technical data" law. However, the DOD final regulations refer only to rights in "data," a term separately defined in the regulations with a much broader scope than merely "technical data." In addition, the regulations seek to obtain rights for the Government in other types of information beyond technical data which a contractor or subcontractor is required to deliver or make available to the Government. Paragraph (1) of my amendment will make it clear that, the Secretary of Defense is authorized to define in the regulations the rights pertaining to an item or process in technical data.

(B) The final DOD regulations require contractors to allow use of their proprietary data needed to supply the Government with subcontractor supplies or services "without payment to the contractor of any fee, royalty or other charge by the subcontractor." In effect, by regulations, the DOD is permitting subcontractor direct sales to void any third-party responsibilities to pay a royalty or fee for the use of a contractor's property. The constitution prohibits the Government from interfering in the right of private contract. In addition, this provision interjects the Government between the holder of rights and those to whom the holder has agreed to let use those rights. Paragraph (2) of my amendment makes it clear that while nothing is intended to stop a subcontractor who legitimately has the right to use the technical data of the "rights holder" from selling directly to the Government, the government cannot by regulation waive a fee or royalty charge that may be imposed on that subcontractor.

(c) In the area of current law known as "mixed funding," where both the Government and the contractor have contributed funds toward the development of an item or process, the DOD regulations erroneously provide that "if the Government has funded a part of the development of an item * * * then the Government is entitled to unlimited rights in technical data." This "one dollar rule" was specifically rejected by the Congress last year in the 1986 revision. Paragraph (3) of my amendment makes it clear that, in cases involving "mixed funding" of development, all rights of the Government and of the contractor or subcontractor asserting the rights are to be determined by negotiation relating to such item or process.

(D) The regulations give specific authority to DOD and to the contracting officer, to "control" the contractor's use of privately developed items through individually created contract clauses. In the view of the experts, this provision is an attempt to circumvent the specific statutory provision that makes it clear that a contractor may not be required to sell or otherwise relinquish "technical data" (See 2320(a)(2)(F) of title 10).

Since even under existing law the government could not force a contractor to relinquish rights, in technical data, it appears that DOD is trying to prevent the contractor from using items or processes which are under the contractor's control. This should be an evaluation item in the solicitation, and a matter of competition, not prohibition. Paragraph (4) of my amendment makes it clear that a contractor cannot be forced to "refrain" from offering or using a product or process in a DOD contract simply because that item was developed at private expense.

(E) The DOD regulations suggest the use of direct licenses as an alternative to acquiring rights when the Government does not need to take possession of the technical data. However, the regulations make it clear to the contracting officer that licensing is not appropriate below certain dollar thresholds. This policy position does not follow the law, or even the logic of the balance of the DOD regulations. Paragraph (5) of my amendment makes it clear that the contractor's direct license of rights to a third party, if necessary to develop alternative sources of supply and manufacture, is an acceptable alternative means of meeting the government's need for competition for an identical item.

(F) The present law allows the United States to request greater rights in technical data than it may otherwise be entitled to if such rights were "accorded to the United States under 'DOD's data rights' regulation." The effect of this provision is to permit the Department of Defense to "determine" its own authority and then request greater rights using this statutory "bootstrap." Paragraph (5) of my amendment makes it clear that the Department will be able to negotiate with a contractor for greater rights in technical data that DOD would otherwise be entitled under the law in the two instances stated in the amendment.

(G) The definition of "private expense" in the regulations does not follow the statement of managers in

the conference report on Public Law 99-500. Paragraph (10) of my amendment takes the basic current regulatory definition of "private expense" and makes it clear that "indirect costs" are "private expense" for purposes of this data rights law.

(H) Paragraph (8) of my amendment also adds an additional paragraph to the current law to ensure that the requirement for nondisclosure to a third party of technical data developed by a contractor at private expense, but legitimately able to be released by the Government under the law, is still subject to a prohibition on further release, disclosure or use by a third party. The regulations do not include such a prohibition in the clauses.

EXHIBIT 1

AEROSPACE INDUSTRIES ASSOCIATION,
1725 DESALES STREET NW.,
Washington, DC.

AMERICAN ELECTRONICS ASSOCIATION,
1612 K STREET NW.,
Washington, DC.

PROFESSIONAL SERVICES COUNCIL,
918 16TH STREET NW.,
Washington, DC.

ELECTRONIC INDUSTRIES ASSOCIATION,
2001 EYE STREET NW.,
Washington, DC.

SHIPBUILDERS COUNCIL OF AMERICA,
1110 VERMONT AVENUE NW.,
Washington, DC.

MOTOR VEHICLE MANUFACTURERS ASSN.,
1630 EYE STREET NW.,
Washington, DC.

COMPUTER BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION, 300 FIRST STREET NW., WASHINGTON, DC.

JUNE 5, 1987.

Hon. ALAN J. DIXON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DIXON: For the past two years, industry has followed very closely the development of statutory changes and implementing regulations dealing with rights in technical data. The September 1985 Department of Defense proposed regulations did not meet the "balancing of interests" test which Congress directed in the Defense Procurement Reform Act of 1984 (P.L. 98-525). In light of the virtually unanimous opposition from Congress and industry, DoD withdrew those proposed regulations, issued a temporary interim regulation and then proceeded to draft new regulations. In the interim, with your leadership and support, Congress further modified the statutory requirements by enacting section 953 of the FY 1987 Appropriation Act (P.L. 99-500). The final DoD regulations to implement P.L. 98-525, as modified by P.L. 99-500, were issued on April 16, 1987, and became effective on May 18, 1987.

While the most recent regulations are a significant improvement over earlier versions, there are still several areas in which they do not conform to the statute or reflect the intent of Congress. During the public comment period, industry pointed out these areas to DoD and requested that the regulations be changed to conform to the statute. The statutory language is clear and unambiguous. The use of different words in the regulations at best creates confusion and suggests that a different interpretation is intended. The undersigned industry associations feel strongly that this is unnecessary and that the regulations should follow the statute.

We are deeply concerned that the regulations as written will be unevenly and unfairly administered and will adversely affect the defense industry and national security inerests by:

1. Making it more difficult for DoD to acquire systems which embody state of the art technology, in discouraging contractors from making government-related research and development investments.

2. Decreasing the ability of United States industry to compete in world markets for defense products.

3. Complicating the procurement process in direct contravention to recommendations of the Packard Commission.

4. Unnecessarily furthering the adversarial relationship between the government and industry.

5. Making it more difficult for defense contractors to attract and retain investment capital and technical and management talent.

The attached paper, which has been provided to the Defense Acquisition Regulatory Council in DoD and to the Office of Federal Procurement Policy in OMB, illustrates eight areas in which DoD's regulations fail to conform to the statute and, therefore, do not reflect the intent of Congress.

We appreciate your continuing interest in this matter.

Sincerely,

DON FUQUA,
President, Aerospace Industries Association.

J. RICHARD IVERSON,
President and Chief Executive Officer, American Electronics Association.

VIRGINIA LITTLEJOHN,
Executive Director, Professional Services Council.

JEAN A. CAFFIAUX,
Senior Vice President, Electronic Industries Association.

JOHN STOCKER,
President, Shipbuilders Council of America.

SHERIDAN BRINLEY,
Motor Vehicle Manufacturers Association.

VICO E. HENRIQUES,
President, Computer and Business Equipment Manufacturers Association.

AREAS IN WHICH THE REGULATIONS FAIL TO CONFORM TO THE STATUTORY LANGUAGE

1. MIXED FUNDING

Statute.—10 USC 2320(a)(2)(E) provides "in the case of an item or process that is developed in part with federal funds and in part at private expense the respective rights of the United States and of the contractor of subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable," based upon specific factors.

Regulation.—The policy statement in Part 227.472-5, provides that "if the government has funded a part of the development of the item, component or process, then the government is *entitled* to unlimited rights in technical data. However, the government should not acquire more data rights than it needs. Therefore, unless the contracting officer determines, during the identification of needs process, that unlimited rights are required, the government will obtain government purpose license rights if the contractor has or will contribute more than 50% of the development costs * * *".

Comment.—The regulation clearly does not comply with the statute which explicitly authorizes a contractor who has partially funded the development of an item, component or process to negotiate its rights in the data related to such items, components or processes. The 50% threshold created in the regulations is arbitrary, unwarranted and unsupportable based on the law.

2. INDIRECT FUNDING AS PRIVATE EXPENSE

Statute.—10 USC 2320(a)(2)(B) states that "* * * in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to use or release technical data." Section 2320(a)(3) also requires DoD to define in regulations the term "private expense".

The Conference Report states: "In addition, the conferees agree that as a matter of general policy "at private expense" development was accomplished without direct government payment. Payments by the government to reimburse a contractor for *its indirect costs* would not be considered in determining whether the government had funded the development of an item. Thus, reimbursement for independent research and development expenses and other indirect costs (capital funds and profits), although such payments are in indirect support of a development effort, *are treated* for purposes of this act as *contractor funds.*" (Emphasis added.)

Regulation.—Subpart 227.471, which defines "private expense", only sets forth independent research and development and bid and proposal costs as items which qualify as "private expense".

Comment.—We believe the intent of Congress in the statement of managers is clear and should be reflected in the definition of "private expense". Absent explicit coverage, as a practical matter, only IR&D and B&P will be accorded "private expense" treatment.

3. NONDISCLOSURE AGREEMENTS

Statute.—10 USC 2320(a)(2)(D) states only two specific instances when the government may release technical data in which it has received only limited rights, and only if "such release, disclosure or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose or use such data; * * *"

Regulations.—The definition of "limited rights" in Subpart 227.471 addresses release of limited rights data in only one of the two statutorily permissible areas, but does not prohibit further disclosure or provide for notice to the contractor or subcontractor asserting limited rights in other situations. The Policy Statement at Subpart 227.473-5 in connection with validation provides that "in appropriate circumstances, use of a nondisclosure agreement may be considered." The clauses at Subpart 252.227-7013, -7025, and -7037 do not contain these provisions which were set forth in the policy part of the regulations.

Comment.—The Policy Statement goes only part way towards meeting the statutory requirement and the actual contract clauses do not set forth any language that would clearly reflect the law or the policy.

4. TECHNICAL DATA VS. DATA

Statute.—10 USC 2320(a)(1) states "the Secretary of Defense shall prescribe regulations to define the legitimate interests of the United States and of a contractor or subcontractor in technical data * * *."

Regulation.—The regulations separately define the terms "data" and "technical data". The definition of "data" embraces all recorded information; the definition of "technical data" delineates data of a scientific or technical nature excluding software. The Policy Statement in Subpart 227.474-2 and the clauses in Subpart 252.227-7013 and -7025 use the broader term rights in "data" and not the proper term "technical data".

Comment.—This is a technical data regulation and the failure to be specific in this respect will create problems. There is no rationale provided for the failure to appropriately limit this regulation to technical data in all cases.

5. WARRANTY OF TECHNICAL DATA

Statute.—10 USC 2320(b)(7) requires the establishment of a regulation that "a contractor furnish written assurance at the time the technical data is delivered or is made available, that the technical data is complete and accurate, and satisfies the requirements of the contract concerning technical data."

Regulation.—Both the Policy Statement in Subpart 227.473-3 (b) and the clause in Subpart 252.227-7036 require that data "is complete, accurate and complies with all requirements of the contract."

Comment.—The regulation will inevitably lead to confusion because warranty of technical data is separately addressed in other clauses. No judicious contractor can warrant that a technical data package can be used by any as yet unidentified entity to manufacture the item depicted. The proposed language introduces substantial contingent liability which was not contemplated by the statute.

6. DIRECT LICENSING

Statute.—10 USC 2305(d)(1)(A) and (B) require "with respect to items that are likely to be required in substantial quantities during the systems service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future" when planning for future competition for development of major systems. In planning for the award of a production contract for a major system, 10 USC 2305(d)(2)(B) requires that the head of the agency is to consider requiring "* * * proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items * * * that are likely to be reprocured in substantial quantities during the service life of the system."

Regulations.—The Policy Statement in Subpart 227.474-1 suggests the use of direct licensing as an option when the government does not need direct control of the technical data for competition (such as leader/follower contracting) but states that "* * * direct licenses are generally not appropriate for acquisition of items, components or processes having an estimated total acquisition cost of less than $50 M, RDT&E funds or $200M of production funds."

Comment.—This policy does not follow from any logic applied to what precedes it. In fact, direct licensing may be most applicable to items often produced by small business or under smaller dollar value contracts. Also, a deviation (DAR Case 86-148) allows the Army to disregard, on source selection, royalties/fees paid by the government for licenses. Thus, licenses direct to the government are greatly discouraged by the regulations and competitive procurement may become unavailable.

7. RIGHTS IN TECHNICAL DATA FOR MAJOR SYSTEMS AND SUBSYSTEMS

Statute.—10 USC 2320(a) requires that the technical data regulations "not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in the technical data otherwise established by law."

Regulation.—The basic Federal Acquisition Regulation in Subpart 52.203-6 has recognized the legislative mandate in establishing the rights of subcontractors to sell directly to the government without precluding "the contractor from asserting rights that are otherwise authorized by law or regulation." The Policy Statement in DFARS Subpart 227.473-2(b) and the clause in Subpart 252.227-7017 require contractors to allow use of their proprietary data needed to supply the government with subcontractor supplies or services without payment to the contractor of any fee, royalty, or other charge by the subcontractor."

Comment.—This is clearly a misappropriation of a contractor's property right in violation of the technical data rights law and the Competition in Contracting Act (P.L. 98-369), and deviates from the basic regulation (FAR) that was established pursuant to such law. The Competition in Contracting Act was designed to prohibit the appropriation of property rights and there is no justification for the differing language in the Defense regulations.

8. PROTECTION FOR PARTY ASSERTING RIGHTS IN TECHNICAL DATA

Statute.—10 USC 2320(a)(2)(F) states that a contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except * * *".

Regulations.—The coverage at 227.483-1 (b)(1) states that "If Government control on the contractor's use of privately developed items, components, processes, or computer software is desired, special provisions must be included in the contract."

Comment.—It is not clear how 10 USC 2320(1)(2)(F) can be implemented if the *prime contract* calls for "control of privately developed items, components, processes or computer software." At 227.473-2(a)(2) the regulations clearly indicate that a documented record substantiating the need for greater rights in technical data is required before negotiating with the contractor, or subcontractor, to obtain these rights. The use of the word "control" in 227.473-1(b)(1) is confusing. It could lead to government needs assessments for rights in technical data on a program by program basis, which discriminate against privately developed items solely because of the availability of rights in technical data.

Mr. DIXON. It is my understanding that this entire matter has been thoroughly discussed on the other side. May I say to my friend from Arizona that I believe Carl Smith is fully conversant with this and it is also my understanding there is no objection on the other side to this amendment.

Mr. McCAIN. Will the Senator yield?

Mr. DIXON. I am delighted to yield.

Mr. McCAIN. It is my understanding also that this amendment has been cleared on this side. It is obviously highly technical in nature. Perhaps my friend from Illinois could explain to us for what reasons we did not go through this in the regular committee amendment process when we marked up the bill. I think that might be helpful.

Mr. DIXON. I think the answer to that is that we have been in extended conversations during most of the year trying to reconcile the disparate points of view between the Department of Defense and the various defense industries that were interested in this highly technical question. May I say to my friend from Arizona that this goes all the way back to the time when I was one of the principal sponsors of the Competition Enhancement Act that was considered by both the Small Business Committee and the Armed Services Committee several years ago contemporaneously and ultimately passed with the understanding that we would try to refine these differences.

I believe, quite frankly, largely at the staff level working with the defense industry and the Department of Defense over a very long period of time that actually encompasses a number of years, we have finally come to the ultimate agreement that is encompassed by this technical amendment.

I feel confident that I can represent that everyone on your side who would be interested in and involved in the process has been involved in the process up until this date. I am told by my colleagues here and staff that Carl Smith and others are acquainted with what we are doing right now.

Mr. McCAIN. If my friend will yield further, am I then to assume that, in general, the Department of Defense and the contractors are also agreeable to this amendment?

Mr. DIXON. I think that is entirely true. This has been a matter of consultation between what would be, if you could characterize it, adverse interests in the defense community over a period of years. It is a highly technical question concerning proprietary rights and other technical data interests, what the Government obtains in connection with those contracts, what these defense industry people retain on their own as part of their own work effort in the private sector.

Mr. McCAIN. Then this side would certainly be pleased to support this amendment.

Mr. DIXON. There is no further comment on this side, Mr. President.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 717) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, the Senator from South Dakota [Mr. DASCHLE] has an amendment that we are probably going to have to wait until the Senator from California arrives to complete, but I believe it may be cleared on both sides in a few minutes. Perhaps the Senator from South Dakota would like to seek recognition and go ahead and present the amendment, and then we can deal with it in the next few minutes, hopefully.

Mr. DASCHLE. I thank the Senator from Georgia.

AMENDMENT NO. 718

(Purpose: To amend title 10, United States Code, to require the advancement of certain Army and Air Force National Guard enlisted personnel to a higher grade on the retired list after thirty years of service.)

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 718.

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

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

The amendment reads as follows:

On page 81, between lines 6 and 7, insert the following:

SEC. 645. RETIRED GRADE OF CERTAIN RESERVE ENLISTED MEMBERS

(a) ARMY.—(1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members,".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members,".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

Mr. DASCHLE. Mr. President, under current law, all but one category of active duty or full-time members of the Armed Forces, authorized under title 10, and the National Guard, authorized under title 32, may retire at their highest grade held satisfactorily. Title 10 officers and enlisted, and title 32 officers may, if their grade at retirement is for some reason lower than a previous grade held satisfactorily, retire at the higher grade. Title 32 enlisted personnel—the active duty reserves and full-time National Guard members—may not.

Current statute—10 U.S.C., sections 3964—requires that "each warrant officer of the Air Force, and each enlisted member of the Regular Air Force, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the grade that is equal to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Air Force." Section 8964 makes the same provision for Air Force members. The current law, unfortunately, does not authorize such advancement for full-time or active duty enlisted members of the Guard and Reserves.

My amendment would amend these two sections of title 10 to include certain members of the Guard and Reserves among those allowed to retire at their highest grade held satisfactorily. The amendment addresses the retirement status of those men and women who serve in what is now called the AGR—Active Guard/Reserve—program. An AGR member is defined in the amendment as "a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve components."

Mr. President, in my view this is strictly an issue of fairness. Full-time enlisted Guard and Reserve members have been slighted by current retirement provisions. All other full-time members are allowed to retire at their highest grade held. It is time for us to make it clear that we support those who volunteer to spend their careers in the defense of this country—whether they serve in the officer of enlisted ranks.

As a strong supporter of the Guard and Reserves and their effective role in the total force, I am especially concerned that we maintain strong provisions to support recruitment and retention in the AGR program, which is responsible for the full-time support and training of these forces. Since the vast majority of these personnel are enlisted, this amendment is very important to preserving the effectiveness of the Guard and Reserves.

There are two categories of enlisted AGR personnel who stand to benefit from this amendment:

First, those whose service was interrupted for some reason and who returned to service at a lower grade; and

Second, those who have been the victims of administrative demotions—referred to as voluntary reductions in grade by some—due to the Department of Defense's attempts to correct the overgrade problem resulting from the conversion of military technicians to full-time military service.

Parenthetically, I should add that this amendment does not directly address the issue of administrative demotions, though that is an issue of continuing interest to me. I want to point

out, however, that this amendment is, in part, intended to acknowledge the negative effects of administrative demotions, which occur in the enlisted ranks only, and to ensure that they do not have the additional impact of reducing retirement benefits.

Mr. President, my amendment to ensure enlisted AGR personnel equal protection under title 10 retirement provisions has broad-based support among the Armed Forces. About 2 years ago, the Enlisted Association of the National Guard of the United States [EANGUS] first pointed out to me the inequity of current retirement provisions. Everyone with whom I have discussed this issue agrees that reductions in grade, particularly reductions brought about through administrative demotion, cause substantial morale problems for the individuals directly involved and threaten to affect overall morale, recruitment, and retention in the enlisted ranks.

There is strong support for this action in Congress, and there is equally strong support at the Department of Defense. In fact, the Department of Defense ordered its sixth quadrennial review of military compensation [QRMC] to advise the Department on the appropriateness of the current retirement provisions as they affect enlisted AGR personnel.

The sixth QRMC has already reviewed the matter and decided to recommend to the President that enlisted AGR members, like title 10 personnel and title 32 officers, be allowed to retire at their highest grade held satisfactorily. The proposal has cleared the necessary hurdles—the sixth QRMC's steering committee and its coordinating council—and will be included with other matters in the sixth QRMC's report to the President due in November.

Some may be concerned about preempting the sixth QRMC's report to the President. Normally I might agree with that line of reasoning, but in this case, the recommendation has already been acknowledged, and its final announcement is only a formality. For those AGR members who have been harmed by the existing statute, this change has been long overdue. I see no valid reason to delay correcting the problem any longer. As I said earlier, it is simply a matter of fairness.

I am sure that cost is another question in the minds of my colleagues. The budgetary impact of this amendment should be minimal. The Pentagon reports that approximately 260 people, at most, were the victims of administrative demotions and would, therefore, benefit from this amendment. The number of AGR members whose service was interrupted is also expected to be low. The change in actual payments will be negligible, but the positive impact of the amendment will be immense.

As final notes, I should say:

First, that satisfactory service will be determined, as it has been, by the Secretaries of the Army and the Air Force;

Second, that the amendment does not authorize retroactive retirement payments; and

Third, that the effective date is the date of enactment.

In conclusion, Mr. President, let me say that allowing enlisted AGR personnel to retire at their highest grade held satisfactorily is the fair thing to do. This action will have a positive effect on morale in the enlisted ranks, which comprise the vast majority of our Reserve forces. It will also positively impact our recruitment and retention efforts. Passage of this amendment is a responsible and fair way to reaffirm our support for the Guard and Reserves and our commitment to those men and women who volunteer to devote their careers to the defense of the United States. This change is long overdue.

I might also add that Senator WILSON, the distinguished Senator from California, has asked to be a prime cosponsor of this amendment. I ask unanimous consent that his name be added at this time.

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

Mr. DASCHLE. Mr. President, I think this amendment merits the support of the Senate and I ask for its support at this time.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from South Dakota for this very fine amendment. I understand the Department of Defense supports this amendment. The amendment would provide for equal treatment for Reserves for full-time enlisted personnel. I am pleased to say the managers of the bill on this side support the amendment.

Mr. DASCHLE. I thank my friend from Illinois.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask that I be added as an original cosponsor to this amendment.

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

Mr. McCAIN. I also congratulate my friend from South Dakota for correcting what is basically an inequity in the system. My understanding of this amendment is we are going to restore the same status and benefits to those who serve the same kind of career pattern only in the Guard and Reserves. To many of us, Mr. President, these kinds of small things do not seem to be very important. To those who are serving for many, many years in the Guard and Reserves, these are very important.

I would also like to add that our Guard and Reserve forces are being used in ways which certainly place them in larger and larger positions of responsibility, and at some risk, perhaps, being deployed in foreign countries.

I certainly believe it indicates that there is an urgent requirement for them to be placed in the same status as those who serve in other branches of the regular service.

I do express the support of this side for this important amendment and express my appreciation to the Senator from South Carolina for bringing this to the attention of the body. It will improve the morale of those members of the Guard and Reserve and also correct a basic inequity.

I yield the floor.

Mr. GLENN. Mr. President, I support the amendment offered by the distinguished Senator from South Dakota. The amendment would equalize treatment for certain Reserve full-time enlisted personnel with that of Active Force enlisted personnel for retirement. It would authorize Reserve full-time enlisted personnel to advance on the retirement list to the highest grade satisfactorily held after they complete 30 or more years of combined active and retired service. This authority exists for Active Force enlisted personnel. Since Reserve full-time enlisted personnel must complete the same minimum active-duty requirement of 20 years of active service for voluntary retirement, it is only fair that they be afforded the same benefit.

I wish to say that, although I support this amendment because it is the fair thing to do, I am concerned about the larger issue of the very sizable number of personnel we have in our Reserve forces full-time manning program, and the extraordinary growth of this program in the short 7 years of its existence. To my way of thinking this full-time manning program has never been adequately justified, especially not as the huge program it has become. This is an issue that the Subcommittee on Manpower and Personnel, which I chair, has been looking into. I want to put the Department of Defense on notice that it must do a better job of justifying this program and its current strength in terms of how this very large number of officers and enlisted personnel enhances the combat capability of the total force commensurate with its overall cost.

Mr. President, as to the immediate amendment before us, I want to commend the distinguished Senator from South Dakota for his leadership in providing equity to Reserve full-time enlisted personnel, and I urge my colleagues to support this amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I join in the comments of the Senator from Illinois and the Senator from Arizona. It does correct a basic inequity in the law. It does treat Reserve personnel on the same basis, if this amendment becomes law, as enlisted personnel in the active forces. I congratulate the Senator. I, too, would like to be added as a cosponsor.

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

Mr. DASCHLE. Mr. President, I thank my colleagues, the Senator from Arizona, the Senator from Illinois, and the chairman, for their support.

I have been asked to add Senator HEFLIN as a cosponsor also.

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

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 718) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. NUNN. It was my understanding that the Weicker amendment was pending and was being temporarily laid aside.

The PRESIDING OFFICER. The Weicker amendment will not recur until action on the McCain amendment has been completed.

Mr. DIXON. If I may interrupt my colleague, the manager of the bill, the distinguished Senator from Georgia, I believe, Mr. President, the understanding was that we may have considered the McCain amendment completely. The yeas and nays have been called for with a sufficient second. It is understood that it is stacked and will be the first rollcall tonight at 6 o'clock when we begin voting. I believe that is the order, Mr. President.

The PRESIDING OFFICER. Under the order of last night, the Weicker amendment will not recur until the vote has been taken on the McCain amendment.

Mr. DIXON. I thank the Chair.

Mr. NUNN. Mr. President, I would say that I understand the Chair's statement. I believe inadvertently that occurred because the original intent was to continue the Weicker amendment to be pending but temporarily lay it aside as we consider other amendments. I would say when the Senator from Connecticut comes to the floor, though I have some doubt about his amendment and we are working on a substitute, I believe we should accord him the privilege of having it placed back in consideration.

The PRESIDING OFFICER. If there is a request for regular order, the Weicker amendment will recur.

Mr. NUNN. That clarifies it, Mr. President. Is the bill open to further amendment at this point?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 719

(Purpose: To amend the definition of "cooperative projects" as used in the Arms Export Control Act in order to permit the procurement of munitions from NATO or a NATO subsidiary body under a cooperative project agreement)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer this amendment on behalf of myself and Senator QUAYLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself and Mr. QUAYLE, proposes an amendment numbered 719.

On page 114, between lines 13 and 14, insert the following new section:

SEC. . NATO COOPERATIVE PROJECT AGREEMENTS

Clause (C) of section 27(b)(1) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C)) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

Mr. NUNN. Mr. President, I am offering an amendment with Senator QUAYLE that would make a technical change in the authority of the U.S. Government to participate in NATO cooperative projects. In particular, the amendment would allow the United States to cooperate with other NATO members in the common procurement of munitions from the NATO Maintenance and Supply Agency.

For the last several years, I have been working with Senator WARNER, Senator QUAYLE, Senator ROTH, and others to encourage the members of NATO to pool their limited resources into cooperative weapons projects. By collaborating in the research, development, or production of conventional weapons, NATO can begin to make progress in reversing what Tom Callahan has termed the "structural disarmament" of the alliance.

One of the mechanisms for allied cooperation is the Quayle amendment to the fiscal year 1986 Defense Authorization Act. That amendment authorizes the Secretary of Defense to waive certain procurement requirements and procedures so that the United States can cooperate more effectively with its NATO allies. However, the Quayle amendment is still not sufficiently broad to allow the United States to join other NATO members in procuring defense articles and services from a NATO organization. Instead, it refers to cooperative procurement taking place only between countries.

I believe this was an inadvertent oversight.

This problem has come to my attention as an obstacle to an important experiment by NATO to consolidate its procurement of munitions through the NATO Maintenance and Supply Agency. Without the change in the law that Senator QUAYLE and I are proposing today, the U.S. Government and American businesses would be unable to participate fully in this initiative.

There has been a technical ruling that U.S. companies are not able to compete equally in the competition—this amendment is intended to cure that problem.

Mr. President, this amendment would slightly broaden the 1986 Quayle amendment to authorize the United States to buy munitions from NATO or a NATO subsidiary, as well as from individual NATO countries. I urge its adoption as a technical improvement to the body of law on NATO cooperative projects.

Mr. DIXON. Mr. President, I congratulate the manager and distinguished chairman of the Armed Services Committee on this amendment. It is supported on our side.

Mr. McCAIN. Mr. President, I also express the support of this side for the amendment. It is our understanding that it clarifies an unintended effect of last year's legislation. It applies to munitions only.

I understand from the remarks of my colleague from Georgia, our distinguished chairman, that it is important that we have this legislation so that we can function in a more efficient fashion with our NATO allies.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 719) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, we have other amendments that we are ready for at this time. I also have a joint officer management amendment that will not I hope be controversial but will take a little time to explain and I could go ahead with it.

I believe there are other Senators who want to be heard on this amendment, including the Senator from Virginia, who is on his way, and the Senator from California.

This is an amendment that has been worked out carefully in our committee.

Mr. DIXON. May I say to my friend from Georgia that I do have an amendment with the distinguished Senator from Alaska [Mr. STEVENS] that is not yet cleared on the other side by the ranking member on the jurisdictional subcommittee. We are awaiting the word of Senator GRAMM from Texas. I hope that the staff on the other side is discussing that with him. So I wonder if the Senator from Georgia could proceed with his amendment while we await approval of this other technical data amendment that Senator Stevens and I have.

Mr. NUNN. I thank my friend from Illinois.

AMENDMENT NO. 720

(Purpose: To make certain changes in the joint officer management program of the Department of Defense, to authorize for a temporary period of time one additional Assistant Secretary of Defense, to exclude certain transferred personnel from reductions in headquarters personnel required to be made under section 601 of Public Law 99-433, and to make a technical amendment to section 162(a) of title 10, United States Code, relating to the assignment of forces to combatant commands)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for himself, Mr. WARNER, Mr. GLENN, and Mr. WILSON proposes an amendment numbered 720.

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

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

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new sections:

SEC. 812. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than two years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken without exercise of the waiver authority

compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) MODIFICATION OF DEFINITION OF JOINT DUTY ASSIGNMENT.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion officers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than one year after the date of the enactment of this Act.

SEC. 813. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) TEMPORARY INCREASE IN LEVEL IV POSITIONS.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 814. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 815. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

Mr. NUNN. Mr. President, this amendment would clarify and improve some of the joint officer management policies of the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Senator WARNER, Senator GLENN, the chairman of the Manpower and Personnel Subcommittee, and Senator WILSON, the ranking minority member of the subcommittee, join me in cosponsoring this amendment.

Many Members of the Senate will remember the historic piece of legislation that the Congress approved last year to reorganize our Defense Establishment. After many years of work in Congress, particularly by the former chairman of the Armed Services Committee, Senator Barry Goldwater, and Congressman BILL NICHOLS of the House Armed Services Committee, sweeping changes in the various elements of the Defense Department were enacted into law.

The primary purpose of the new law was to strengthen the joint planning and operations of the four military services so that they could more effectively meet the demands of modern warfare. To achieve that goal, the law—enchanced the importance of the independent, objective advice of the chairman of the Joint Chiefs of Staff; strengthened the authority of our joint warfighting commanders; and established special personnel policies to better prepare and reward officers serving in joint positions.

In light of the complexity of these changes and the Defense Department's initial opposition to most of them, we realized that full implementation of the law would require a number of years. Therefore, it is too early to make a final judgment about how well the Pentagon is carrying out the letter and spirit of the Reorganization Act. There have been some positive developments, particularly in the areas of the Joint Chiefs of Staff and the warfighting commanders. At the same time, however, some aspects of implementation have been troubling, such as the resignation of Under Secretary of Defense Godwin from the position that was the centerpiece of the Packard Commission's acquisition recommendations. Our committee will be conducting oversight hearings on defense reorganization at a later point.

During the conference on the Reorganization Act, we recognized that actual implementation would probably reveal problems that would require legislative remedies. The Senate and House conferees anticipated that further work and changes in the joint officer management policies, in particular, could be necessary.

JOINT OFFICER MANAGEMENT POLICIES

In the course of our work on defense reorganization, it became clear that military planning and operations would be more effectively integrated only if service in joint duty positions was made more attractive and rewarding. Unfortunately, the military services have historically not considered duty on the Joint Staff of the JCS, the staffs of the warfighting commands, and other similar joint organizations to be as important as duty within the services themselves. Therefore, they have not assigned their best officers to joint duty. Moreover, those officers who did serve well in joint organizations were not fairly recognized with rewarding assignments, promotions, and educational opportunities. The result was that both their careers and their joint organizations suffered.

We have had some excellent people in joint positions, but usually those people have regretted it in terms of their career promotions. They have not regretted it in terms of their experience and, many times, their outstanding contributions, but, in terms of a career path, it has simply not been very promising for a military officer.

In response to this serious problem, the Congress developed specific policies, procedures, and requirements that constitute a special management system for officers serving in joint positions. I regret that while we undertook this far-reaching initiative, the Defense Department gave it only limited attention. Thus, only a small base of information and only a few existing policies were available to guide our work. For this reason, the conferees expressed a willingness to consider any adjustments to these personnel provisions that the Secretary of Defense believes are justified by actual implementation. In April of this year, Secretary Weinberger submitted such a package of proposed changes to the Congress.

Mr. President, the amendment that I am offering today with Senators WARNER, GLENN, and WILSON fulfills the congressional promise to resolve any genuine problems uncovered by the implementation of the Reorganization Act. In general terms, it would clarify and improve several of the joint officer policies, procedures, and requirements.

For example, the law currently requires an officer, first, to attend a joint school and, second, to serve in a joint assignment in order to earn the joint specialty, the key to the new joint personnel system. The amendment loosens this rigid sequence of requirements to accommodate those careers in which it may not be possible to go to school before serving in a joint billet.

Another example of an unintended problem is raised by the 12- or 18-month tours that are served at remote or hardship locations, such as South Korea. This amendment makes it clear that these short tours in joint duty assignments can be counted toward the minimum lengths that are specified for joint credit. In the same way, an officer whose joint duty tour was curtailed for unusual personal reasons or as a result of a promotion would not lose credit for the joint service that he had performed. These examples illustrate how the amendment would forestall poor or counterproductive personnel management practices that could result from some of the Reorganization Act's provisions.

Because the joint officer management policies are fairly complicated, I will not try to explain in detail how this amendment would modify them. However, in shorthand terms, the amendment would make the following changes:

First, promote stability and continuity in joint duty assignments through the management of average tour lengths rather than minimum tour lengths for individual officers;

Second, reduce the average lengths of joint duty assignments from 3 to 2½ years for general and flag officers and from 3½ to 3 years for other officers;

Third, provide joint duty assignment credit for general and flag officers who serve 2 years and for other officers who serve 3 years;

Fourth, provide full or partial joint duty assignment credit for service that is less than the minimum length because it was a remote or hardship tour, curtailed by unusual circumstances, limited in length by regulation, or terminated as a result of a promotion;

Fifth, provide flexibility to the Secretary of Defense in awarding the joint specialty with respect to the sequence of joint education and a joint duty assignment and with respect to a second joint duty assignment substituting for joint education;

Sixth, provide authority to the Secretary of Defense to delegate to the Deputy Secretary of Defense certain waiver authorities concerning award of the joint specialty;

Seventh, make minor modifications to various promotion controls for officers who are serving, or who have served, in joint duty assignment;

Eighth, permit a limited number of inservice assignments to be designated by the Secretary of Defense, in consultation with the chairman of the Joint Chiefs of Staff, as joint duty assignments; and

Ninth, require qualified nuclear propulsion officers to complete a full joint duty tour prior to promotion to rear admiral (upper half) in lieu of promotion to rear admiral (lower half).

Of the 13 major recommendations made by the Defense Department, the amendment includes five without any change. Six other DOD recommendations were accepted with only limited modifications as reflected in this amendment. Finally, only two DOD recommendations were not included at all in this amendment.

ADDITIONAL ASSISTANT SECRETARY OF DEFENSE

Although the focus of the amendment is on joint officer management policies, it does address two other organizational issues. First, it would temporarily authorize a 12th Assistant Secretary of Defense through the end of this administration. This additional Assistant Secretary is related to the reorganization of Special Operations Forces mandated in the fiscal year 1987 Defense Authorization Act. Section 1311 of that act specified that 1 of the 11 authorized Assistant Secretaries of Defense be an Assistant Secretary for Special Operations and Low Intensity Conflict.

The Department of Defense has had difficulty in restructuring its Assistant Secretary positions to accommodate the newly specified Assistant Secretary within the old limit of 11. Although we believe that 11 Assistant Secretaries of Defense are sufficient, we are proposing that a 12th Assistant Secretary be temporarily authorized. This action would minimize organizational turbulence during the last 15 months of the current administration and require the incoming administration to make necessary changes during a period of normal organizational and personnel transition.

EXCLUSION FROM PERSONNEL REDUCTIONS

The other organizational matter addressed by this amendment would be the transfer of 1,600 personnel from the General Services Administration to the Defense Department. Although part of an initiative to improve real property management, this planned transfer will cause problems for DOD because these additional personnel would be added to an element of the Defense Department for which personnel reductions are mandated by the Goldwater-Nichols Act. We propose in this amendment to exclude the 1,600 people to be transferred from the required personnel reductions.

CONCLUSION

Mr. President, the amendment that I am offering has been carefully prepared with the help of the Defense Department. It should greatly facilitate the smooth implementation of the Goldwater-Nichols Reorganization Act while fully preserving the goals of that historic law. I urge my colleagues to approve this amendment.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am pleased to join my distinguished chairman along with the chairman of the Manpower and Personnel Subcommittee, Senator GLENN, and the ranking member of that subcommittee, Senator WILSON, in cosponsoring this amendment.

When this body passed the Goldwater-Nichols Department of Defense Reorganization Act of 1986, I indicated that I believed we had a responsibility to observe closely the impact of the provisions of this act on the Department and that we should be responsive to reasonable requests for modification if specific problems surfaced.

It became apparent rather quickly after enactment that there were practical problems implementing certain provisions relating to joint officer management policy.

The 3-year tour length for general and flag officers and the 3½-year tour for other officers was simply too long and interfered unnecessarily with reasonable career progression.

There was insufficient flexibility in the provisions to provide enough latitude in many cases for proper career officer management.

The nuclear propulsion officers in the Navy had specific problems meeting the joint officer career requirements along with the training and operational demands of their career specialty.

In response to a package of proposed changes submitted by Secretary Weinberger, we have worked with the Department to structure in this amendment appropriate modifications to the law.

I would like to commend the staff and the DOD in working together on this amendment.

I believe that this amendment includes the adjustments necessary to provide the jointness that is required in the officer corps of our armed services.

However, the proposed revisions contained in this amendment provide only the flexibility which we believe is required by the Department, and no more. Furthermore, in several instances, the proposed changes are interdependent.

For these reasons, I believe, and I hope that the chairman and others on the committee will agree, that the Senate must insist on its position on each and every one of the provisions contained in this amendment in any conference with the House. To permit these provisions to be altered in conference could result in only magnifying the adverse effects on the lives and careers of our military officers.

Mr. President, I join our distinguished chairman, and the chairman and ranking member of the manpower committee in working out this problem. We all recognized at the time we passed the Goldwater-Nichols Department of Defense Reorganization Act

of 1986 that problems would occur. And I think this is an excellent example of how the Congress can work with a major department of the Federal Government in working out the problems that occur after some legislation is accepted.

I want to pay special recognition to several members of the staff, Mr. President, that worked on this: Romie Brownlee, Jim Locher, Rick Finn, all of whom worked with their counterparts so the speak in the Department of Defense to fashion these changes. The important thing we wish to stress here is simply that it is the judgment of the chairman and myself and others that these changes should remain steadfast through the conference with the House, and that we approach that conference having done this work with the determination to hopefully persuade the House to accept our recommendations.

For example, the 3-year tour length for general officers and flag officers and the 3½-year tour for other officers turned out simply to be too long and interfered universally with reasonable career progression. There was insufficient flexibility to provide enough latitude in many cases for proper career officer management. The key example and one which I have had some familiarity with is in the area of Navy in nuclear propulsion. Those officers had specific problems meeting the joint career officer requirements and Admiral McKee, who is currently the director of that area for the Department of Defense, was one of the very first to come forward and address Congress with the unique requirements of those careers in that area.

In response to a package of proposed changes submitted by Secretary Weinberger, we have worked with the Department to structure in this amendment an appropriate modification to the law. I would like to again commend all who participated. I think it is a satisfactory amendment.

Mr. GLENN. Mr. President, I am pleased to join the chairman and ranking minority member of the Committee on Armed Services and the ranking minority member on the Subcommittee on Manpower and Personnel which I chair in offering the amendment to make changes to title IV of the Department of Defense Reorganization Act of 1986. The amendment deals with officer personnel management provisions governing the qualifications, assignment, and promotion of officers in the joint arena which are crucial to the effective manning of joint activities and to the combat effectiveness of the services.

In the debate on the Defense Reorganization Act last year, I voiced concern that in our zeal to promote jointness that we not forget that the bottom line of whatever we do should enhance combat readiness. I felt we passed a good bill, except in the area of officer personnel management where I felt there were certain rigidities that were well motivated but strapped the services in making the most effective use of their resources. I think some of my colleagues shared this feeling. I know this same concern was raised in the hearings we had in our subcommittee and in the strategy hearings we had in the full committee this year.

In these hearings, we encouraged Department of Defense officials to review carefully the implications of the officer management provisions of the Department of Defense Reorganization Act, and to recommend to us responsible changes they would like to see, with the objective of facilitating the effective implementation of the principles of the act. In response, the Department of Defense has submitted what I believe is a very responsible proposal. Unfortunately, we did not receive it in time for consideration in our mark up of the bill before us today. That is the reason for this amendment, which accommodates most of the changes requested by the Department of Defense.

In brief, the amendment would:

First, adjust the average lengths of joint duty assignments from 3 to 2½ years for general and flag officers, and from 3½ to 3 years for other officers;

Second, allow credit for a joint duty assignment for general and flag officers who serve a prescribed tour of at least 2 years, and 3 years for other officers;

Third, allow accumulation of credit for periods of joint duty that are less than the prescribed 2 and 3 years when such duty is served in short tour—remote or hardship—locations or when a prescribed tour is curtailed for unusual circumstances or individual hardship;

Fourth, provide flexibility to the Secretary of Defense in awarding the joint officer speciality by allowing the sequencing of education and assignment, as determined by the Secretary of Defense to be consistent with sound personnel management, and to substitute a second joint duty assignment as fulfilling the requirement for joint professional military education;

Fifth, make some minor changes to promotion controls for joint duty officers;

Sixth, allow joint duty credit for a very limited number of inservice assignments; and

Seventh, allow delegations of certain waiver authorities to the Deputy Secretary of Defense.

The amendment also addresses three other issues. They include providing a 12th Assistant Secretary of Defense through the end of this administration; excluding 1,600 building management personnel to be transferred from the General Services Administration to the DOD from the personnel reduction required by the DOD Reorganization Act; and making a technical correction concerning the assignment of forces to combatant commands.

Mr. President, I believe the changes I have summarized are relatively modest and keep faith with the basic intent of the Department of Defense Reorganization Act to enhance officer manning in the joint arena. In fact, I believe the changes will give the services the kind of controlled flexibility that will allow them to do an even more effective job in manning joint requirements and remove obstacles that would be detrimental to effective officer management in the services.

Finally, I would like to commend the chairman of the Committee on Armed Services for his leadership in this area. I think we have a very responsible amendment and I urge my colleagues to pass it.

Mr. WILSON. Mr. President, I am pleased to join with the chairman of our committee, Senator NUNN, the ranking member, Senator WARNER, and the chairman of our Manpower and Personnel Subcommittee, Senator GLENN, in cosponsoring this amendment which provides needed flexibility to the joint officer management policies within the armed services.

These adjustments to the Goldwater-Nichols Department of Defense Reorganization Act of 1986 will provide for the requisite jointness we all agree is necessary for officers serving in senior, key military positions, while recognizing the need for flexibility in managing the careers of our professional military officers.

I agree completely with the statement of the ranking minority member of our committee, Senator WARNER, on the importance of maintaining the Senate position on the issues addressed by this amendment in the joint House-Senate conference on this bill.

I urge the adoption of this amendment.

Mr. McCAIN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN Mr. President, I am supportive of this amendment. I think it is probably going to ease the transition for the Department of Defense in their efforts to comply with the Goldwater-Nichols Reorganization Act of 1986.

I would like to make a couple of comments on some specifics of the amendment as regard the nuclear propulsion officers. I think it is important to recognize that although they only comprise 7 percent of the naval officer corps, they comprise 30 percent of the flag officer corps. I think this amendment is correct in allowing them some latitude, but at the same time when they represent such a large percentage

of the leadership in the flag officers, I think it is incumbent that they receive the same kinds of experiences and joint duty as we are requiring of other officers.

I also would like to comment that reducing the average lengths of joint duty assignments from 3 to 2½ years and from 3½ to 3 years for other officers is also appropriate. I think if we laid down rigid tours of duty, in fact longer ones than is average for some of our officers, it is a very serious mistake. Frankly, Mr. President, I am not particularly happy with the prescription of a certain length of time that any officer should serve in any billet. Quite often, the needs of a service are such that that officer has to be moved from one place to another, particularly in response to some sort of national emergency. I would have preferred to allow the Department of Defense more flexibility in that area.

But this brings up the major concern that I had about this entire pact, and one that I hope this committee and this Congress will watch very carefully in the future. And that is the great danger that we may have created an elite corps of officers along the lines of the German general staff that led the German Army to defeat after defeat. I am not here to comment on the qualities of leadership nor the ability of the German Army. But if there is a system which has proven in my opinion to be one which is not helpful to the good order and discipline of a military establishment it is the creation of an elite corps of officers who receive such preferential treatment that the remaining large percentage of the officer corps view themselves as second-class citizens.

And I believe that we are in danger in this legislation of creating such a body. I hope in the years ahead this personnel and manpower subcommittee as well as the entire committee will keep close watch so we have not created a monster that can cause great damage to the good order and discipline of the defense establishment.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the chairman and the ranking member on this amendment. This side supports the amendment, Mr. President.

I note that the Senator from Alaska is here with another amendment and we will be prepared to accept that shortly. So I think there is no further discussion on this amendment, Mr. President.

The PRESIDING OFFICER. Are there other Senators who wish to speak on this amendment?

Mr. NUNN. Mr. President, I think this is a good amendment. I think it makes a great deal of sense. I urge all of our colleagues to support it.

I was speaking to the amendment which is about to come up. I thought we had already disposed of this. I already am an author of this amendment. I will make my remarks applicable to the amendment of the Senator from Alaska when he brings it up. So I will cease and desist.

Mr. DIXON. We are moving so fast here. We have not disposed of the amendment by the distinguished Senator from Georgia. Would the President want to put the question on that?

The PRESIDING OFFICER. If there is no further debate, the question is on the adoption of the amendment.

The amendment (No. 720) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 715

(Purpose: To provide for the transportation of certain beneficiaries of the Veterans' Administration under the Department of Defense aeromedical evacuation system)

Mr. MURKOWSKI. Mr. President, I have an amendment at the desk, No. 715, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. MATSUNAGA, Mr. WILSON, Mr. NUNN, Mr. GLENN, and Mr. WARNER, proposes an amendment numbered 715.

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

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

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. TRANSPORTATION OF CERTAIN BENEFICIARIES OF THE VETERANS' ADMINISTRATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT.

(a) IN GENERAL.—Section 5011 of title 38, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Secretary of Defense and the Administrator shall enter into an agreement that provides for the transportation of any primary beneficiary of the Veterans' Administration on any Department of Defense aircraft operating under the aeromedical evacuation system of the Department of Defense.

"(2) An agreement entered into under paragraph (1) of this subsection shall include the following provisions:

"(A) Transportation shall be furnished to a person on an aircraft referred to in paragraph (1) of this subsection only if—

"(i) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the person needs or has been furnished care and services in Veterans' Administration medical facilities and the Administrator requests such transportation in connection with the travel of such person to or from the Veterans' Administration facility where the care and services are to be furnished or were furnished to such person;

"(ii) there is space available for such person on that aircraft; and

"(iii) there is an adequate number of medical and other service attendants to care for all persons being transported on such aircraft.

"(B) The persons eligible for transportation include persons located outside the continental United States and persons returning to their residences outside the continental United States.

"(C) A charge may not be imposed on any primary beneficiary of the Veterans' Administration or on the Veterans' Administration for transportation services furnished to such beneficiary by the Department of Defense under this section."

(b) IMPLEMENTATION REQUIREMENT.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 5011(g) of title 38, United States Code (as added by subsection (a)) not later than 60 days after the date of the enactment of this Act.

Mr. MURKOWSKI. Mr. President, the amendment I am offering today, along with my distinguished colleagues Senators CRANSTON, SIMPSON, MATSUNAGA, WILSON, NUNN, GLENN, and WARNER is designed to accomplish one objective—to promote the efficient use of scarce resources in order to meet the growing demand for VA medical-care services. Unless we are willing to explore new and innovative methods to meet this challenge, I seriously doubt whether we shall have the capability to meet this expanding need. We are legislating at a time of enormous fiscal constraints and a time when medical care costs and demand for medical care services have increased significantly. The bottom line is—we must do more with less. We can do more with less by utilizing excess capacity within the Department of Defense aeromedical evacuation system to transport veterans in need of VA medical-care services at distant locations.

In May 1982, the Congress and the President took an important step in this regard when the Veterans' Administration and the Department of Defense Health Resources and Sharing and Emergency Operations Act was enacted as Public Law 97-174. This law was designed to promote greater sharing of health-care resources between the Veterans' Administration and the Department of Defense. Congress recognized the tremendous opportunities for reducing Federal health-care costs and enhancing the quality of health care through greater interagency sharing and coordination.

At first, there was great resistance to this legislation on the part of some within the Department of Defense and the Veterans' Administration and, in

some cases, it remains so today. Unfortunately, there are those few in Government who, for whatever reason, are reluctant to remove the obstacles blocking greater coordination between these two departments of Government. But we are, Mr. President, making great progress and, as a result, millions of taxpayer dollars have been saved while improving access and the quality of care. According to VA and DOD statistics, there were 92 sharing agreements in effect at the beginning of fiscal year 1986; 79 of the VA's 172 medical centers had one or more sharing agreements with 201 military facilities. Most agreements relate to the provision of diagnostic and treatment clinical services and agreements in other areas, such as administrative services, research and training were also in effect. Most notably, Mr. President, this year the VA signed an agreement with the Air Force to share hospital beds in the VA's new medical center in Albuquerque, NM. This agreement represents the most significant of the sharing agreements negotiated thus far, because the agreement permits, for the first time, DOD to occupy space in a VA hospital. The implementation of this agreement will obviate the need for a major addition to the Air Force hospital at Kirtland Air Force Base, thereby saving the Air Force over $26 million in construction costs alone; $26 million, Mr. President, and this is just the tip of the iceberg. I believe that the VA and DOD can and should expand their efforts to share resources whenever appropriate and feasible.

One area where Department of Defense resources could be used to save substantial sums is the transportation costs associated with transferring a VA patient from one facility to another. In 1986, the Veterans' Administration spent over $100 million in veterans' travel costs to and from VA facilities.

During the review of Public Law 97-174, the General Accounting Office noted an opportunity for sharing between the Air Force and the VA. Savings to the Government could result if the military's aeromedical evacuation system could be used to transport VA beneficiaries on regularly scheduled flights to their destination which may be in the vicinity of a VA medical center to which the veteran is being transported. VA use of the aeromedical evacuation system, as with other VA/DOD sharing agreements, would not affect the established priorities for service and would be on a space-available basis. Mr. President, there is significant excess capacity on these flights. For example, during a 3-month period, April to June 1986, biweekly aeromedical flights from Alaska to CONUS had an average capacity for 31 litter and 78 ambulatory patients. Actual use for this period averaged 3 litter patients and 28 ambulatory patients. Unfortunately, such a sharing agreement is now effectively precluded because of DOD regulations. These regulations require the VA to reimburse the Department of Defense at a rate equivalent to first-class commercial air travel plus $1 between the destinations involved. Needless to say, this not only discourages the VA from using available space on aeromedical evacuation aircraft, but from a cost perspective makes it totally impractical for them to do so. Rather than make the most efficient use of these resources, the Air Force planes fly almost empty and the VA pays high travel costs.

Accordingly, Mr. President, my amendment is designed to promote the most efficient use of VA and DOD resources by requiring the Secretary of Defense and the Administrator of Veterans' Affairs to enter into an agreement to provide transportation to eligible veterans to VA facilities at no cost to the VA or the veteran.

I wish to reiterate that my amendment regarding the transport of veteran-patients on aeromedical evacuation flights would be strictly on a space-available basis. There is absolutely no requirement for additional flights, medical-care personnel or deviation from normal flight schedules or routing of such aircraft.

Adoption of this amendment would continue the process of cooperation that benefits the DOD, VA, the veteran and active-duty patients and the taxpayer.

Mr. President, as a consequence of the geographical location of my State of Alaska, obviously this will have a significant impact on Alaska's veterans. Since we do not have a VA hospital in our State, oftentimes the particular expertise offered by VA hospitals in the lower 48 has made it necessary for our veterans to travel great distances to receive VA health care. The availability of regularly scheduled Air Force aircraft flying from Alaska, carrying military personnel, would allow veterans, on a space-available basis, to fly to VA hospitals. It has significance all over the Nation.

I urge my colleages to support my amendment.

I understand that the amendment has been cleared, and I ask for any comments.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from Alaska for his very fine amendment.

GAO has sampled the space required fill rate of aeromedical flights and found significant excess capacity on many flights. This space was made available to leave, retired, and other personnel authorized to travel on a space available basis. This excess space could be used to reduce Government costs.

So this side does support the amendment by the distinguished Senator from Alaska.

Mr. McCAIN. Mr. President, I ask unanimous consent that my name be added as an original cosponsor of this amendment.

Mr. MURKOWSKI. I would be happy to have the Senator as a cosponsor.

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

Mr. McCAIN. Mr. President, I should like to add my support for this amendment, and I ask my friend from Alaska to respond to a question.

It is my understanding at this time that in order for a veteran to be transported on one of these aircraft, the VA is required to reimburse the Air Force for full first-class airfare plus $1. Is that correct?

Mr. MURKOWSKI. That is the policy.

Mr. McCAIN. Therefore, it is cheaper for the Veterans' Administration to send someone in need of medical care on a commercial flight. Is that correct?

Mr. MURKOWSKI. That is correct.

Mr. McCAIN. It seems to me that this amendment was due long ago, and I am vey pleased that the Senator from Alaska has brought it to the floor.

I also think it is well to point out that many of these aircraft have substantial vacancies on board which cannot be filled because the VA simply does not want to and cannot afford the additional expenditures. So I think we may be able to achieve the goal of providing rapid and much needed medical treatment to our veterans. I applaud the efforts of the Senator from Alaska.

Mr. MURKOWSKI. That is a point I want to stress: The savings which can be realized from this are substantial, as has been pointed out. They can be used to provide further and better medical assistance to our veterans. That is the intent of this amendment.

Mr. WILSON. Mr. President, this is a very good amendment. I congratulate my friend from Alaska.

The junior Senator from Arizona has stated very succinctly the reasons why this should have our enthusiastic support. It does two things: It will vastly improve the quality of medical care for veterans, and it is one of those happy situations where we not only do not lose money in the bargain to achieve an improvement in care, but also, we are saving.

This is a substantial efficiency. The idea that we would have to see the Veterans' Administration take some of their resources and allocate it to pay for the costs that really they do not incur because of the space availability on a flight that is not going in any case—I quite agree with the Senator

from Arizona—is an opportunity that we should have detected earlier.

But my thanks and my congratulations to the Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from Illinois, the Senator from Arizona, the Senator from California, and the Senator from Georgia. And if there is no further discussion I would move for adoption of the amendment.

Mr. NUNN. Mr. President, I will just take a moment. I intended to speak to this amendment awhile ago when it was not pending.

Let me say again I think it is a good amendment and will make a lot of sense. It will help veterans and not hurt the Department of Defense. It will make better use of American military assets of transport in a very humanitarian way for those who serve the country.

I am proud to be a sponsor of the amendment.

Mr. CHAFEE. Mr. President, I have not completely followed this discussion but as I understand this amendment solely applies to those in Alaska receiving flights or space available on aircraft.

Mr. MURKOWSKI. No. This would apply to flights throughout the United States when space is available.

Mr. CHAFEE. We also have the problem talking about the change that was made in the Veterans' Administration on paying the travel. I would like to touch on that while I have the distinguished Senator from Alaska from the Veterans' Affairs Committee here.

What I am concerned with is the travel pay that was eliminated for those traveling I believe at what they said were commuting distances for whatever that is and it affects those veterans from my State who go from a point, say, in West Lynn up to the Roxbury, MA, hospital, which could be some 60 or 70 miles, and under the current VA rules that were promulgated last year they do not receive any mileage for that.

I would appreciate it, when the Senator is considering the legislation before his committee, if he would be good enough to inform me. I will stay in touch with him because there are some differences between a couple of bills that are in there and I would appreciate it if the Senator would give me an opportunity before he brings this out to discuss this with him, because, as I say, there are some features in the bill I have that are not in the Senator's bill and I hope we could give some consideration to those.

I have some legislation pending. Is the Senator familiar with that, and could he give me comments?

Mr. MURKOWSKI. The Senator is familiar with that legislation. The Senator from Rhode Island will be pleased to know that the Senate Veterans' Affairs Committee has ordered favorably reported legislation—which was introduced by Senator CRANSTON and myself—which would restore beneficiary travel reimbursement for certain veterans. The committee bill would require a modest deductible on the part of the veteran. I believe it is a fair and reasonable approach. I believe your legislation is similar to that passed by the House so the question of which approach will be adequate will certainly be subject to further discussion.

However, I believe that the savings achieved by this particular amendment—as a consequence of not having to pay the air fare—can be utilized for travel for veterans going to hospitals in areas such as the Senator from Rhode Island has outlined where perhaps air transportation is not necessary.

Mr. CHAFEE. I thank the Senator for that.

Mr. MURKOWSKI. I can assure the Senator from Rhode Island that the Senator from Alaska will be very pleased to work with him and his staff.

We are available at the Senator's convenience to discuss any portion of that legislation.

Mr. CHAFEE. I thank him and also I would like if he would add me as a cosponsor on this particular legislation here.

Mr. MURKOWSKI. I am pleased to add my colleague from Rhode Island on the bill and so ask unanimous consent.

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

Mr. MURKOWSKI. Mr. President, if there is no further discussion, I would ask for adoption of the amendment.

The PRESIDING OFFICER. Are there other Senators who desire to speak on the amendment?

If not, the question is on agreement to the amendment of the Senator from Alaska.

The amendment (No. 715) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to add Senator STEVENS as a cosponsor of the amendment.

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

Mr. MURKOWSKI. I thank the President.

Mr. NUNN. Mr. President, while the Senator from Alaska remains on the floor, he has an amendment which places limitation on foreign firms in domestic military construction. That amendment, I must say to my friend from Alaska, is not acceptable and will require some debate and probably a rollcall vote. But we do have some time now. I believe the Senator from California has an amendment, which will not take very long. After that, it will be an appropriate time to have a debate and stack a vote on that amendment later this evening if the Senator from Alaska would present that amendment this morning.

Mr. MURKOWSKI. I wonder if the Senator from Georgia will accommodate a commitment I have with another Senator at 10 o'clock and allow me, say, at 10:45 or thereabouts, to come to the floor and begin debate on that.

Mr. NUNN. That will be fine, subject only to the Weicker amendment which may recur, but if it does not by that time, would the Senator be willing to have perhaps a 30-minute time agreement, 15 minutes on each side on that amendment and then we can stack the vote perhaps after the amendment of the Senator from Arizona, about 6:15 this evening?

Mr. MURKOWSKI. I think an hour evenly divided is about what it would require.

Mr. NUNN. I would hope it would not take that long but, Mr. President, if we could have that time agreement I would propose it now. I would propose that the amendment by the Senator from Alaska relating to military construction of foreign firms have 1 hour equally divided with no amendment to the amendment and we would leave the time for that debate somewhat flexible.

Mr. MURKOWSKI. I agree to the proposal of the Senator from Georgia.

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

Mr. NUNN. I thank the Senator.

Mr. MURKOWSKI. I ask for the mutuality of our staffs could we get some idea of the time that would be most agreeable to the Senator from Georgia?

Mr. NUNN. I suggest to the Senator from Alaska take about the time he indicated and we do the best to accommodate him at that time.

Mr. MURKOWSKI. I appreciate the accommodation.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 721

(Purpose: To authorize the Secretary of the Navy to enter into long-term leases or charters for new tankers constructed in the United States)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] for himself and Mr. CHILES proposes an amendment No. 721.

On page 8, between lines 9 and 10, insert the following new subsection:

(c) LEASE OR CHARTER OF NEW TANKERS.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for military useful tanker vessels constructed in the United States.

Mr. WILSON. Mr. President, I did not interrupt the clerk during the reading of this very brief amendment because his reading of it really makes the case for it with some slight additional arguments.

As could be inferred from the language, the actual text of this amendment, present law places a severe restriction on the Navy in terms of its ability to engage in long-term efficient and economic leases. Simply, current law prohibits the Department of Defense from entering into a lease agreement that extends beyond 18 months. Congress passed this restriction at a time when the number of lease agreement had gotten out of hand in the early 1980's.

Currently there is a real shortfall with respect to our tanker capability as it relates to military sealift.

We have gone a very considerable way in recent years in rebuilding the military strength. One area that I think we have neglected is the adequacy of our logistical support in terms of force projection.

Now the situation currently is that we have but nine 24,600-ton tankers constructed in the 1974-75 period, those under long-term leases. We have five 27,000-ton carriers constructed in the 1985-86 period.

I need not take a great deal of time to rehearse what Members of this body know all too painfully well, and that is that the U.S. shipbuilding industry has fallen upon the hardest of hard times. In fact the numbers are truly alarming. We have seen since 1982 a decline in the shipyards from 110 to only 74. Employment in those yards has fallen from 112,000 workers to only 85,000.

Mr. President, this amendment will do two things. It will save the Navy and therefore the taxpayers a very great deal of money.

Currently the Navy wastes millions of dollars because they can lease tankers only on a short-term basis and that is a very inefficient, very uneconomic basis.

Let me give you an idea of just how expensive it is.

The prices on these short-term contracts range from $14,000 per day to $30,000 per day, or to put that in clearer context the annual cost when you are leasing at $16,000 a day runs to $5,840,000 for 1 year.

Or, at the higher price of $30,000 per day, it comes to almost $11 million. Now that is really nonsensical. It is a wound that we have inflicted upon ourselves; more accurately, that Congress has inflicted upon the Navy. It makes no sense for us to continue to do that.

You will note that in his reading of the amendment, the clerk emphasized—and I think quite properly—the final phrase, "constructed in the United States." This amendment will also permit the Navy not to build ships, but, because they can lease them on a long-term basis, it will be a very significant stimulus to a very sick U.S. shipbuilding industry. The private sector will build; the taxpayers will lease. It is a very good arrangement for both.

Mr. President, I know of no objection to this legislation. I believe it is cleared on both sides. I urge its adoption.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from California for a very fine amendment which permits the Secretary of the Navy to use his authority under title 10 to lease and charter tankers to support naval requirements. This side supports the amendment.

The PRESIDING OFFICER. Are there other Senators desiring to speak to the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 721) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I believe that we are awaiting the arrival on the floor of others with amendments that will be acceptable to both sides. In view of that, and rather than suggesting the absence of a quorum, I ask unanimous consent that I be permitted to proceed as though in morning business for 5 minutes for the limited purpose of introducing a bill totally unrelated to this subject matter and for very brief remarks in connection with the introduction of such a bill.

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

(The remarks of Mr. DIXON will appear later in the RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Idaho.

AMENDMENT NO. 722

(Purpose: To void certain agreements relating to the site of the Soviet Union's Embassy in the District of Columbia)

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

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD. Mr. President, are we setting aside temporarily the Weicker amendment?

The PRESIDING OFFICER. Under the previous agreement, the vote on the amendment of Senator MCCAIN will occur at 6 p.m.

Mr. BYRD. And the amendment by Senator WEICKER is not required to be temporarily set-aside?

The PRESIDING OFFICER. The Weicker amendment will recur after the vote on Senator MCCAIN's amendment, as matters now stand. The Weicker amendment will recur after the vote on Senator MCCAIN's amendment.

Mr. BYRD. We will have to make a different arrangement.

Mr. SYMMS. Mr. Leader, might I help with the order. This amendment that I am offering will require a rollcall vote. I assume that the leader would want to set that vote to follow the other votes that are stacked at 6 o'clock.

Mr. BYRD. Yes, I would like to do that.

Mr. President, for the moment, I suggest we proceed with the amendment by Mr. SYMMS. I think he has already gotten consent to have that amendment offered.

Mr. WARNER. Mr. President, if I might just interrupt for a moment, in listening I certainly concur with the majority leader that we have to work out some arrangement that was consistent with the understanding last night in connection with the Weicker amendment and the right for the majority leader to, at the appropriate time, put in a substitute.

Mr. BYRD. Yes.

Mr. WARNER. We will work in cooperation with the Senator.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. DIXON. Mr. President, will the Senator from Idaho yield just a moment to me?

Mr. SYMMS. Certainly. I will be happy to yield.

Mr. DIXON. May I say to my friend from Idaho that we have quickly examined the amendment. The content would indicate that some of the folks on the Foreign Relations Committee ought to have a look at it. So I do not know how long the Senator will take, but may I say to him that we will require some time over here to determine what our ultimate position will be. But I suspect that some on this

side will want to oppose that amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. SYMMS. Mr. President, let the clerk read the amendment. Following the reading, I will make some comments about the amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 722:

At the appropriate place in the bill, add the following:

(a) FINDINGS.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of * * * real property * * * where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) NEW AGREEMENT WITH SOVIET UNION.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) EMBASSY AGREEMENTS.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", enterd into force on May 16, 1969; and

(2) the Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

Mr. SYMMS. Mr. President, this is an issue that the Senate has previously visited this year. It was Vote No. 215 on July 30, 1987. At that time, this amendment was offered in the form of a sense-of-the-Senate resolution, whereas today it is offered as an amendment to the Armed Services Committee bill. But just to refresh the memory of Senators, Senator PELL moved to table this amendment. The motion to table was rejected by a vote of 71 to 26. This was originally offered as an amendment to the human rights to Haiti resolution that the distinguished Senator from Florida [Mr. GRAHAM] had offered and was then set aside. It was subsequently separated from Senate Resolution 248 by unanimous consent and was considered as a freestanding resolution, Senate Resolution 261. This resolution also passed unanimously by a voice vote. I want to remind my colleagues of this. I will be very brief in my explanation of it.

Soviet espionage agents have installed listening devices in the structure of the new American Embassy in Moscow, defying blatantly the spirit of the Embassy agreements and certain recognized norms of international relations. It is well know that Soviet espionage agents intend to use the new Soviet Embassy in this country as a platform to conduct highly sophisticated electronic surveillance to undermine United States national security. The location of the new Soviet Embassy was offered to the Soviets at a time when electronic surveillance techniques and the potential for their further development were not fully understood by the West. So the amendment would very simply have the State Department do what it already has the authority to do. It would void the current Embassy agreements. Then, there would be negotiations for a new agreement under which the Soviet Union will move its Embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

I know there will be people who oppose this amendment. They will argue that the Soviets originally wanted to locate a new Embassy at Chevy Chase. We objected, and then they chose the site in midtown Washington; we objected again, and subsequently the Mount Alto site was found and the United States was in favor of their building an Embassy on that site.

That may well be the case. But I think the record clearly shows that the proper course of action for our new Embassy in the Soviet Union would be to raze that Embassy. The next step should then be to have us move the Soviets out of the building they are moving into—where they are setting up all their spying apparatus. I believed we should renegotiate new agreements, the building that the Soviets now have could be put to some other good use. Whether we want to make it available for the Salvation Army, for the homeless or whomever, I do not know. But it could be put to some use other than where it would be used to spy on the Pentagon, the White House, the Capitol of the United States, the State Department, and other areas. So it is very self-explanatory. I think all Senators have had an opportunity to look at the issue. They have all voted on it once.

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

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

The yeas and nays were ordered.

Mr. SYMMS. I ask unanimous consent that the vote on the amendment take place immediately following the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Mr. President, I am seeking recognition to comment on the amendment.

The PRESIDING OFFICER. Does the Senator object?

Mr. McCAIN. I reserve the right to object, Mr. President.

Mr. PELL. Mr. President, the Symms amendment deals with the United States-Soviet agreement on location of embassies. This issue is properly within the jurisdiction of the Senate Foreign Relations Committee, and is dealt with in the Foreign Relations Authorization Act of 1987. That bill is on the calendar and I expect will be taken up promptly.

I therefore urge my colleague from Idaho to withdraw his amendment and to resubmit it during Senate consideration of the Foreign Relations Authorization Act. If he is unwilling to do so, I hope the Senate will defeat the Symms amendment.

The Foreign Relations Committee will hold a closed briefing on the United States-Soviet Embassy agreement and on the threat from Mount Alto on Tuesday afternoon. Further, the administration is currently engaged in a process of consultation on the future of the new U.S. Embassy complex in Moscow. Any action we take with regard to Mount Alto is certain to lead to a Soviet response against our facilities in Moscow.

The marginal gain to the Soviet Union from the Mount Alto location may well be far less than commonly imagined. The damage to U.S. national security interests from being ousted from our new facility in Moscow could be very substantial.

These issues cannot be discussed in public session on the floor of the U.S. Senate. For this reason the Foreign Relations Committee—the committee of jurisdiction—will consider these matters in detail in Tuesday's closed

session. I invite interested colleagues to attend.

In the interim I urge defeat of the Symms amendment, because it could do serious, albeit unintended, damage to the national security of the United States. The Senate will have ample opportunity to revisit the issue during consideration of the Foreign Relations Authorization Act.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am not sure that all interested Members here have had an opportunity to discuss this very important amendment. Frankly, I am not clear about the parliamentary procedure.

But I would request that Members be given an opportunity to debate and discuss my colleague's amendment.

Mr. DIXON. Mr. President, I want to join my friend from Arizona. It appears there was an earlier rollcall on this earlier this year. Frankly, it appears this Senator voted with the Senator from Idaho. It also appears however that some on this side opposed this amendment. It is sort of uniquely a Foreign Relations Committee question more than a question for our committee. This side has informed the chairman and others on the Foreign Relations Committee of the pendency of this amendment.

I dislike closing off debate on the amendment, Mr. President, in the event that others from this side might want to be heard against the amendment although this Senator has no reason to be heard against the amendment. So I wonder if the Senator from Idaho might accommodate us.

Mr. SYMMS. It is not the Senator from Idaho's intention to close off debate. I wanted to get the procedure in line, I say to my good friend, so we will vote on this amendment as I requested in my unanimous-consent request after the stacked votes. If we want to debate it here for the rest of the day, that is all right with me. I do not care.

If I could add one little bit of information that I neglected. On the resolution that has been introduced into the Congress, not on this amendment, the cosponsors of that resolution are Senators BYRD, CONRAD, HELMS, NICKLES, GRASSLEY, and McCAIN. On the resolution it carries the same thrust and text of this amendment.

Mr. McCAIN. Mr. President, I believe I still have the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that it be in order that further debate be made on this amendment pending agreement that a recorded vote be allowed on the amendment by the Senator from Idaho.

Mr. NUNN. Mr. President, reserving the right to object, and I hope not to object, there is no objection at all for going on and debating this amendment, whatever the Senator would choose. The Senator from Connecticut has been cooperative in coming over. He has been working out an amendment that will not take very long, I do not believe. Perhaps we could have that one go first depending on the Senator from Idaho.

I would like to have time to alert those people who know the most about this amendment which would be the Foreign Relations Committee on both sides of the aisle and the intelligence people on both sides of the aisle so if they choose to be heard they can come over. I have no objections whatsoever to getting a vote on this amendment after 6 o'clock this evening.

The PRESIDING OFFICER. The question is on the request of the Senator from Idaho. Is there objection?

Mr. NUNN. Would the Chair state the unanimous-consent request?

Mr. SYMMS. The unanimous-consent request, Mr. President, that I thought was already agreed to—maybe it has not been.

The PRESIDING OFFICER. It has not been agreed to.

Mr. SYMMS. The unanimous-consent request is that the vote on the Symms amendment occur immediately following the vote on the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. I have no objection.

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

Mr. SYMMS. I thank my distinguished chairman and the manager of the bill, and the distinguished Senator from Arizona.

Mr. McCAIN. Mr. President, I have a parliamentary inquiry. Are we going to move to the Dodd amendment at this time and still allow time for further debate on the Symms amendment, or are we going to continue with the Symms amendment, dispose of debate on the Symms amendment, and then move to the Dodd amendment?

Mr. NUNN. I say to my friend from Arizona, if he will yield, anyone can get the floor and any amendment is in order at this time. What I would suggest is we take the Dodd amendment first, if the Senator from Idaho is agreeable to that, and if the Senator from Connecticut gets the floor that could perhaps be disposed of rather quickly. We will send out word that the Symms amendment will be the next amendment and get the parties here. Then we will take that one up, debate it, and if we cannot get a time agreement to debate, fine. If not, perhaps we could conclude debate and have the votes stacked a little later.

The PRESIDING OFFICER. The Senator's amendment would have to be set aside to proceed with the other amendment.

Mr. NUNN. That would be up to the Senator from Idaho. Would he be willing to temporarily set this aside for a very brief time to take up the Dodd amendment? It is my understanding the Dodd amendment will not take very long.

Mr. DODD. If the Senator will yield, the Senator is correct.

Mr. McCAIN. We already agreed to vote.

Mr. SYMMS. Mr. President, the Senator from Idaho has no objection as long as we are going to vote on my amendment immediately following the vote on the McCain amendment. It is up to the managers of the bill.

Mr. NUNN. If he would agree to temporarily lay his amendment aside, it would be my hope we could get to it in 15 minutes and we could go ahead and begin debate on it.

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

The Senator from Connecticut.

AMENDMENT NO. 723

(Purpose: Concerning United States policy with respect to Panama)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. DURENBERGER, Mr. D'AMATO, and Mr. KERRY, proposes an amendment numbered 723.

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

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

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . POLICY TOWARD PANAMA.

(a) FINDINGS.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate re-

spect for and adherence to all provisions of the Panamanian constitution.

(b) Policy.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to relocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

Mr. DODD. Mr. President, there is a sense-of-the-Senate resolution that addresses itself to the issue of the preconditions in Panama. This is an amendment that I have worked on with my colleagues here over the last several days in an attempt to come up with language that, I believe, is acceptable to all sides.

It is an amendment that will put the Congress, particularly the Senate, on record, concerning the ongoing unrest and political instability in Panama and to spell out in very simple and clear terms what most of us in this Chamber believe to be the appropriate response by the United States as we look to the days ahead.

The future of democracy, Mr. President, in Panama is being seriously threatened by the flatering commitment of the Panamanian Government to democratic institutions, procedures, and values. It is being threatened by a military establishment that unfortunately has forgotten what its responsibility is to the people of Panama; namely, the defense of that nation—not the plundering of the treaty which is what they have been engaged in.

A broad-based coalition of the Panamanian society has said that enough is enough. Businessmen and labor leaders, students and teachers, peasants and priests, civic leaders and political organizers, have taken to the streets over recent months and weeks to demand respect for basic civil liberties, and a return to democratic processes guaranteed by the Panamanian constitution.

Mr. President, the United States and this body cannot ignore their plea. We must demonstrate in very concrete terms that we are prepared to do our part on their behalf. At the very least, we must speak out on their behalf and let them know that we are going to take very concrete actions that go beyond the sense-of-the-Senate resolution; that go beyond just the firing the shot across the bow, as we say through resolutions that merely threaten certain actions if there is not change. Rather, this resolution spells out very clearly what the next steps will be if there is not that change and those steps will be taken very quickly and very dramatically.

We must demonstrate, Mr. President, in very certain terms, that we are not going to let this Congress, this session of this Congress, complete its action without taking those steps if there is not some change.

This amendment, Mr. President puts General Noriega and his cohorts on notice that unless there is evidence of a renewed commitment to democratic processes and procedures, including firm civilian control over the Panamanian defense forces, the U.S. Congress will take the following very specific legislative action within 45 days after the enactment of these provisions.

No. 1, Mr. President, this resolution says we will stop all economic and military assistance of the Government of Panama. No. 2, we will halt all shipments of military equipment and spare parts to the Government of Panama. And No. 3, we will revoke Panama's sugar quota and reallocate it to other nations.

Mr. President, the first action, the stopping of all economic and military assistance, means that any new requests would be terminated or would be denied.

The second proposal, the halting of all shipments of military equipment and spare parts, means that regardless of whether or not there has been any agreement, any military equipment or spare parts sitting on docks waiting to be shipped, for example, would not be shipped. Thus, it would affect existing contracts.

The third proposal, of course, the revoking of the sugar quota and the reallocation of it to other nations, is designed to tell the private sector, if you will, in Panama—many of whom have remained silent or have supported, unfortunately, some of the activities of the Panamanian Government—that our actions will go beyond public assistance or governmental assistance government-to-government. Rather, they will learn that we are prepared to also deal with issues that affect them directly as private concerns in that country.

Mr. President, I hope that the leaders of Panama will be listening to what we say here today.

It would be disgraceful and unfortunate if we were to have to take these actions.

All we are saying today is that if there is no improvement, this is the next round. The next shot will not be across the bow. The next shot will be aimed directly and targeted to Panama.

I hope the Senate will adopt the amendment by an overwhelming vote and that the other steps will not be necessary. General Noriega has 45 days before the continuing resolution or an appropriations bill comes before this body, but the Senate will not adjourn in this calendar year 1987 without taking specific action against Panama if they fail to take the steps we have outlined in this proposal. The situation is serious. We want to let the Panamanians know that we are serious. This amendment provides that kind of notice.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, we wish to commend the distinguished Senator from Connecticut. Throughout his career as a public servant, he has devoted a great deal of time to issues in this hemisphere. While we sometimes do not always agree with him, we respect his knowledge and his study of these issues. In this particular instance, we are prepared to support him wholeheartedly.

It is my understanding that the Senator from Connecticut worked with the distinguished ranking member of the Foreign Relations Committee, the Senator from North Carolina [Mr. HELMS], and the Senator from New York [Mr. D'AMATO], and that this amendment reflects a work product of a bipartisan nature. Indeed, I think it is one that will gain the full support of this body.

I thank the Senator.

Mr. McCAIN. Mr. President, I join the Senator from Virginia [Mr. WARNER] in supporting this amendment.

First, I should like to express my appreciation to the Senator from Connecticut, as the chairman of the commission appointed by this body to monitor the peace efforts in Central America, for the courtesy and kindness extended to me as we have worked together in seeking not only to monitor but also to assist in the efforts for peace in Central America.

I am aware, as I know my friend from Connecticut is, that there will be times when we are in disagreement. But I believe that we have indicated

that a very sensitive and difficult issue can be addressed in a bipartisan fashion.

I think his commitment to peace in Latin America and his involvement and expertise in these affairs is indicated by this very carefully crafted sense-of-Congress amendment. I emphasize that it is a sense-of-Congress amendment. There will be some people, as I am sure the Senator from Connecticut is aware, who believe that this is not strong enough. I think the Senator from Connecticut has just responded to those criticisms by stating unequivocally that within 45 days, before the Senate adjourns, action will be taken concerning the situation in Panama, whether it be primarily appropriations or other methods.

This situation that is existing in Panama today cannot be allowed to continue for a longer period of time. The people in Panama are suffering a deprivation of basic human rights which is unacceptable in this hemisphere, as we focus all our attentions on Nicaragua and El Salvador—and that attention is well deserved, I might add.

I should like to express my appreciation again to the Senator from Connecticut for bringing attention to the deplorable conditions existing in Panama. It appears that this condition is not showing the slightest improvement. I think this Nation can be proud of our record for two administrations, both the Carter and the Reagan administrations, in the fostering of human rights and democracy in Latin America. Eight nations, to my knowledge, have gone from totalitarian governments to freely elected ones, and this defies the predictions of many so-called experts on Latin American affairs. I suggest that not only does the credit go to the Carter administration and the Reagan administration but also to Members of this body, including the Foreign Relations Committee, who have devoted much effort in that direction.

The fact is that not only must we insure that the people in Latin America who have already achieved their human rights and basic freedoms—which we all cherish—maintain those, but also, we must move forward and work together to see that that also takes place and that that evolution takes place in other parts of Latin America, including Panama—which, by the way, happens to be the country of my birth, the Canal Zone, which is an area now of the Panamanian nation.

So, I want to congratulate my friend from Connecticut.

Also, it should be of interest to Members of this body and to the Panamanian Government that this amendment has widespread support on both sides of the aisle. There is not a sharp division. There may be unanimous agreement, but I think you will find overwhelming support when we have the vote later this evening.

Mr. DODD. Mr. President, I thank the distinguished Senator from Arizona and the distinguished Senator from Virginia for their kind comments.

I would be remiss if I did not say that if there are any commissions or committees appointed here, the extent to which they are successful is because the Members make them successful. I traveled to Latin America this past weekend and I feel fortunate to have as a cochairman someone who is thoughtful and as committed to these issues as I am. We hope that the efforts in Central America will be as successful as our commission in the coming weeks. I am grateful to the Senators for their comments.

I think it is important that the remarks of the Senator from Arizona be emphasized, that this is a strong bipartisan effort. The Senator from Arizona is absolutely correct. There are others who wanted to make this a statute, to make this a part of law, to stop all military and economic assistance now, and to cut off the sugar quota now. It is hard to argue with them, given the events of the last few months in Panama; but we would like to give the Panamanian Government one more opportunity to demonstrate that they are going to change. If they do not, this Senate will join the forces that have argued for a permanent prohibition against assistance and the sugar quota.

In the past, I have been a little negative about some of the restrictions we wanted. I felt that we may be going too far and that we were going to end up with a self-fulfilling prophecy. But I am convinced today that these leaders in Panama have not taken us seriously, and I hope that this resolution will convince them of our seriousness on this issue.

Mr. President, the yeas and nays having been ordered on this amendment, I ask unanimous consent that the vote on this amendment follow the vote on the Symms amendment when the votes occur later in the day.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Mr. President, with the further understanding that the resolution will be considered without any further amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. KENNEDY. Mr. President, I commend Senator DODD for his leadership on this resolution, and I hope that, once again on this issue of democracy and human rights in Panama, it will be possible for all Senators to endorse this straightforward statement of our intent.

In this resolution, the Senate pledges to cut off all economic and military assistance to the Government of Panama, to suspend all shipments of military equipment and spare parts, and to prohibit the importation of certain Panamanian products unless, within 45 days, the Government of Panama takes certain concrete steps to restore the rule of law and democracy inside that country.

The people of Panama continue to struggle for their freedom against the organized forces of General Noriega's government. Just yesterday, in the front page of the government-sponsored newspaper, there were accusations that the leaders of the National Civic Crusade were making plans for a violent overthrow of the Government of Panama and were conspiring with the United States to abrogate the terms of the canal treaties. These allegations are, of course, pure fiction, and it is fortunate that the people of Panama know pure propaganda when they hear it.

I call the Senate's attention to the fact that Lucille Newman, a reporter for Cable News Network, was thrown out of Panama yesterday for the crime of reporting accurately the events of September 13 involving efforts by the Panamanian Defense Forces to suppress the peaceful demonstrations of Panamanian citizens seeking only the right to participate in the decisions that affect the future of their country.

This resolution should serve as a warning to General Noriega and as a solemn statement of the Senate's intent when it comes to future action by the Congress.

I urge my colleagues to give resounding approval to the Dodd resolution.

Mr. HELMS. Mr. President, this resolution is intended to reinforce the administration's actions thus far in suspending United States foreign aid to Panama and suspending shipments of military equipment and spare parts to Panama.

The dictatorship of General Noriega continues its oppressive and corrupt reign of terror.

As usual, when his domestic critics are focusing on the injustices of his regime, he has attempted to whip up anti-American sentiment.

He recently expelled the reporter for Cable News Network whose reports had provided dramatic demonstrations to the American people of the depth and breadth of the dissent in Panama and the desire for democracy. Lucia Newman was told to leave the country immediately or she would suffer "humiliation and physical abuse."

A member of the American Embassy in Panama was recently detained by Panamanian authorities. Despite the fact that he had his diplomatic immunity with him and showed it to his captors, Mr. David Miller had a gun held to his head and was held incommunicado for 8 hours.

91-059 O-89-20 (Pt. 18)

Mr. President, these attempts by General Noriega to deflect attention away from himself will not succeed. The people of Panama are becoming more and more aware of the corruption that some of us have charged for years.

Two weeks ago during demonstrations to mark the 2d anniversary of the murder of Dr. Hugo Spadafora, several demonstrators were wounded and one was killed.

All opposition media in the country remains closed by the Noriega government.

Mr. President, the situation in Panama continues to worsen, not improve.

I recognize that some in the Congress have been willing to give Noriega the repeated benefit of the doubt. No such benefit is warranted any longer.

Democracy needs to come to Panama immediately. If it does not, the suspension of U.S. aid will become a permanent termination—until democracy is established.

I am pleased that the Senator from Connecticut has incorporated as the standards for improvement in Panama the four conditions that had been included in S. 1614, the D'Amato/Helms bill. This legislation has been cosponsored by a broad bipartisan group of Senators that currently includes Senators CRANSTON, KERRY, DURENBERGER, MURKOWSKI, SYMMS, DECONCINI, KENNEDY, MCCAIN, WILSON, GARN, and WARNER. This amendment, in resolution form, is essentially a nonbinding version of that bill which puts the Senate on record once again as supporting democracy in Panama. While I support the need to continue to built aid to Panama, it is disappointing that the Senator from Connecticut did not offer a mandatory cutoff.

The four conditions of the D'Amato/Helms bill and this resolution are that aid should be terminated unless and until—

First, the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

Second, the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

Third, a nonmilitary transitional government is in power; and

Fourth, freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

This amendment underscores the earlier Senate action of June 26, 1987, when the Senate voted, 87 to 2, to express the sense of the Senate concerning support for respect for human rights and evolution to genuine democracy in Panama.

These actions should serve notice to General Noriega that the Senate is intent on conditioning future United States aid to Panama on the establishment of democracy in Panama.

Mr. DURENBERGER. Mr. President, I rise today as a cosponsor and strong supporter of the amendment expressing the sense of the Senate that aid to Panama be cut off for 45 days unless progress toward democracy is made. The amendment further expresses the sense of the Senate that the sugar quota for Panama should be revoked for 45 days pending the fulfillment of the same conditions.

I have been on this floor many times since the current crisis in Panama began last June. The events are familiar to my colleagues. Col. Diaz Herrera, formerly the No. 2 man in the Panama Defense Forces, was forced out by General Noriega and went public with a series of allegations against the dictator. The charges included drug trafficking, vote fraud, massive corruption, and murder of political opponents. The charges were not new but they received further confirmation due to Herrera's firsthand knowledge of the events in question.

The Herrera accusations led to a tremendous outpouring of popular feeling against Noriega's tyranny. The broad-based National Civic Crusade was formed and included labor, business, professional, and political groups with the courage to speak out against Noriega's kleptocracy. Because of my long interest in supporting democracy in the Americas, I worked with a number of colleagues in drafting what became Senate Resolution 239 to support the democrats in Panama.

Senate Resolution 239 was passed on June 26 by an overwhelming vote of 84 to 2. The reaction from Noriega and his cronies was as rapid as it was predictable. The United States was denounced for "interventionism" and "Yankee imperialism." Noriega organized a government-led protest which resulted in an attack on the American Embassy in Panama City on June 30. In response to the Noriega government's assault on U.S. property, the State Department announced that economic and military aid to Noriega would be suspended. I applauded the overdue decision to suspend aid at that time and support the continued suspension of aid.

The democratic opposition staged a number of large rallies and successful general strikes. They greatly appreciated the strong message sent by the United States supporting their cause. But Noriega is determined to remain in power, determined to enjoy the fruits of his corruption, and determined to keep the Panamanian people under the control of his repressive apparatus.

Those who oppose Noriega's dictatorship have seen just what he plans to do to keep his stranglehold on Panama. He stifles the media to prevent Panamanians from seeing just how widespread opposition to his continued rule is. He keeps funneling profits to his handpicked elite in the military to buy their loyalty. And he keeps using the fig leaf of American interventionism to hide the fundamental fact that he is out of touch with the nation he governs.

This amendment is, if anything, not strong enough. I was an original cosponsor of S. 1614 which uses binding language to ensure that United States aid to Panama is not resumed until Noriega's dictatorship is history. If this government has learned anything about dealing with change in the Third World, it should have learned that we cannot continue to support—implicitly or explicitly—brutal and corrupt dictators who oppress their people.

It is deeply distressing to this Senator that media accounts have repeatedly indicated that the administration is considering a resumption of aid to Panama. I recognize the importance of United States strategic interests in Panama, especially the Panama Canal. We have nearly 10,000 members of the United States Armed Forces stationed in Panama, including the headquarters of the Southern Command.

But the undeniable fact of important United States interests in Panama in no way changes the fact that if we are to really stand for democracy in the world, we must make it very clear to General Noriega that he will have no support from the United States. He can play his game of occasional cooperation with U.S. narcotics interdiction, or occasional cooperation on other regional issues but he must not be allowed to think the United States will support him in any way. And the people of Panama must know that the United States will speak with one voice—a voice that says we support democracy, not tyranny.

There should be no one in this body that thinks it will be easy for democracy to prevail in Panama. Noriega has had years to gather information on likely opponents, to buy off supporters, and to strengthen his repressive regime. But we should not let difficulty prevent us from doing the right thing. This amendment is one step to ensure we continue on the correct path.

Mr. President, I ask unanimous consent that an article describing Noriega's military regime be printed in the RECORD.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

[From The Los Angeles Times, Sept. 21, 1987]

PANAMA-TURMOIL LEAVES NORIEGA STILL ENTRENCHED

(By Richard Boudreaux)

PANAMA CITY.—In four years under his command, Gen. Manuel A. Noriega likes to boast, the old National Guard has "exchanged night sticks for rocket launchers" and become a modern army.

Critics of Panama's dominant institution, now called the Panama Defense Forces, say it has another mission. They call it a mafia, run by uniformed gunmen who have muscled into a major share of the country's legitimate and illegitimate business and become fabulously rich.

Both images of the Panama Defense Forces are evoked these days to explain the survival of Central America's only traditional military dictatorship. After three months of popular unrest over Noriega, there is no sign that its 19-man military high command or nearly 20,000 troops are willing to overthrow him.

Opposition leaders, who still count on such a move, point to professional pride, financial greed, suspicion of civilians and fear of Noriega among his men as reasons why it has not yet happened.

"Noriega has succeeded so far in portraying the attacks on him as attacks on the military as an institution," said Richard Millett, a professor at Southern Illinois University, who visited Panama this summer.

The military has dominated Panama since a 1968 coup by the National Guard that brought then-Col. Omar Torrijos to power. Torrijos reigned as the nation's unchallenged strongman until his death in an airplane crash in 1981. Lacking Torrijos' popular appeal, the 49-year-old Noriega dominates the military through skillful maneuvering inside the officer corps.

After a decade of building files on real and potential foes as director of intelligence, he rose to commander in chief in 1983. Former colleagues say he then reneged on a deal to take turns in the post with two other officers.

As commander, Noriega has changed the name and expanded the role of the National Guard, nearly doubling its strength and putting officers in control of a host of lucrative enterprises from traffic fines to the sale of immigrant visas.

The system was shaken last June when Col. Roberto Diaz Herrera, after being eased out as Noriega's second-in-command, publicly denounced it as corrupt. He also accused Noriega of rigging the 1984 election of a docile civilian government and ordering the killing of a leading critic of the military—charges the general has denied.

Sensing a breach in the military, thousands of protesters took to the streets. They organized the broad-based National Civic Crusade to press for Noriega's removal, an investigation of the allegations against him and free elections to restore civilian supremacy.

DISSIDENT COLONEL ARRESTED

But Noriega moved to head off any dissent among active-duty officers by dispatching helicopters and troops to attack Diaz Herrera's home and arrest him.

Opposition activists now admit that they underestimated the general's staying power. But some believe that the sensational allegations and continuing street protests might still prompt disgruntled officers to act against Noriega if they ever find a leader.

"I don't think the murmur inside the institution has stopped," said Ricardo Arias Calderon, president of the Christian Democratic Party. "It just hasn't surfaced as a movement against Noriega."

Noriega has also countered the opposition with intense politicking among his men. He eats lunch daily with the high command, his advisers say, and visits the barracks often.

In public pep talks to the troops, he stresses professional solidarity and a twofold mission: to develop rural Panama through Peace Corps-style civic action projects and bolster national defense.

Under Noriega, the Defense Forces has set up Panama's first military academy and organized three new battalions for defense of the Panama Canal and the country's borders.

Institutional esprit de corps is reinforced by a network of social agencies that involve army wives in charity work and provide scholarships to army children.

Noriega's recent pep talks also provide a history lesson. In 1904, he says, the United States reduced Panama's army to a police force after helping Panama achieve its independence from Colombia. Today, he warns, the institution is threatened again by an "oligarchy" of Panamanian politicans backed by the United States, which has endorsed the Civic Crusade and suspended aid programs here.

"But they know that the slander and the offenses, the attacks and the pressures, have not produced a single scratch on the Defense Forces' solid wall of discipline, which has no price," Noriega declared at a military ceremony last month.

Renato Pereira, a civilian adviser to the general, said the conflict with Washington has strengthened Noriega by enabling him to pose as a shield against foreign interference.

"FIRMNESS OF CHARACTER"

"These attacks have allowed him to show a firmness of character that his fellow officers find reassuring," Pereira said. "If he had shown weakness, the Defense Forces would have expelled him."

Noriega and his aides do not speak openly about the financial incentives for loyalty. But well-informed civilians say that the Defense Forces and its individual officers hold interests in about 60% of Panama's commercial enterprises.

Income from these businesses is believed to be double the nominal annual defense budget of $200 million. It supplements officers' salaries, which range from $800 a month for lieutenants to $2,500 a month for colonels.

Military officers collect their own taxes on merchandise in the Colon Free Zone and on savings and loan companies in Panama. They monopolize the sale of explosives and profit from grain harvested by prison labor on the Pacific Island of Coiba.

The majors who command troops in Panama's 12 military zones have powers greater than those of provincial governors. They take hefty payments from bingo and liquor license fees as well as from off-duty police protection services, according to knowledgeable civilians.

"There are about 150 really juicy positions," said a former associate of Torrijos. "These officers have access to more wealth than they ever dreamed of. Some majors with $1,500 [monthly] salaries are living in $350,000 houses."

Military men began using rank for commercial gain under Torrijos. But the sources of corruption have multiplied since Noriega militarized the government's immigration and traffic police agencies in 1983.

In public statements before his arrest, Diaz Herrera admitted building his million-dollar mansion with his share in a racket that sold Panamanian visas and residence permits to thousands of Cuban immigrants for $15,000 each.

U.S. law enforcement officials are investigating allegations that Noriega himself has been skimming as much as 1.5% of the value of illegal drug shipments and drug-related money transfers passing through Panama for several years.

Most of the illicit wealth flowing to the military, Diaz Herrera said, is controlled by Noriega and a small group of trusted officers who manage its distribution.

"THEY'RE JUST STOCKHOLDERS"

"Most of the officers don't know where the money in their envelopes comes from," said a businessman with close ties to the military. "They aren't involved in the rackets. They're just stockholders in a company."

Opposition leaders believe Noriega's style of rule through competing lines of authority causes inevitable friction in the ranks, but they are uncertain how to exploit it.

The commander's inner circle is built around two colonels—the brothers Alberto and Lorenzo Purcell—and seven majors who served on his intelligence staff in the 1970s. Diaz Herrera identified them as a parallel advisory body that bypasses the high command.

Even the formal chain of authority was divided after Diaz Herrera was fired as chief of staff. Two colonels, Alberto Purcell and Elias Castillo, were promoted to fill the gap.

Analysts said Noriega's intent was to sow confusion by creating two heirs apparent one identified with the Defense Forces' business interests, the other with purely military matters.

In another case, Lt. Col. Eduardo Herrera Hassan, a respected officer visiting Panama from his diplomatic post in Israel, was suddenly put in charge of the riot police to control an anti-government rally on July 10.

Two civilians said Herrera complained to them about what happened that day. A lower-ranking officer, under direct orders from Noriega, ordered the police to fire shotguns at the protesters in order to tarnish Herrera's reputation and test his loyalty.

Some opposition strategists argue that the Defense Forces is so corrupt that no officer with enough power to move against Noriega can be trusted to accept subordination to civilian authority.

"You can't make a mafia into a professional army," said Miguel Antonio Bernal, a prominent dissident who favors all-out pressure to reduce the Defense Forces to a limited police role. "They are a bunch of gangsters, and they have to be looked at that way."

Other civilian leaders, accepting the armed forces at its current size, are counting on the right officers to lead a coup, clean up corruption and permit free elections.

SCOURGE ON THEIR HONOR

At least two "open letters" have circulated among officers in recent weeks, each appealing to them to dump Noriega as a scourge on their honor.

One letter to "friends in the armed forces" from Gabriel Lewis Galindo, a prominent industrialist in exile, urged "the

many officers and troops who do not partake in any booty" to "stop letting yourselves be used" by a corrupt dictatorship.

The other, from Guillermo A. Cochez, a Christian Democratic lawmaker, said, "This struggle is not against the professional and democratic military that Panama deserves but against those who have discredited it."

Noriega has responded to such appeals by silencing news media that print them and trying to isolate his men from all but the most formal contact with outsiders. A prominent civilian said one officer told him he feared for his own life if the two were overheard talking politics.

These barriers, added to official secrecy about the military budget and exact troop strength, have only deepened a sense of ignorance among civilian leaders about inner politics in the Defense Forces.

"It's very difficult to know what's going on inside," Cochez said. "As far as we know, the entire Defense Forces will remain loyal to Noriega—until the moment he is overthrown."

Mr. D'AMATO. Mr. President, early in August, I, along with several of my colleagues, introduced legislation, S. 1614, eliminating military and most economic aid to Panama unless the President certifies to Congress that the Government of Panama has met four conditions:

First. That it has demonstrated substantial progress in the effort to assure civilian control over the armed forces and military leaders have been removed from nonmilitary activities and institutions;

Second. That it has established an independent investigation into allegation of illegal actions by members of the Panama Defense Forces;

Third. That a nonmilitary transitional government is in power; and

Fourth. That freedom of the press and all other constitutional guarantees to the Panamanian people have been restored.

I also cosponsored legislation offered by my good friend, the senior Senator from California, to prohibit the importation of sugars that are products of Panama into the United States unless the President certifies that the Government of Panama has met these same four conditions.

Senator DODD's nonbinding amendment makes it very clear to the leader of Panama, General Noriega, that this Congress intends to press for a cutoff of aid at the appropriate time. Before this session of the 100th Congress has adjourned, Congress will prohibit sugar imports from Panama as well as eliminate all military and government-directed economic aid to the representative military dictatorship of Panama unless these four conditions are met.

Let it be clear, however, that this action is not intended to rebuke the people of Panama. Rather, this legislation will demonstrate to the courageous people of that nation that the United States stands firmly at their side in their struggle for honest democracy and against the corrupt government illegally controlled by Gen. Manual Antonio Noriega.

For more than 4 years, our friends in Panama have suffered under one of the most corrupt and despotic regimes in all of Latin America. At the center of this web of intrigue and manipulation is General Noriega.

Just a few days ago, Noriega's strongarm squads, the Dobermans, broke up a peaceful demonstration held to mark the second anniversary of the torture and murder by decapitation of Dr. Hugo Spadafora, an outspoken critic of Noriega. The demonstrators' only crime: Expressing sympathy for a dead hero and his family, and making public their opposition to the dictator. One man was killed, many were wounded, and the remainder were terrorized.

A high-ranking official of the American Embassy who was watching the demonstration was arrested, roughed up and held incommunicado for many hours. Another American, a recently retired military officer, was publicly humiliated, along with his wife and children, and his car was stolen. Many of the peaceful demonstrators were beaten. Cars were smashed and burned. A CNN reporter who filmed this tragedy was threatened and later forced out of the country.

This, Mr. President is the way General Noriega and his thugs do business. Their message to the Panamanian people is clear: Do as we say or suffer the brutal consequences. Don't assemble in public. Don't speak your minds. Don't read anything except what we provide. Don't associate with foreigners. Do what the General says—or else.

In Panama, you can be arrested for waving a white handkerchief or marching in a peaceful procession. Your cars can be smashed and burned. You can be shot or beaten. In Panama, you must be quiet, bow down, and do as you are told.

But the Panamanian people have not stopped their protests. They have not bowed down. They have continued to defy their dictator. Every day, they are in the streets waving their banners and handkerchiefs. Every day, Panamanian housewives get out and beat on pots and pans to show their defiance. A recent Gallup poll showed that 75 percent of all Panamanians want Noriega to step down and leave politics to the civilians.

It is important for us to stand with them. We need to send a signal as clear as the overwhelming signs of opposition the Panamanians themselves continue to display with such daring and courage. One way to do that is to cutoff all aid that benefits the military rule of Panama.

If these four conditions are not met and we vote to cutoff aid, approximately $10 million remaining in the fiscal 1987 allocation and $13 million in proposed aid for 1988 would be affected. The amounts are small but the message will be great: We are no longer willing to support or indulge military repression and corrupt leaders in Panama.

In most of Latin America, our economic assistance is channeled through the private sector where it can have maximum impact. In Panama, most of it goes directly to the government. In other words, it passes through Noriega's hands and those of his cronies. An aid cutoff will have a minimal effect on the private sector. The results will be felt mainly in a government that treats the public treasury as its private purse. We can be confident that this aid cutoff will send a ringing message to its intended audience, where it will be heard loud and clear.

Let us be clear—and let our friends in Panama understand—that this prohibition on economic assistance is not a permanent action. We stand prepared to lift these restrictions once effective steps are taken to install a democratic civilian government in Panama. This means the permanent removal of the Panamanian military forces from the numerous nonmilitary activities in which some of them are now engaged.

I also want to see a speedy restoration of basic freedoms to the Panamanian people—the freedoms of the press, of assembly, and of free speech. Once these steps are taken, U.S. assistance will be resumed. Indeed, to help a young civilian government cleanup the mess that years of corrupt rule has created, the level of U.S. assistance should be not only restored, but possibly increased. I, for one, would certainly be prepared to actively pursue that possibility to help it restore honest and effective government to Panama.

However, the immediate need is to stop the flow of aid that is flowing into the pockets of Noriega and his corrupt cronies. We need to stand firm on the side of liberty, justice and democracy. I ask my colleagues in this Chamber to join me in sending this much-needed message to General Noriega and to the brave Panamanians who oppose him.

Mr. McCAIN. Mr. President, I thank my colleague from Connecticut for this kind words and again emphasize for those who feel that this resolution is not strong enough, there is a 45-day period, as my colleague from Connecticut just mentioned. This Senate will not go out of session until this issue is resolved one way or the other. I think it is entirely appropriate to allow a 45-day period.

I would also like to emphasize again this resolution is very specific, in fact in part A, section (2) where under policy it says:

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough inves-

tigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

Those are very strong words. I hope that the message is received.

I yield.

Mr. DIXON. Mr. President, I understand that the Senator from Alaska [Mr. MURKOWSKI] is on his way to the floor. There is an amendment that he is prepared to discuss.

Does the Senator know, have we adopted the 1-hour time limitation on that amendment? I believe we did.

Mr. McCAIN. There is an understanding. There was an agreement.

Mr. DIXON. The Presiding Officer is indicating a 1-hour time limit equally divided.

Mr. McCAIN. Mr. President, I have an amendment that will take only about 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Is the Senator asking unanimous consent to set aside the previous amendment?

Mr. McCAIN. Yes.

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

AMENDMENT NO. 724

Mr. McCAIN. Mr. President, I have an amendment that I intend to withdraw, but I want to bring up in order to bring to the attention of this body a situation that exists.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Arizona.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 724.

At an appropriate place in the bill, insert the following new section:

"Sec. xxx. (a) Effective 30 days after the date of enactment of this Act, no citizen or national of a country described in subsection (b) shall be permitted to lawfully enter the United States, either temporarily or permanently, unless prior to such entry such citizen or national has presented satisfactory evidence that such citizen or national has, within 12 months before such entry, been tested for the Human Immunodeficiency Virus (AIDS Virus) and such person does not carry that virus.

(b) A country referred to in subsection (a) is one that has as a requirement for entry into such country by a citizen or national of the United States that such United States citizen or national present evidence or certification that such United States citizen or national has been tested for or does not carry the Human Immunodeficiency Virus (AIDS Virus).".

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I will be brief on this amendment and then I will ask unanimous consent that it be taken down.

Recently an event took place concerning a port visit of a United States ship to Costa Rica. Because of some events that had taken place that were not directly related to that port visit, the Government of Costa Rica announced a regulation that requires crew members of any ship entering port in Costa Rica to present evidence of a negative AIDS test within the last year as a condition of disembarkation.

The U.S. Navy was informed of such a regulation and, of course, our Navy cannot conform to such a request nor do I believe in any way would it be appropriate to do so.

My amendment, Mr. President, says that if that regulation or imposition is placed on any American ship that is entering a foreign port, then it seems only fair and equitable that citizens of that nation who are entering the United States of America can also provide that same evidence.

I would hope that this issue could be resolved between the United States and the Government of Costa Rica in an equitable and fair fashion without this Senator's having to go to the floor of the Senate and propose an amendment which would, I think, cause certain discomfort to the citizens of that nation which is a close and good ally of our country.

At the same time, I find it an intolerable situation for any government to demand certification of each individual aboard that ship not having been afflicted with the AIDS virus or the HIV virus.

So, Mr. President, I hope that our friends and allies throughout the world who contemplate such action would be aware that this Senator stands ready to propose an amendment which would impose the same kind of regulation on their citizens visiting the United States as they would impose on American servicemen who are visiting their countries.

I would not think it is necessary to ask for approval of this amendment at this time, but I did want to bring up the issue and make very clear, at least, this Senator's concern and that of my colleagues that I have discussed this issue with.

Mr. President, I ask unanimous consent that the amendment be withdrawn.

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

The amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCAIN. Mr. President, I would like to take a few moments while we are waiting for the arrival of Senator MURKOWSKI to discuss the pending Dodd amendment and the issue of freedom of the press in Nicaragua.

All of us I believe were greatly encouraged over the announcement that the Sandinista government would allow La Prensa to reopen and begin publishing. We were told at that time that La Prensa would be placed under no censorship by the Nicaragua Government. We have also been informed that Radio Catholica was also allowed to begin rebroadcasting. Those measures are not only applauded but appreciated by Americans and those who are interested in freedom of the press and full implementation of the peace agreements.

Recently, in the last 48 hours or so, some rather disturbing information has been brought to light, including the information that Mr. Tomas Borge, who is the Interior Minister, gave when he met with radio news directors and other media persons. Mr. Borge said that the end of prior censorship "means that we depend on each medium to respect the will of the revolution of the people of Nicaragua and of the international community to stimulate peace, to contribute to peace and to not publish anything that works against peace, that destabilizes the process of peace, that provokes an economic destabilization inside the country."

Mr. President, I do not know how it looks to a lot of people, but that smacks of censorship of the worst kind. I do not believe that is in any way in compliance with the agreement signed by the President of Nicaragua, Mr. Daniel Ortega, that freedom of expression would be allowed in the country of Nicaraguan. That does not mean the kinds of restrictions that Mr. Borge has imposed. Also a bit of concern is Mr. Borge's characterization of La Prensa that "everyone knows it is funded by the CIA."

Mr. President, I do not know that La Prensa is funded by the CIA. I do know that the editor of La Prensa was assassinated by Somoza people; that it serves as a symbol of freedom of expression of the people of Nicaragua and, indeed, throughout Central America, and it is not an organization which lends itself to disparagement by anyone, much less Mr. Borge.

Mr. President, I mention this issue because I serve as the cochairman of the commission appointed by this body to monitor the progress of the peace agreements in Central America. Mr. President, I sound a warning at this time to my colleagues that it appears as if there may not be full compliance as far as freedom of expression is concerned, and I will use other opportunities to take the floor of the

Senate to address the other aspects of compliance or noncompliance with the other provisions of the August 7 agreement that was signed by the five Central American Presidents. But I urge the Government of Managua to refrain from any censorship of the Nicaraguan media, whether it be printed, radio, or television, and allow them the freedoms that are guaranteed to all peoples and have been most recently guaranteed by the signing of agreements on August 7 in Managua.

I yield at this time to my colleague from Alaska, who I believe has an amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank my friend from Arizona.

Mr. President, I understand that there is one, and perhaps two, amendments pending. I ask unanimous consent that they be set aside so that I may proceed with an amendment that I intend to offer on the defense authorization bill.

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

Mr. MURKOWSKI. Mr. President, I thank the Chair.

AMENDMENT NO. 725

(Purpose: To deny funds for projects in the United States that use the engineering, architectural, and construction services of any foreign country that does not provide such services of the United States access to the markets of the foreign country)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. STEVENS, proposes an amendment number 725.

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

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

The amendment is as follows:

On page 192, between lines 11 and 12, insert the following:

SEC. . DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

Mr. MURKOWSKI. Mr. President, I intend to offer an amendment today. It is a simple amendment. It simply says that firms from a country that will not allow American firms to bid—and I emphasize "bid"—on its government-funded projects cannot win U.S. military construction projects here in the United States. I want to point out—will not allow American firms to bid. We are not suggesting that they be allowed to get the job, but to simply have the opportunity to bid on the job.

Mr. President, my good friend from Georgia, Senator NUNN, unfortunately is not on the floor. But for the record I would like to note that we had hoped that they might accept the amendment, and it is still my hope that they might be inclined to vitiate the need for a rollcall vote as a consequence of this debate that is currently underway.

My rationale to suggest this is that the psychology associated with stacking votes loses something in the translation. Many of the Senators I know, due to the fact that their votes are going to be stacked later in the day, are not here. But I think we have a basic situation that we have to address from the standpoint of policy because as the debate proceeds we are going to get into whether or not this amendment belongs in the Defense Authorization Act.

Mr. President, I would suggest that because the very heart of our defense philosophy is alliance—that is, in partnership with our allies—it very much belongs in the Defense Authorization Act. The alliance is not strategic alone. The alliance goes beyond strategy. It is also economic. So the alliance connotates partnerships, it connotates fairness, it connotates equity and it extends strategic and military activity. And it does include economic activities. Make no mistake about it. Alliance depends upon the support of the United States and the people of the United States.

I say to you, Mr. President, that the United States is becoming more and more concerned with the selling of America. And it is no surprise.

I would offer in evidence an article from the December 22 Fortune magazine entitled "Competition, the Selling of America."

Why do I say the selling? Simply because we are unable to penetrate foreign markets in construction in the same manner that countries are able and welcomed to participate in construction markets in the United States. So the allegiance extends beyond strategic and military activities. It includes economic activities.

Alliance depends on the support of the peoples as I have indicated, and it will fail—it will fail, Mr. President—if the support erodes.

I contend with articles such as the one I just mentioned and an ad in the New York Times put out by a prominent business person, entitled "There is nothing wrong with America's foreign defense policy that a little backbone won't cure." This ad happens to be signed by Donald J. Trump. It is an

open letter from Donald J. Trump on why America should stop paying to defend countries that can afford to defend themselves.

I think we have certainly a case in point in the Persian Gulf today. It takes no genius to figure out who are the major beneficiaries of our presence in the Persian Gulf. Our presence is there to keep the oil flowing. That is a correct position and one I support. But who are the beneficiaries? We get about 9 percent of our oil from the Persian Gulf; Western Europe, about 35 percent; our friends and allies, the Japanese, a significant portion, somewhere in the area of 65 percent. Who is paying the bill? The American taxpayer is paying the bill.

I think it is appropriate that we have participation.

So this brings us into the overall consideration of equity and fairness, markets that are closed to us, and markets that are open in this country.

I say to you, Mr. President, that there is a parallel because the American people are saying, hey, something is wrong. It is not a two-way strategy. It is not two-way trade. It is one-sided. And the one-sided nature of an alliance is causing erosion. And I ask unanimous consent to include, Mr. President, in the RECORD, those two articles to which I have referred.

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

BETWEEN THE LINES OF A MILLIONAIRE'S AD

(By Howard Kurtz)

NEW YORK, Sept. 1.—Donald J. Trump, the multimillionaire developer who has gotten into some well-publicized spats with city officials here, is using his cash to wade into the more exotic waters of foreign policy.

In full-page advertisements running Wednesday in The Washington Post, The New York Times and The Boston Globe, Trump argues that the United States should present Western Europe and Japan with a bill for America's efforts to safeguard the passage of oil tankers in the Persian Gulf.

When a prominent private person spends $94,801 to publicize such a message, it raises the age-old question: What's he running for?

"As far as I know, he has no plans to seek public office," said Trump spokesman Dan Kloress. "The reason Donald told me he's doing this is that he's sick and tired of seeing other countries take advantage of America."

Trump's wealth and flamboyance have made him a sought-after political property. New York Republican leaders tried unsuccessfully to draft him to run against Mayor Edward I. Koch (D) in 1989 or Gov. Mario M. Cuomo (D) in 1990. And a veteran Republican organizer in New Hampshire is circulating nominating petitions for Trump in the state's 1988 GOP presidential primary, although Trump said it was "highly unlikely" that he would run.

The Persian Gulf ad was developed with advertising executives who were part of the "Tuesday Team" that prepared the media ads for President Reagan's 1984 reelection campaign. But one of them, Tom Messner, said he knew of no larger political agenda, and Norma Foederer, an assistant at the Trump Organization, said any bid for office "was the furthest thing from his mind."

Trump "wrote the letter himself," Messner said. "The idea of doing it was his. We were merely expediters. We designed the ad, we recommended the newspapers, handled the money and placed it. Our creative input was minimal."

Trump, 41, developer of the $190 million Trump Tower here, an Atlantic City casino and other mega-developments, is a major contributor to local political campaigns.

In a running feud with Koch over whether the NBC television network will move to a Trump property on Manhattan's West Side or relocate to New Jersey, Trump has called the mayor a "moron," and his top advisers "jerks." Koch called Trump, who has been seeking tax abatements for the Manhattan property, "piggy."

Trump also embarrassed city officials recently by restoring a Central Park ice skating rink and turning a $500,000 profit on it after the city had botched the job.

THERE'S NOTHING WRONG WITH AMERICA'S FOREIGN DEFENSE POLICY THAT A LITTLE BACKBONE CAN'T CURE.

(An open letter from Donald J. Trump on why America should stop paying to defend countries that can afford to defend themselves)

To The American People: For decades, Japan and other nations have been taking advantage of the United States.

The saga continues unabated as we defend the Persian Gulf, an area of only marginal significance to the United States for its oil supplies, but one upon which Japan and others are almost totally dependent. Why are these nations not paying the United States for the human lives and billions of dollars we are losing to protect their interests? Saudi Arabia, a country whose very existence is in the hands of the United States, last week refused to allow us to use the mine sweepers (which are, sadly, far more advanced than ours) to police the Gulf. The world is laughing at America's politicians as we protect ships we don't own, carrying oil we don't need, destined for allies who won't help.

Over the years, the Japanese, unimpeded, by the huge costs of defending themselves (as long as the United States will do it for free), have built a strong and vibrant economy with unprecedented surpluses. They have brilliantly managed to maintain a weak yen against a strong dollar. This, coupled with our monumental spending of their, and others, defense, has moved Japan to the forefront of world economies.

Now that the tides are turning and the yen is becoming strong against the dollar, the Japanese are openly complaining and, in typical fashion, our politicians are reacting to these unjustified compliants.

It's time for us to end our vast deficits by making Japan, and others who can afford it, pay. Our world protection is worth hundreds of billions of dollars to these countries, and their stake in their protection is far greater than ours.

Make Japan, Saudi Arabia, and others pay for the protection we extend as allies. Let's help our farmers, our sick, our homeless by taking from some of the greatest profit machines ever created—machines created and nutured by us. "Tax" these wealthy nations, not America. End our huge deficits, reduce our taxes, and let America's economy grow unencumbered by the cost of defending those who can easily afford to pay us for the defense of their freedom. Let's not let our great country be laughed as anymore.

Sincerely,

DONALD J. TRUMP.

THE SELLING OFF OF AMERICA

(By Jaclyn Fierman)

The Japanese are about to descend on Pearl Harbor again, not to bomb but to build. They will festoon this historic terrian with lagoons, golf courses, swimming pools, tennis courts, and luxury hotels—a billion-dollar vacationland that they hope will rival Waikiki. Set on a stretch of beach just west of the harbor, the resort will employ 6,000 people and add $24 million a year to state taxes. The most ambitious construction project in Hawaii's history, it dwarfs the considerable dabbling the Japanese have done there in the past.

The resort at Oahu's West Beach epitomizes the onslaught of foreign investment in the U.S. Real estate is only part of the action. Offshore investors are also buying up stocks, bonds, Treasury securities, assembly plants, factories, fish, forests, and whole companies, both large and small.

Just six years ago U.S. holdings abroad exceeded the value of foreign-owned assets in the U.S. by more than $100 billion. Today the positions are reversed. Foreign-owned companies are shaking the foundations of the U.S. construction industry, chipping away at domestic semiconductor manufacturers, and colliding with U.S. car producers. U.S. children are riding to school in buses operated by a Canadian company. American firemen depend on hydrants made by an Arab company in Illinois. Foreigners have bought land in practically every state, a piece of virtually every industry, and one-seventh of the federal debt.

Where did this immense foreign buying power come from? Raise your hands, America. The selling of America is, to a large extent, a byproduct of the nation's gargantuan trade deficit. The U.S. has stuffed the world's pockets with the dollars it pays for foreign products. The biggest beneficiary of America's import binge has been Japan. Despite its obsession with U.S. bagels, burgers, and diapers, Japan came out $50 billion ahead in trade with the U.S. last year and will achieve a surplus of $60 billion this year.

If Americans love foreign products, the foreigners, when it comes to assets, love to buy American. That was true even when the dollar was at nosebleed heights, and doubly so now that the dollar has dropped. The U.S. is cheap, a five-and-dime for countries whose currencies have appreciated up to 50% against the dollar in less than two years. Parking money in the bank no longer satisfies many investors. Increasingly they want U.S. stocks, bonds, and Treasury securities—known in the argot of international finance as portfolio investment. They also want bricks and mortar.

In total, foreigners owned about $1 trillion of U.S. assets at the end of last year. Foreign governments, which account for about 20% of that, put most of their money into U.S. Treasury securities. The hefty hunk of America held by foreign corporations and institutional and individual investors breaks down this way: $80 billion of Treasury securities, over $200 billion in corporate stocks and bonds, more than $180 billion in direct investments in U.S. companies, and more than $400 billion in bank deposits, agricultural land, and commercial properties.

The U.S. not only welcomes foreign money but courts it. Mayors and governors are bumping into each other in Europe and Asia at trade shows staged to woo foreign investment. Flat Rock, Michigan, seduced Mazda Motor into building an assembly plant there by waiving property taxes for 14 years. The state of Oklahoma has hired the London investment bank of Morgan Grenfell to lure capital from abroad.

And why not? Just as foreign investment by Coca-Cola, Ford, and other multinationals has benefited the rest of the world, capital coming the other way enriches the U.S. Says Lord Lever, a British businessman who served in the cabinets of Prime Ministers Harold Wilson and James Callaghan: "Europe got 20 times more out of American investment after the war than the multinationals did. Every country gains by productive investment."

A further word of comfort to the xenophobes: The U.S. is hardly being colonized. Foreigners own just 1% of U.S. real estate and farmland and claim less than 5% of corporate earnings. And while foreign companies get to repatriate their profits, the wages they pay and the value added in their manufacturing plants bolster America's gross national product.

Jobs are the most compelling reason to cheer about capital immigration. Foreign companies directly employ some three million Americans, or about 3 percent of the work force, and create jobs for countless more in shops where those workers spend their paychecks. Unsurprisingly, local merchants and politicans are the foreigners' biggest fans. Ever seen an authentic Japanese rock garden? One is in the works in Chattangooga, Tennessee. Looking for real Nuremberger bratwrust? Try Spartanburg, South Carolina.

The South, with its anti-union bias and cheap electric power, has long been a magnet for overseas investors and now claims one out of every four foreign jobs. Georgia, says Governor Joe Frank Harris, "has been blessed" with investment by more than 900 foreign companies. Texas counts 600 in Houston alone. New Yorkers, Californias, and Hawaiians are feeling the foreign invasion as overseas construction companies transform their skylines. In Alaska the Japanese control large parts of the fishing and timber industries and sign paychecks for 5 percent of the work force. High-tech industrial parks, some anchored by foreign companies like NEC Information System, have set once-depressed New England villages humming again.

The new foreign investor often is brassier and more belligerent than his predecesor of just ten years ago. Setting the style are men like Sir James Goldsmith, the controversial Anglo-French swashbuckler whose U.S. holdings include 3.5 million acres of timberland and 371 Grand Union supermarkets. "Foreign investment is an emotional issue in every country," he says. "But America, whether it likes it or not, is the only free world. It is bound to attract foreigners."

Goodyear plainly did not like it when the company attracted a $5-billion takeover bid from Goldsmith in November. Though Goldsmith eventually relented after Goodyear offered him $90 million more than he had paid for 11.5 percent of the company's stock, he forced management to retread. Goodyear put its oil and gas division on the block and has other restructuring plans in the works.

Another swaggering force from abroad is Sir Gordon White, commander of stateside expeditionary troops for Hanson Trust, the British holding company. One of Goldsmith's backers in the Goodyear assault, White burns plenty of rubber on his own. He has bought a bevy of U.S. companies that generate a total of $3 billion a year in sales for Hanson. Among them are Endicott Johnson, where American mothers drag their children for those dreaded "sensible" shoes, and Ball Park franks.

Early this year White made takeover history with the $930-million acquisition of SCM. White tendered for the company but withdrew the offer after a four-month scuffle. Then he turned around and bought control of SCM from arbitragers who had accumulated large blocks of stock during the tender offer. Some prominent members of the takeover community contend the ploy violated U.S. takeover laws, but the courts sided with White. He currently is sitting on a $5-billion war chest and says he is "quite prepared to act as a White knight [pun intended]" in future takeovers.

Britons have long been the biggest direct investors in the U.S. and now have more than $44 billion in American assets. (Direct, as opposed to portfolio, investment includes start-ups of new operations and purchases of more than 10% of a U.S. company.) The British spent a $6-billion bundle last year, nearly one-third of the $19.5 billion of foreign direct investment, and are at it again in 1986. Their purchases through September amounted to $8.7 billion. The Netherlands ranks second in direct investment. Led by Royal Dutch Shell, with its long-standing oil investments, Dutch holdings in the U.S. are worth over $36 billion.

Japan has amassed over $19 billion in direct investments—most of them in the Eighties—and has moved into third place. That total does not include all of Japan's towering real estate investments. This year alone, Japanese investors will spend more than $4 billion on real estate. The Japanese Economic Institute in Washington says Japanese corporations own 50% or more of at least 400 U.S. assembly or manufacturing companies, employing some 110,000 people.

Foreigners have also been busily fattening their portfolio investments. Institutional and individual investors increased their holdings of stocks and bonds by nearly $80 billion last year. Their appetite for corporate debt was voracious: Net purchases came to a stunning $49 billion, pushing the total value of their bonds over $80 billion. Foreigners also rode the Wall Street bull. They snatched up $30 billion in new shares, bringing their stock holdings to $126 billion.

Overseas investors boosted their holdings of Treasury securities 13% last year, to $220 billion. By taking so much of the national debt off America's hands, foreigners have made the government's enormous budget deficits less painful for the credit markets to absorb. Salmon Brothers estimates that foreign investors are buying up to 30% of the $190 billion in new government issues this year.

The biggest takers are the Japanese. The Security Dealers Association of Japan estimates that Japanese portfolio investments will be worth $45 billion at the end of the year, up from a trifling $300 million just four years ago. Japan's net purchases of Treasury securities have been averaging a steamy $8 billion a month. The pace has quickened since March, when the Japanese government eased restrictions on offshore investments by institutions. Pension funds can now send 30% of their assets abroad, up from 10% before. Japanese investors are also grabbing U.S. blue chips. Net stock purchases totaled $2 billion in the first half of this year.

Tax reform will make the U.S. even more attractive. The new maximum corporate tax rate—40% in 1987 and 34% in 1988—will be the lowest in the industrial world. Foreigners also see the U.S. as a technology hothouse and are supplying almost one-quarter of America's venture capital to ensure themselves a stake in new discoveries (see box, page 52).

America's attractiveness, though, transcends high-tech and taxes. For many companies, setting up shop in the U.S. is a strategic imperative. The potential customer base makes that of any other country look paltry. In 1983 Laidlaw Transportation Ltd. of Canada, the biggest school bus operator in North America, moved south of the border, where it saw considerably more room to grow. Business has quadrupled and Laidlaw now draws over $400 million—60% of its revenues—from U.S. Siemens, the Munich electronics giant, poured $750 million into U.S. operations this year to be closer to its biggest customers. Chairman Karlheinz Kaske says his company must have "a slice of the cake in the U.S." to achieve full economies of scale and cover its research-and-development budget.

Bertelsmann, Germany's leading media group, left New York publishing circles speechless recently when it paid almost $500 million—about 70 times fiscal 1986 earnings—for Doubleday. But relative to what Doubleday would have cost Bertelsmann if the Germans had bought when the dollar was high, the purchase was a steal. Says Bertelsmann Chairman Mark Woessner: "Anyone who wants to operate in the media market with enduring success must have a strong supporting leg in the U.S." Bertelsmann reckons it will pick up an extra $1.2 billion in sales by straddling the Atlantic, pushing total revenues over $5 billion.

For the discerning investor, America's vast industrial base has always been chockablock with good buys. Bargains abound, from Texas refineries to Silicon Valley start-ups. Says Hoong Bee Teck, assistant general manager of Singapore's Wearnes Technology: "We have been able to acquire several small computer-component manufacturers and make something of them because of our low overhead." U.S. movie theater owners, discouraged by competition from videocassette recorders and cable television, have been turning out the lights and dumping properties. But Garth Drabinsky, chairman of the Canadian company Cineplex, has put popcorn makers back to work in some 300 cinemas across the country. His U.S. theaters, among the most profitable in the nation, distinguish themselves with more hit movies, bubble gum-free seats, and fresher popcorn.

The growing protectionist mood in America has prompted some foreign manufacturers to lay down roots before their products get stuck behind costly or insurmountable trade barriers. First came the Japanese automakers; next, their suppliers. Others were not far behind. Goldstar, a South Korean company fined for dumping color televisions in the U.S., has built a TV and microwave-oven assembly plant in Huntsville, Alabama. Japanese semiconductor manufacturers, accused of dumping on American shores, have invested $200 million over the past 18 months to open or expand a dozen U.S. production facilities.

For wealthy individuals the U.S. is the safest haven in an unpredictable world.

They rest easier at night knowing their cash is stowed under the great American mattress. Residents of Hong Kong, which reverts to Chinese rule in 1997, have been socking away cash in the U.S. for years. Other Asians agree. Liem Sioe Liong, an Indonesian banker and manufacturer, bought San Francisco's Hibernia Bank (assets: $1.9 billion) because he wanted his money in a politically stable spot.

Chastened by the collapse in oil prices, Arabs are shunning things liquid. Rather than park their money in the bank—which is largely what OPEC did in the Seventies when it was awash in oil revenues—Arabs now are opting for long-term bonds and cash cows, businesses as dependable and all-American as department stores and health clubs. Typical of the new Arab spirit is Arabian Investment Banking Corp. Services, a Bahrain-based group that includes the ruling families, major banks, and businessmen in the Gulf States. Called Investcorp for short, the four-year-old firm took its first big plunge in the U.S. in 1984 when it bought Tiffany & Co. for $110 million. (It has since sold most of the elegant New York jewelry store to Tiffany management and General Electric Credit Corp.) Its less glamorous investments include Mueller Co., a 129-year-old company in Decatur, Illinois, that is the nation's premier fire hydrant producer. "We look for equity we can sell on the streets of Bahrain as easily as on the streets of New York," says Michael Merritt, the American who is Investcorp's executive director.

Perhaps no investment better embodies the security, stability, and yields that foreign investors covet than U.S. real estate. Translated literally, the Japanese word for real estate means immovable asset. A prized resource throughout the world, prime property is so scarce in Japan that it has become truly immovable—it rarely, if ever, changes hands. Starved for opportunities at home, Shuwa Corp., one of Japan's biggest real estate players, spent $620 million in October for Arco Plaza in Los Angeles and the ABC headquarters in New York. The British also have an appetite for real estate. They own close to $1 billion worth in Washington, D.C., alone, including a big piece of the Watergate complex.

The real estate research group at Salomon Brothers estimates that foreigners own $24 billion in developed U.S. property, still a minute share of the $2.3-trillion total but quadruple the level of 1980. Japan's stake, which includes nine of the 12 largest hotels on Waikiki, exceeds $4 billion. These numbers are only ballpark guesses by industry experts, who base their calculations on publicly announced deals and incomplete governmnent data. Actual foreign holdings almost surely are much higher.

It may surprise American homebuyers, but many foreigners find U.S. property dirt cheap. A square foot of prime midtown Manhattan office space is selling for around $350. A comparable square foot in Tokyo, if you can find one for sale, goes for $4,000. New York commercial real estate has been yielding about 7.5% lately, a shade higher than Treasury bills. Net operating income on many Tokyo buildings runs about 2%. Last year Japanese brokerage firms used the come-on "Let's Become Manhattan Landlords" to sell shares of New York's Rockefeller Center. They reportedly unloaded $175 million worth in one day.

The Japanese want to do more than just own U.S. properties; they want to build them. Last year their construction companies landed close to $2 billion in U.S. contracts, according to the trade publication *International Construction Week*. That was less than 1% of the total, but 18 times the amount in 1982 and more than enough to irk domestic competitors. Part of the reason they are winning contracts is that they can borrow money from Japanese banks at low interest rates and pass the savings along in their bids. They are also sticking their necks out as investors. "Japanese builders are willing to come in with U.S. developers and be their equity partners. That's very unusual," says Jack Shaffer, a director of Sonnenblick-Goldman, a New York mortgage banker that has ushered in much of the foreign real estate money.

Premier among the new Japanese builders is Kumagai Gumi, the most profitable construction company in Japan. Kumagai Gumi is expected to be the general contractor for the West Beach resort near Pearl Harbor and is also building hotels on Maui and Kauai. In New York City the company is participating in eight projects worth $1 billion with developer William Zeckendorf Jr. The most ambitious in the transformation of the old Madison Square Garden site from a parking lot into $550 million of commercial, retail, and residential space. Says Zeckendorf of his Japanese partners: "Unlike what others may tell you, I find they move quickly, have very specific goals, and are loyal."

Another groundbreaker in Hawaii is Halekulani Corp., a construction subsidiary of Japan's giant Mitsui Real Estate Development Co. Its 450-room hotel on Waikiki Beach, a $250-million project, employs 600 people. "Japan has no room for projects of this scale," say Shuhei Okuda, president of Halekulani. The company has another 300-room luxury hotel called Waikiki Parc under construction nearby.

The idea of foreigners buying and building U.S. skyscrapers hasn't seemed to faze Americans. What does rankle—as it does in most countries—is aliens owning farmland. They now own some 12.1 million acres of it in the U.S. Thirty states limit the amount foreigners can buy, and Minnesota forbids foreign ownership altogether. Kentucky still has a seldom enforced century-old law that allows the state to confiscate foreign-owned land unless the buyer becomes a U.S. citizen within eight years. Strictly speaking, Sheikh Hamdan bin Rashid al Maktoum of Dubai, who owns 1,010 acres in the state, will have to sell the land in seven years or become an American commoner.

The Japanese are beginning to arouse the same degree of xenophobia that the Arabs did at the height of OPEC's power. "We have closer cultural and linguistic ties with the English and the Dutch," says Jeffrey Rosensweig, international economist at the Federal Reserve Bank of Atlanta. "Their U.S. investments don't worry us as much as Asian or Arab investments." When a county manager in Virginia was planning a trip abroad to recruit foreign investment, executives of electronics and telecommunications firms in his area asked him to leave Asia off his itinerary. As one international investment banker puts it, "There are foreigners and there are foreigners."

Fujitsu discovered the meaning of that quip in October after announcing its $225 million bid for 80% of Fairchild Semiconductor, a maker of chips used in sophisticated weaponry. No one blinked when Schlumberger, a Netherlands Antilles company, bought Fairchild in 1979, but the government is making Fujitsu sweat while the National Security Council reviews the deal. "We're in a major competitive position with Japan," says Paul Freedenberg, an assistant secretary at the Commerce Department, which is reviewing the proposal. "We want to be careful."

Freedenberg should perhaps consider other things Fujitsu is bringing to the table, including new management skills. After studying more than 150 Japanese-owned companies in the U.S., Martin Starr of the Columbia business school found that their absentee rates were lower and product quality higher than at comparable American-owned companies. Half the Japanese-owned operations had defect rates of less than 0.5%. U.S.-owned factories generally have to chuck or repair between 3% and 5% of their output. Says Starr: "Japanese managers in the U.S. foster team spirit in the workers by linking incentives to group productivity."

In the South and Northeast, foreign investment has helped diversify and revive dying oil and mill towns. Spartanburg, South Carolina, whose survival 20 years ago was dependent on textiles and agriculture, is busy turning peach farms into industrial parks. Typical tenants: Alcoa Fujikura, a fiber-optics joint venture, and SEW Eurodrive, a West German maker of conveyor-belt drive systems.

Spartanburg has so many German and Swiss companies that locals have dubbed the stretch of Interstate 85 that runs through town the Autobahn. Some 7,000 Sparatans, as the natives are called, now work for 60 foreign companies that have invested $1 billion there. What foreigners find especially attractive is the town's cheap labor. "People here are willing to do a day's work for a day's pay," says Paul Foerster, executive vice president of operations at Spartanburg's Hoechst Fibers, a subsidiary of the German chemical giant, which plans to acquire Celanese for $2.85 billion.

While usually irreproachable, foreign investment can occasionally get so exploitative that it drains rather than creates capital. One egregious example is the fish-processing industry in Alaska. For most of the year a fleet of some 100 ships crowds Alaska's waters 50 miles offshore. The boats, over 300 feet long and six stories high, are floating factories that process Alaska's abundant supplies of pollock, cod, and other bottom fish. The flags they fly are foreign, mostly Japanese. Working aboard the ships are foreign nationals who pay no U.S. taxes. Alaska even loses out on sales of food and fuel. Foreign tankers resupply the ships in high-seas rendezvous.

The floating factories are equipped with processing lines that gut and skin the fish and with desalination plants that produce fresh water to wash them. The boats can turn five tons of fish worth $600 into one ton of a gloppy paste used to make surimi, a crab-meat substitute. Surimi sells for $3,000 a ton. Each ship can churn out 80 tons of paste a day.

Alaska has just begun to haul the processing industry onshore. State officials persuaded Nippon Suisan Kaisha and Taiyo Fisheries to invest in surimi plants at Dutch Harbor in the Aleutian Islands. The Nippon Suisan plant is wholly owned by the Japanese, and the Taiyo plant is a joint venture with Wards Cove, a Seattle company. Onshore revenues are minnowish compared with those offshore, but they buoy the economy and morale of Dutch Harbor. "They pay property taxes," says Mayor Paul Fuhs. "They pay state taxes. They have 40 employees who spend money here."

If we have convinced you by now that foreign investment is a great thing for America, let us add a caveat for mayors and governors: Look all these gift horses in the mouth. Don't give away more than you are going to get. You may even need—horrors—an MBA on your staff to run the numbers for you. Some areas seem so desperate for business that they will give away virtually anything to foreign or domestic corporations.

Consider the deal Toyota got to build an $800-million plant on the outskirts of Georgetown, Kentucky. When it begins churning out Camrys in 1988, Toyota will employ 3,000 people, add $24.4 million to bank deposits, and boost retail sales by $32.7 million a year. But at what price? The state promised Toyota 1,500 acres of free land, $47 million in new roads, and $65 million in employee training programs. Georgetown is stuck paying for new policemen and firemen and a sewer system to handle the 120 tons of waste Toyota will generate every day. The tab could run $8 million a year. Georgetown's current budget is only $2 million. "Let's just say the solons of Georgetown are not the most sophisticated financial minds around," sniffs Montgomery Securities auto analyst Ronald Glantz. (For more on Toyota, see Corporate Performance.)

As long as the U.S. sells itself intelligently, foreign investment is a windfall for the nation. When foreigners set up companies in the U.S., they increase not only output and employment but also the tax base, and that cuts down on the nation's budget deficit.

Granted, the U.S. gross national product would be higher if Americans owned all the production facilities on U.S. soil. If foreign investment were not replacing U.S. investment—if domestic auto producers, for example, were competitive enough to satisfy U.S. consumers—the country would be that much richer. But with General Motors laying off 29,000 workers in Michigan, Ohio, Missouri, and Illinois, the U.S. should roll out the red carpet for the seven Japanese manufacturers investing here.

A foreign-owned factory that hums around the clock is far preferable to an American-owned one that is shuttered. "I don't give a damn who owns my industries as long as they are successful," says British statesman Lord Lever. The U.S. shouldn't care either as long as the fire hydrants don't leak, the school buses run on time, and the cinema seats stay bubble gum free.

Mr. MURKOWSKI. Let me continue in the sense of reflecting and expanding on the alliance. We have demonstrated certainly our commitment to the free world is the alliance that we have with other countries. We have an army in Europe, a fleet in the Mediterranean, the Indian Ocean and the Pacific. Our allies can compete for contracts in our country in part because, Mr. President, we have helped defend those nations. In a partnership our firms should be able to compete for contracts in their countries.

This is really the sense of an alliance. That is why this belongs in this Department of Defense bill that is pending.

Our alliance is built upon a strong U.S. economy, an economy that furnishes goods and defenses to all members of the alliance, an economy that provides a market for our partners. And our economy, Mr. President, simply cannot do this if our partners can simply underbid our firms in our own country and our firms are not permitted to bid in theirs.

Let me tell you, Mr. President. I have met with the AGC. I have met with the architects, engineers, and professional groups. The construction market in the United States is eroding. It is getting smaller. The reason it is getting smaller is because foreign firms are open, as they should be, to come into our country and bid on contracts and take contracts. But the problem is where do our domestic firms go for relief if they cannot go to foreign countries? That is the problem, Mr. President. And it is a problem that appropriately belongs on all legislation affecting expenditures where we have Department of Defense contracts that are open to all comers, but there is no reciprocity.

The defense of the alliance depends in part on the U.S. industrial base and the help of the U.S. industrial base. If that base erodes because our businesses cannot bid on work overseas, the base upon which the alliance depends will erode. In other words, we will weaken our capability. We will not be able to contribute the strength that is apparent in our presence in Europe, the Mediterranean, the Indian Ocean, and the Pacific.

Make no mistake about it. We have somewhere between 30 and 40 ships in the Persian Gulf today—depending on whose figures you believe. We have approximately 15,000 personnel. Make no mistake about it, Mr. President. Our personnel are there to keep the oil flowing. Our personnel are in danger as evidenced by the special hazardous duty pay.

What we are saying to the world is we are prepared to have American military personnel die—die to keep the oil flowing. That is significant.

We have to be healthy, we have to have the availability of markets, and if the individual capacity of the support of the alliance is transferred overseas—in other words, if we weaken our economy to strengthen the economy of others—then our allies will no longer be able to depend upon us to provide the necessary support.

American engineering, construction, and architectural firms who have tried to do business particularly in Japan over the last 20 years have had the door basically slammed in their faces. Mr. President, they have been told in no uncertain terms that foreigners need not apply on public works projects in Japan. It is not because our firms are not competitive. On the whole, our firms are far superior in many aspects of construction and architectural technology to Japanese firms. But excellence alone has not opened the door to the Japanese construction market. The door to that market remains closed today, locked tight against foreign intrusion, as a result of closed Japanese bidding systems that exclude all but Japanese firms.

On the other hand, in the Pacific area and in the United States, Japanese firms have enjoyed free access to construction projects. To give some idea, to reflect on various activities: In Guam, at Andersen AFB we have approximately $11 million of military construction projects that have been awarded to a Japanese firm, Nippon Denwa; at our naval facility there, the contract for an ammunition wharf, $22 million, was awarded to Maeda Construction Co. Contracts on United States bases in Japan have been awarded to Japanese contractors in the amount of approximately $217 million. Only 5 percent of United States funded construction at our bases in Japan went to United States-owned firms.

Make no mistake about it: We are not talking about using labor. We are talking about our architects and construction firms being allowed to come into that country and bid. It is absolutely impossible to even process the license applications.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of contracts at United States bases in Japan, Guam, and the United States.

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

Recent U.S. Milcon awards to Japanese firms on U.S. bases in United States and United States territories:

1. Fort Wainwright, AK: Housing project estimates $14 million: Firm: Konoike Construction:

Guam:

Andersen AFB:	
Aerial warehouse	$9,600,000
Shop addition	3,500,000
Firm: Nippon Denwa naval facility: Ammunition wharf (million)	22

Firm: Maeda construction.

Contracts on U.S. bases in Japan:

In fiscal year 1986 U.S. forces awarded $217 in Milcon, operation and maintenance arch./engineer and other facilities contracts.

Aggregate of contracts:	*Million*
Milcon and O&M	$182
Services	22
Architect/engineer	13
Total	217

Only $11 million or 5 percent went to U.S.-owned firms: 50 percent of architect/engineering to U.S. firms but it is done in the United States:

Breakdown:

Army:	*Million*
Milcon and Operation and Maintenance	$92.4
Architect/Engineer	10.7
Total	103.10

Only 5.3 percent of Milcon/O&M contracts went to U.S. firms ($4.9 million).

Navy:	Million
Facility projects (O&M Navy, and Marine Corp)	$68
Family housing (repair, maintenance)	11
Facilities support contract (grounds)	22
Architects/Engineer	2
Total	103

U.S. firms do 30 percent of design, no construction:

Air Force:	
Army O&M (108 projects)	$3.45
Air Force O&M (60 projects)	1.53
Army family housing (20 proj.)	2.19
AF family housing (11 proj.)	3.14
NAF 2 projects	.05
Architecture and engineering	00
Total	10.63

No contracts to U.S. firms.

Source: DOD.

Mr. MURKOWSKI. Mr. President, we also have a rather interesting contract in my State of Alaska. Fort Wainwright, the military base, is going to be gearing up for the new 6th Light Infantry Division. We anticipate that tomorrow there will be an award by the Corps of Engineers, an estimated $14 million renovation contract to Konoike Construction of Japan. I have no objection to this process. My objection is to the realism that there is no reciprocity.

In meeting with U.S. industry representatives in Japan, they have told me that they cannot even bid on U.S. Milcon projects. The market is basically closed. Subcontractor boycotts of U.S. firms is encouraged by the general contractors. We cannot even get an opportunity to bid on U.S. funded jobs in Japan. We are stymied. Japan simply represents, if you will, the realism that there is no reciprocity available to U.S. firms.

So the significance is real: Japanese participation in the construction market in the United States is growing by leaps and bounds. Japanese participation in the U.S. construction market was measured at $50 million in 1980. Today it is $2.2 billion.

There is no doubt that U.S. markets are open, and open to Japanese and other firms. Koreans are building a jail in my State. It is a turnkey jail. It comes over and is unloaded from Korean ships, and it is put up by a Korean construction company, using American labor, which is appropriate. About the only thing we are providing are the prisoners.

We have patiently sought to try to address this issue of reciprocity. We have negotiated to get the opportunity to participate in the Kansai airport project in Osaka, and the $62 billion in other public works projects that the Japanese are going to build in the coming decade.

I have addressed this matter in Tokyo and on the floor of the U.S. Senate. I have had personal meetings with Prime Minister Nakasone, and I am confident that even the Prime Minister cannot break through the bureaucracy, because of the relationship that exists between the private sector and the middle level of Japanese Government. We have met and talked and been patient, but nothing has happened. The time has come to act. We have the opportunity to act.

I am sure some of my colleagues will argue that it does not belong, but it does belong, because these are the things that undermine the relationships between allies. We must show consistency. We have been patient, and our patience is exhausted.

I commented briefly on the issue of Alaska and the fact that a bidder is being awarded a $13 million contract at Fort Wainwright in Fairbanks, AK. There were U.S. bidders. They were not as competitive. I am not opposing that. There was a lower U.S. bidder who was thrown out on a technicality. That is as it should be. I do not question that. But the fact is that a Japanese contractor, Konoike Construction, of Osaka, Japan, is going to be the award winner.

Mr. President, in my wildest imagination I could not have concocted a more convincing example of the lack of reciprocity in engineering and construction markets between United States and Japan because Konoike is expected to perform work on the Kansai project, which is in Konoike's hometown.

What an irony; the Army is about to award $13 million contract for construction of a U.S. military base to a Japanese firm, while Kansai airport, has become synonymous with the term "foreigners need not apply."

Well, the irony is not lost on this U.S. Senator from Alaska. Fairbanks is my home town, and I think it is an outrage that a firm from Osaka would win a contract in Fairbanks, AK, a Department of Defense contract, when firms from Fairbanks or any other American town, cannot even bid on contracts in Osaka on Japanese public works projects.

That—I address this to my colleagues—affects every Member of this body. Their contractors cannot bid, either. It is time to change the situation.

This amendment to the defense authorization bill can help keep this from happening. We are going to be sending a message. You can imagine what kind of message this body is going to send if this amendment is not adopted. As I said, it is simple, and I will repeat it: If any country will not allow American firms to bid on its Government-funded projects, then its firms cannot win U.S. military construction projects in the United States. It is quid pro quo. It is very simple.

We only want to bid—bid, not be handed jobs—on their public works projects. That is all. We are saying: "Come in; continue to bid on our Department of Defense public works projects but if you do, we want to be able to bid on projects in your home market. We have the right, and we have to enforce it.

I think my colleagues will agree that we have an extraordinary amount of leverage. I am sick and tired of the Government and the administration and the State Department, to a degree, not using leverage. The leverage is the market of the United States. It is the largest market in the world. We are the largest consumer of products made in Japan, Korea, and Taiwan. That is leverage. They have to have access to our market; and if we are not consistent in reminding them again and again that they must open up their markets to us, we are never going to achieve anything.

I have had conversations from time to time on this issue, with the folks at home, the construction industry in the United States, the professional architects and engineers, and they are all fed up. They have been losing market shares domestically, and they say, "We have no place to turn but the Congress of the United States."

We have a military appropriations budget for overseas construction that is out there. Our problem is getting into the Japanese market. The first excuse that is used in the conversation is "You have no experience in the Japanese market."

We are not tying in a mandatory requirement on the Department of Defense that they have to give contracts in Japan on our bases to United States construction firms. However, it would certainly be an ideal way for the United States first to get experience overseas, if the United States firms had an opportunity to work on Department of Defense contracts. We are not talking about labor, Mr. President. When a Japanese firm comes to the United States and does a job it does not bring in Japanese labor. It uses Japanese architects, engineers, designers, contractors, and so forth. We are only asking for the same right.

So, Mr. President, I would hope that consideration would be given.

We have a very, very significant problem in this country in losing market shares. We have a national security consideration. These are important things.

In the amendment I have attempted to provide certain safeguards and it is important I think to outline that we are not tying the hands of our military.

The way the amendment would work, Mr. President, is the U.S. trade representative shall determine which foreign countries deny fair and equita-

ble market opportunities for U.S. companies seeking to participate in foreign government funded, that is, public works projects.

The USTR has already compiled an annual report on foreign trade barriers.

This amendment, would not require anything new from the USTR other than the publication of the listed nations in the Federal Register. Funds appropriated pursuant to authorization in this act shall not be used for any domestic Milcon project using foreign services from countries listed by the USTR unless the Secretary of Defense determines that, one, it would not be in the national interest; two, the services offered by U.S. firms, or firms from countries not on the USTR list, are not of a satisfactory class or quality of the services offered by firms from a list of countries, or are unavailable from U.S. firms or firms in other countries; three, The exclusion of certain foreign services would require that the project cost more than 20 percent.

So I would like to point out to my colleagues that we have looked at realism. We have looked at exceptions and we have I think constructed a responsible amendment that addresses the problems certainly as they exist as far as the issue of equity is concerned.

I am sure that my colleague from Illinois would like to comment from the particular point of view of the Department of Defense at this time. So I would reserve my remaining time to respond or answer questions or whatever.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska has 7 minutes.

Mr. DIXON. Mr. President, I will not take much time on this side regarding this amendment.

May I first, Mr. President, ask unanimous consent, totally unrelated to this amendment, to provide that no amendments in the second degree may be considered in connection with the Symms amendment which is already stacked for a vote later today?

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

Mr. DIXON. I thank the Chair.

Mr. President, I think that the Senator from Alaska has presented a very compelling case regarding his concerns about reciprocity with other countries in connection with these kinds of construction projects.

Regrettably, the Department of Defense has indicated to us that they are opposed to the adoption of this amendment on the DOD authorization bill because it is an extraneous matter relating to trade issues.

I would like to point out to my colleagues in the U.S. Senate that my warm friend, the distinguished Senator from Alaska, on an earlier occasion this year in connection with the debate on the trade bill persuaded the managers of the trade bill to take an amendment which can be found in the CONGRESSIONAL RECORD at page S8711 of the CONGRESSIONAL RECORD of June 25, of this year, which provided as follows, and it is entitled "Investigation of Barriers in Japan to Certain United States Services."

The United States Trade Representative shall immediately initiate an investigation under section 302 of the Trade Act of 1974 regarding those acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance by United States persons of architectural engineering, construction, and consulting services in Japan.

We have already adopted that amendment, Mr. President.

With all due deference to my distinguished colleague who has so eloquently expressed his concerns here, I would have to suggest that the proper place for that is in the trade bill and the proper manner to address that is in the discussions between our country and Japan in connection with those problems, and I believe that it is fair to state that our trade representative has already received the message.

Now, I understand the concerns of my friend from Alaska. But if we start putting every kind of trade concern that everyone in the U.S. Senate may have about the inconsistent practices of Japan and other countries on this DOD authorization bill we are going to have tremendous difficulties, we believe, in the conference between the two Houses.

Now, I think I am compelled to say that the amendment is extraneous to the DOD. The Trade Act of 1974 provides a means to assess unfair trade practices and provides the President the authority to retaliate. A similar provision in the pending trade bill that I have already referred to would direct the USTR to act under the authority of the Trade Act of 1974.

We have already directed the trade representative in June of this year when we adopted the distinguished Senator's amendment to act.

The Congress is inconsistent regarding open markets for DOD Milcon projects. Last year in the continuing we directed engine ocean dredging to be performed by U.S. firms unless it was 20 percent more costly. We directed all architect work for Milcon in Japan and NATO countries be performed by United States firms when the value of the contract exceeded $500,000. So we have done a lot of these things in the past.

I think it is a mistake to tolerate proliferation of this kind of conduct. So I would reluctantly suggest, Mr. President, that those of us who are managing the bill feel that this ought not to be adopted as an amendment to this bill.

I support, frankly, what the Senator from Alaska wants to do. I think he has appropriately done it in the proper manner on the trade bill in June of this year.

In view of the fact that the Department of Defense is opposed to the amendment, I feel that I would reluctantly have to offer a motion to table at the appropriate time, Mr. President. I do not want to foreclose my friend from Alaska closing on the question. I do not think there is anyone else here on this side who wants to be heard on the issue, Mr. President.

So I yield back the remainder of the time in opposition to the amendment unless my friend from Arizona wants to use it and suggest at an appropriate time, in view of my personal warm regard for the Senator from Alaska and my general support with the concept of what he is doing, but because I believe it is properly in the trade bill where he has already put it in June, at the appropriate moment I will reluctantly offer the motion to table.

I do not want to cut off the debate on his time. We withhold that unless he concludes.

Mr. MURKOWSKI. I wonder if I might direct a question to my good friend, the Senator from Illinois, who I think has certainly expressed the position of the Department of Defense and with his permission I wonder if I could pose a question?

Mr. DIXON. I am awfully sorry. May I apologize to the Senator from Alaska? My aide was talking to me about another question.

Mr. MURKOWSKI. Mr. President, I was simply referring to whether the Senator would be inclined to respond to some questions that I might bring to his attention concerning the statements he made in defense of the Department of Defense's opposition to my amendment.

Mr. DIXON. I will be glad to accommodate the Senator by attempting to answer any questions he might have. But may I caution him that I have no personal objection to what he is trying to do. My concern is I think he ought to do it on the trade bill. That is all.

Mr. MURKOWSKI. Well, if that is an affirmative answer, then I would proceed. I am pleased to have my good friend and colleague from Illinois acknowledge, from the standpoint of the psychology of my amendment, that he is supportive, and I understand his distinction.

However, I would ask my colleague if he is not aware that there is certain opposition in the administration to the trade bill and there is no necessary assurance that the trade bill will become the law of the land.

Mr. DIXON. I would have to concede that. Although I want to say to the Senator from Alaska that this Senator is a conferee on the trade bill

and I earnestly hope that we can enter into very serious discussions with the administration, and particularly with Clayton Yeutter, the Trade Representative, who I greatly admire and who I think personally would like to see a bill emerge from this session of Congress.

I really believe that in the end there will be a trade bill, because I think we can resolve our differences with the administration and ultimately produce an acceptable bill.

Mr. MURKOWSKI. I appreciate the assurance that you as a conferee are going to support the trade bill.

I wonder, as you use the argument that this particular amendment is extraneous, if you feel it is inappropriate to separate the cost of defense from our budget deficit, our trade problems? And, in fact, to separate it from the argument that I used early in my debate on the merits of the alliance concept; and the fact, that the partnership goes beyond defense, it considers fairness, equity and also the continued strength of our country; and the very fact that we are excluded, I think my colleague from Illinois would certainly agree, from certain markets while we have welcomed other countries to come into our markets quite freely.

So while perhaps the Defense Department would take the argument that this, is an extraneous matter which does not the Senator from Illinois feel, as he stated, that while USTR may have gotten the message, that perhaps our friends in Japan have not gotten the message because we see no progress? I think he would concur.

Mr. DIXON. I do not have any reason to argue with my friend from Alaska about that. I hope our friends from Japan are getting the message more and more each day about our dissatisfaction with the unfair relationship that we often experience with them on a variety of subjects, including the one that the Senator is addressing here.

I want to make it perfectly clear to him again that the fundamental equities involved in what he has discussed appeal to this Senator. Unfortunately, the Department of Defense feels that that is extraneous to this bill, and I do believe that it is more properly dealt with in trade legislation.

Mr. MURKOWSKI. I wonder if my friend from Illinois would give us his opinion on what he would anticipate the message of the defeat of this amendment would be to our friends in Japan, as they see us taking up a Department of Defense bill and then debating the merits of whether it is extraneous or not. I wonder if indeed we would not appear to have taken up a very difficult issue and decided that we are not going to press them on it or extend our requests to any action-oriented alternatives. This amendment offers that alternative.

Mr. DIXON. May I say to my friend from Alaska that I think that the point we are making here—and I hope it is very clear in the RECORD——

The PRESIDING OFFICER. Will the Senator withhold?

The Senator from Alaska's time is drawing to a close. Do you wish the Senator from Illinios to respond on your time or his time?

Mr. DIXON. The Senator from Illinois does not want to use his time. With all affection for the Senator from Alaska, we think we have devoted enough time to the subject matter on this side. I have only withheld offering a motion to table out of courtesy to my colleague, who may want to close.

The PRESIDING OFFICER. The Senator from Alaska has 2 minutes and 25 seconds remaining.

Mr. MURKOWSKI. I would appeal to the Chair. In the manner in which the questions were posed, all the time is to be charged to me? That was not my understanding, although I did not ask for a clarification.

The PRESIDING OFFICER. If the Senator from Alaska asks that time be taken from the time of the Senator from Illinois, then with a unanimous-consent request, that is possible.

Mr. MURKOWSKI. I wonder if the Senator from Illinois would be willing to share the time taken in the questions so it is not all charged to me.

The PRESIDING OFFICER. The Senator has declined that up to this point.

Mr. DIXON. I want to be very courteous, Mr. President, to my colleague from Alaska. The difficulty I have here is, I have no problem with his inherent concern, but the Department of Defense does not want to accept the amendment. I think I have made my position clear. My friend from Arizona wanted to make some comments in opposition, as well.

But I do not feel inclined unduly to extend the time on a subject matter of this kind when our concern is only that it has already been dealt with on the trade bill. And while I have no problem with the subject matter at hand, we do not think it belongs on the Department of Defense authorization bill.

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

Mr. MURKOWSKI. I wonder if my friend from Illinois would simply acknowledge my request to split the time on the questions only, which would give me about 2½ minutes.

I trust, Mr. President, this time is not running on my time.

The PRESIDING OFFICER. It is running on your time.

Mr. MURKOWSKI. I asked the question. I do not know how the Chair ruled, but it would seem inequitable that a private discussion going on should be on my time.

The PRESIDING OFFICER. Is there objection to the Senator from Alaska's request?

Mr. DIXON. I am sorry. What is the question?

The PRESIDING OFFICER. The Senator from Alaska has asked that the time that he is using wherein he is propounding questions to the Senator from Illinois be divided 50 percent on his time, 50 percent on the Senator from Alaska's time.

Mr. DIXON. If my friend from Alaska concludes his questions in 5 more minutes, I will give him five of mine.

Mr. MURKOWSKI. I have no intention of further questions. I just request that the time that we already used in questions be split equally.

Mr. DIXON. I ask unanimous consent that an additional 5 minutes be given to the Senator from Alaska for the presentation of his point of view.

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

Mr. MURKOWSKI. I thank my colleague from Illinois.

I ask unanimous consent that Senator STEVENS be added to this amendment.

The PRESIDING OFFICER. Without objection, that is the order.

The Senator has 6½ minutes time remaining.

Mr. WARNER. I would ask my good friend if he would yield me so much time as I need to say I support his position.

Mr. MURKOWSKI. I so yield.

Mr. WARNER. The managers of the bill are now looking at what the options may be in terms of a voice vote vice a rollcall vote.

I commend my distinguished colleague for bringing this to the attention of the Senate. It is a sound policy judgment, and you have my strongest support.

Mr. MURKOWSKI. I thank the senior Senator from Virginia.

If I may, Mr. President, in my remaining time, address a question that has come before this body, and that is that the Department of Defense bill is not the place to attach a trade agreement.

I have already addressed that at great length under the concept of just what alliance with our allies means. It means partnership, it means fairness, it means equity, and it extends beyond strategic and military activities. Because if we have difficulties with our relationship based on economics, it undermines——

Mr. DIXON. Mr. President, I wonder if my friend from Alaska would yield for a moment for some brief remarks by the Senator from Arizona and we may have a voice vote perhaps on this

question. I will be discussing it with the Senator from Alaska while the Senator from Arizona is talking.

Mr. MURKOWSKI. I yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President.

I just want to say that I share deeply and philosophically the intention of the Senator from Alaska's amendment here. In fact, I was proud to be a cosponsor of the amendment he placed on the trade bill which we passed not too long ago, which is now in conference.

I certainly understand his concern, particularly in the State of Alaska where there has been significant penetration by Japanese corporations. At the same time, the Japanese are about to begin construction of around an $8 billion project, an airport, the Kansai Airport, at Osaka, and the United States' participation so far has been to the tune of $1.4 million. There is clear protectionism here. There is a clear case that we are being very unfairly treated.

At the same time, I share the concerns of my distinguished colleague from Illinois as to whether or not it is appropriate to have this placed on the authorization bill.

I also have a little concern particularly about the aspect of the amendment that DOD would be precluded from contracting with construction firms of such nations for projects in U.S. territories unless the cost of alternative firms would be 20 percent greater. If it is 19 percent greater, it seems to me that we could impose a very large cost on the taxpayers.

It seems to me, and I am sure that my colleage from Alaska had very good reason for coming up with the 20-percent number—and there is historical legislative precedence for it in other bills—it still seems to me that is a pretty large number.

Let me say that I share his views that we have to do most everything we can to get back on a level playing field, which is clearly being denied us by the Japanese in these areas. I know it is a particularly sensitive issue in the State of Alaska. But I would also voice my concerns about whether it is appropriate to be placed on this bill or not.

I would suggest to my friend from Alaska that if he thinks that the trade bill will be vetoed, I can assure him that this bill is going to be vetoed if it contains the Nunn-Levin amendment.

I certainly understand his desire to have every vehicle possible in order to ensure passage, but the one thing I can also assure him of is that this bill is now a prime candidate, perhaps more so than the trade bill itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

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

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MURKOWSKI. In answer to my colleague, with regard to 20 percent, that has a precedent. That is why it was chosen.

I would like to thank my friend from Illinois for agreeing to a vote. Naturally, I have some concerns about the disposition of this bill in conference, but there it will be judged on its merits, concerning the signals we will be sending to our neighbors should this be accepted.

Let me conclude, Mr. President, by reflecting on the basic argument of the Department of Defense that this should not be in this bill. They do not feel they should carry the weight of trade on their shoulders, that we have the U.S. Trade Representative.

We are not asking the Department of Defense, Mr. President, to carry more than their fair share. We are simply asking them to do their part. The USTR cannot do it alone. We have seen that. Nor can industry. The battle against foreign trade barriers takes place on many fronts and DOD simply should not be excused from the fight.

If you have any question about how it works in other countries, one only has to observe the policies of the Japanese Government. They work all their agencies in the matter in close interaction and harmony for whatever the objective is.

I would state our objective is an honorable one. It is simply a question of reciprocity. We are not asking for an unfair advantage, but simply a level playing field. Before us we have the opportunity to send our friends a very important message.

We continue to welcome them to come in to our country with their architects and their engineers, to be competitive, to participate in bids. But give us the same opportunity.

The vast, lucrative American military construction markets will remain open to foreign firms, as it should be. But in this amendment we are saying it will remain open only as long as foreign public works projects and construction markets are opened to American firms. It is a clear and simple, compelling message that must be sent. It is appropriate that it be sent from this body. The situation is not going to get any better unless we act now.

The time, Mr. President, is right. This is the right bill. I urge adoption of the amendment. I would ask if the time is appropriate for a voice vote.

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

Does the Senator from Georgia wish to use more of his time?

Mr. NUNN. Mr. President, I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 725) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The DEPUTY PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GLENN. Mr. President, what is the pending business?

The DEPUTY PRESIDENT pro tempore. The question recurs on Amendment No. 723 of the Senator from Connecticut.

Mr. GLENN. Mr. President, I ask unanimous consent that the pending business be set aside so we might take up other amendments.

The DEPUTY PRESIDENT pro tempore. Is there objection?

The Senator from Arizona.

Mr. McCAIN. I am not sure that is the agreed-upon procedure to set aside the other amendments, Mr. President.

Mr. GLENN. Temporarily set aside with the amendments set aside taking precedence after the two amendments have been disposed of.

The DEPUTY PRESIDENT pro tempore. Is there objection to the request of the Senator from Ohio? Without objection, it is so ordered.

AMENDMENT NO. 726

(Purpose: To amend section 2634(a) of title 10, United States Code, to permit the leased vehicle of a member of the Armed Forces to be transported at Government expense in connection with a permanent change of station)

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

The DEPUTY PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 726.

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

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 15 and 16, insert the following new section:

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES.

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "is owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

Mr. GLENN. Mr. President, this amendment redresses a matter that I believe was overlooked in previous action. In fact it might even result from a change in social condition as to who leases automobiles and who does not.

What this amendment does is it authorizes military members to ship leased vehicles when they are reassigned overseas if there are otherwise rank and duty station restrictions, and some still do pertain. We do not upset those restrictions at all but where they otherwise would not be authorized to ship overseas a privately owned vehicle, then they could just as well have a leased vehicle. Senator WILSON and Senator CHILES join me in sponsoring this amendment.

Mr. President, this amendment is a result of an inquiry from a constitutent of Senator CHILES, as a matter of fact, who raised the question about why military personnel are allowed to ship only privately owned and not leased vehicles when they are reassigned overseas. Senator CHILES referred this question to me as the chairman of the Subcommittee on Manpower and Personnel of the Senate Armed Services Committee. We looked into it and found that under the current statute military members are authorized to ship only POV's—private owned vehicles. This authority does cover the vast majority of military moves. Almost everyone is covered. But we also found that there is a small though growing number of military personnel who lease instead of purchase automobiles. This is particularly true in the enlisted ranks where maybe they do not have the amount of a downpayment or do not want to take on that kind of indebtedness on a more limited pay scale and so they lease vehicles.

Now, under current statute these personnel are precluded from Government shipment of their leased vehicles. I see no reason, nor did our subcommittee see any reason, why we should not provide for these people in the same manner as those people who buy their vehicles. This amendment would provide such authority which would be further regulated by travel directives issued by the Department of Defense to ensure appropriate legal requirements are met.

Mr. President, although this amendment affects a relatively small number of military personnel, I believe it is important because it responds to a valid and a growing need.

I wish to thank Senator CHILES for his sensitivity to the needs of our military personnel and for bringing this matter to my attention.

This amendment affirms that we listen to our constituents and we take responsible action when it is appropriate. I believe this is responsible action and I urge my colleagues to support this amendment. I believe it has been cleared on both sides of the asile.

Mr. McCAIN. I ask unanimous consent to be made a cosponsor of this amendment.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise to support the amendment. Not only does this side agree with it but is very supportive of it. I think it is an important amendment. Even though, as my distinguished friend from Ohio pointed out, it may affect a small number of military personnel at this time, I do not think there is any doubt that the leasing business is one which continues to grow. I also am gratified to note that it probably affects the lowest-ranking or lower-ranking individuals in the armed services who are unable to purchase an automobile and are required to lease, and although unintentional the regulations as they are are discriminatory in nature.

I again express my appreciation to Senator GLENN and Senator WILSON for their stewardship of the Manpower and Personnel Subcommittee on which I am privileged to serve. I think this amendment is an example of their attention and concern and commitment to the morale of the men and women who are serving in the armed services, and I am pleased to support this amendment.

Mr. GLENN. I thank the distinguished Senator.

The DEPUTY PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio [Mr. GLENN].

The amendment (No. 726) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The DEPUTY PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I now ask unanimous consent that the pending amendment be laid aside so that I may offer a different amendment.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

AMENDMENT NO. 727

Purpose: To authorize the Secretary of the Air Force to enter into a real property exchange with the County of San Diego, California.

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

The DEPUTY PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 727.

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

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. . LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (and improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) REPORT.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be enterd into by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

Mr. WILSON. Mr. President, this amendment is a very simple straightforward request for authority for the Secretary of the Air Force to enter into a land exchange with the County of San Diego in the State of California for the purpose of allowing the county to gain needed acreage for the construction of additional jail facilities.

The background for this request has to do with a situation not unfamiliar to Senators all over the country. Courts have been impressing upon local governments the need to expand jail facilities or face drastic court ordered action.

The situation in San Diego County is that on February 11, 1986, the board of supervisors declared an emergency in the county because of severe overcrowding of existing jail facilities.

On September 30, 1984, there were 4,195 inmates in custody representing 1,800 or 81.2 percent over the rated capacity of the existing jail facility.

There has been a 30-percent increase in the last year alone.

What that has led to, Mr. President, is the ironic and distinctly unacceptable situation that the sheriff has been compelled to release without booking more than 1,400 arrested suspects per month due to the lack of space, and current projections indicate that 6,500 additional adult detention beds will be needed by the year 2005 based upon conservative population projections and projections as to the criminal population requiring incarceration.

So, in short, the county and the city are in desperate need of additional jail space and along with the help of the Department of Defense they have located land that could be used to construct a new detention facility. This land, consisting of 22 acres adjacent to Air Force Plant 19 within the city of San Diego, is currently being used for outside storage and parking.

The county and the city are offering land that they currently control in exchange for this property and this amendment will simply authorize the Secretary of the Air Force to enter into negotiations for the eventual exchange of this property and, furthermore, after agreement is reached, the agreement would be sent with a report back to the House and Senate Armed Services Committee. No action could be taken until 30 days had elapsed after that report.

This is the kind of thing that I think we should be encouraging where the Federal Government and the Department of Defense find that they do have property that is surplus to the immediate need and they are offered in exchange of other property that can equally as well or better discharge their requirements and at the same time put them in a position to very substantially be a good neighbor to a host of local governments involved.

I know of no objection to this legislation. I would add only one point, Mr. President.

It is critical that we act in this year because the State of California, In response to this very urgent need, has authorized funding. But unless action is taken by the county, they will not be able to avail themselves of this if they have not acted within the fiscal year.

The DEPUTY PRESIDENT pro tempore. Is there further debate on the amendment.

Mr. McCAIN. Mr. President, I rise in strong support of the amendment.

I am appreciative, for more than passing reasons, that the Senator from California—who I might remind our colleagues was once mayor of the lovely city of San Diego and has a keen appreciation for the needs of San Diego County as well as the rest of his State—is making these facilities available and he has, I think, compellingly made the case for additional facilities.

As a Senator from a neighboring State, a considerable portion of the population of my State having a tendency to migrate to San Diego during the summer months, I am of course concerned about the treatment accorded to my fellow citizens, no matter what circumstances they might find themselves when they are vacationing in San Diego.

And it is a well-known fact in the Southwest—and my friend, Senator DECONCINI will corroborate with me—that on occasion there has been scurrilous statements made and various insults made toward the citizens of my State who have been generous enough to spend a great deal of our State's income over in San Diego.

In fact, it has been to the point where, on occasion, there have been songs played over the radio stations in San Diego casting aspersions on the ability of citizens of my State to absorb the sun and certain personal traits that they might have such as littering or other problems created for the city of San Diego.

So, I hope, along with the amendment, that I can receive the assurance of my distinguished friend and colleague from California that if any of my constituents happen to find themselves as guests of this new facility which is contemplated that they can receive the kind and hospitable reception as opposed to some of the treatment they have received from time to time. Rather than the well-deserved gratitude they should have received for the enormous expenditure of Arizona money, on occasion there has been a less than grateful response from the citizens of San Diego. I hope that my friend can put to rest any concerns that I might have in that area.

Mr. WILSON. Mr. President, let me try to allay the concerns of my friend from Arizona. I see both the Senators from Arizona on the floor and they are both men of great perspicacity. It is a common characteristic of these two that they have wisely sought recreation in my home city. Indeed, I believe both are property owners there, and we are proud to claim them as part-time residents.

With respect to the other residents of Arizona, it is quite true that for many, many years San Diego has enjoyed this sort of a westward migration. It is largely seasonal, but we actually find there are residents of Arizona present in San Diego at almost all times of the year.

Indeed, some candidates for high office in Arizona have even taken to advertising in the public media of the city of San Diego. It is even rumored that one candidate for Arizona office was circulating a petition on the beaches at Mission Beach. We are delighted with the opportunity to play host to our visitors and friends.

I can simply say to my friend from Arizona that, with respect to those hopefully few instances when a criminal element is visiting from Arizona, we hope that they will be accorded humane, if firm, treatment by the local authorities and placed in facilities that I trust will be humane if not too comfortable.

I would simply say that while I am delighted to have the support of both my friends from Arizona—and I am presuming that I have that of the senior Senator as well as the junior Senator—it seems to me only fair that they should make some recompense, having stolen our water.

Mr. DECONCINI. Will the Senator from California yield?

Mr. WILSON. I just wanted to see whether you were paying attention.

Yes, I will be happy to yield.

Mr. DECONCINI. I join my colleague from Arizona in his concern about our constituents who go there.

But I happen to have had a little experience—and I am glad not on the end of breaking any criminal laws—of visiting the jails in San Diego, both the Federal one and the county and city jail there. You have a new Federal jail, or at least it is about 7 years old now.

But you do need new facilities. I think it is very important, and I com-

pliment the Senator from California, to move and get some of these things created, because you are in one of the fastest growing areas.

People from Arizona are ideal citizens, so I am not as worried as my colleague is that any of them will get picked up for anything. But I really have had firsthand experience.

As a matter of fact, I just placed a call to the district attorney there, Ed Miller, who is a friend of yours and a longtime friend of mine, not to talk about the jail, but to talk about some criminal laws that I wanted to confer with him about. He has mentioned to me on many occasions the problem the Senator from California has brought up today.

So I join my colleague and the Senator from Ohio, who I think are going to accept your amendment.

Mr. WILSON. I thank the Senator from Arizona.

Notwithstanding the levity and banter I had with the junior Senator, it is a very serious problem. And, as one of the distinguished Members of this body with great expertise in the matter of law enforcement, it does not surprise me in the least that the senior Senator from Arizona has remarked on this. It is a serious, indeed, an urgent problem. When we begin letting people go that should be behind bars, that is time, obviously, to address that question and do something about it.

Mr. GLENN. Mr. President, I certainly will not oppose the amendment. I must say I am a little taken aback at the way the debate has gone this morning.

I guarantee the distinguished Senator from California that for any Ohioans going to San Diego, we will try to make sure that they are law-abiding types so they do not need your new facilities out in San Diego.

Let me seriously address this for just a moment here. I am not familiar with the 22-acre property there, but I do know that area around the bay and that plant. that is very high priority, very valuable property. I do not know where this particular piece of land sits. It would seem to me that that would be a very high priority type real estate to be using for a facility rather than going off in a corner of the country somewhere or taking some other site. Maybe this is the best one. It is not for me to judge that.

I am not going to stand in the way of this authorization, and particularly so since the negotiation, once completed, has to come back to the Armed Services Committee for final approval. As I understand it, we have 30 days to vote on it, is that correct, if it comes back?

Mr. WILSON. That is correct.

Additionally, I would add one thing. There is in the amendment the expressed condition that if the fair market value of the property conveyed by the Government to the county of San Diego exceeds that of the fair market value of the land exchanged by the county, then the county must pay the difference to the Government, and the concern that the Senator has with respect to the value I think is thereby addressed.

Mr. GLENN. All I would ask is that the legislative history show that, when it comes back to the committee, we would want the Department of Defense to have assessed, as is included in the amendment, the activities at Department of Defense plant 19, the use of this area that is contemplated for transfer, the current use of it and any future use they might see for that area, so that we do not wind up with the Federal Government to be out of 22 acres that might be very, very valuable in the future and might be necessary for plant expansion or whatever.

As I understand also, the area there would require some redevelopment of parking and storage areas. That also should be addressed in this so that we do not end up acquiring new Federal property to provide that same kind of parking and storage area at a greater expense. Having said all that, and wanting that in the report when it comes back, I will certainly not stand in the way of this amendment. I am willing to accept the amendment. I do not want to stand in the way of whatever facilities they will see fit to construct.

Mr. WILSON. I thank my friend from Ohio, Mr. President. The concerns he has identified are also addressed in the amendment itself.

The PRESIDING OFFICER (Mr. DECONCINI). Is there further debate on the amendment? If not the question is on agreeing to the amendment.

The amendment (No. 727) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPERSONIC SLED TRACKS

Mr. WILSON. It is my understanding that the report language proposed in this year's committee report directed the Department of Defense to consolidate the test track activities of the Naval Weapons Center with those at Holloman AFB as soon as possible. It is also my understanding that no funding will be authorized beyond fiscal year 1988 for any activity at the Naval Weapons Center test track. Since the passing of our committee report it has been brought to my attention that the Naval Weapons Center operates two test tracks, one of which is similar to the track at Holloman, this is referred to as the "snort" track, and one which is very unique and utilized for high terminal and exterior ballistics testing, this track is called G-4. Is this your understanding also?

Mr. BINGAMAN. Yes; that is also my understanding.

Mr. WILSON. I would like to try to clarify the exact intent of the committee language at this time. It is my understanding that the track you were referring to was just the so-called snort track and any consolidation or funding constraints that we imposed were not to be applied against the G-4 track. Is that correct?

Mr. BINGAMAN. Yes; that is correct. It is anticipated that significant cost savings could be realized if the snort track were consolidated with the high speed test track at Holloman AFB. It was my intention to consolidate these two tracks, not disrupt the current testing that is being conducted at the G-4 track. I thank the distinguished Senator from California for bringing this to my attention, and assure you that I am totally supportive of continuing the testing being conducted on the G-4 track located at the Naval Weapons Center.

Mr. WILSON. I thank the Senator from New Mexico for his clarification.

Mr. DANFORTH. Mr. President, the Department of the Army has decided to move the engineer school now located at Fort Belvoir, VA, to Fort Leonard Wood in Missouri in order to consolidate training of both officers and enlisted personnel at the same site. Congress approved this initiative last year, and authorized three construction projects at Fort Leonard Wood, totalling $42,200,000. Construction has recently begun on these projects. The administration building and the academic facility constitute two sides of a U-shape complex that will include a third building which will house the school library. The library was requested in the Army's fiscal year 1988 construction request at a cost of $5,400,000. The Senate Armed Services Committee deferred this project. Unfortunately, the school cannot become functional until the technical library is constructed.

On behalf of myself and my colleague from Missouri, Senator BOND, I have an amendment which would rectify the situation by adding $5,400,000 to the Army's fiscal year 1988 authorization. I understand that funding has been authorized and appropriated by the House for the construction of the new Army Engineer School library.

Mr. President, I have an amendment, but if I can get the assurance of the chairman of the Armed Services Committee that in conference he will look favorably on the House position regarding the Fort Leonard Wood library, then I will not offer this amendment to the bill.

Mr. BOND. Mr. President, I just want to voice my support for my colleague from Missouri and to reiterate

the importance of the timely construction of the engineer school library. The library is essential to the move of the Fort Belvoir engineering training to Fort Leonard Wood, because without the library training cannot begin at the school. There are several thousand volumes of technical material that will be transferred to Fort Wood and without the library in place to house the material, training at the engineer school will be delayed.

Mr. NUNN. I would like to assure my friends from Missouri that I have been advised of the adverse impact which deferring construction of this facility would have on the relocation of the Army Engineer School. When we get to conference, I will work toward a favorable resolution of this matter.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

AMENDMENT NO. 728

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. NUNN, and Mr. WARNER, proposes an amendment numbered 728.

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

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

The amendment is as follows:

At the appropriate point in the bill, insert the following provision:

( ) STINGER ELECTRONIC SECURITY SYSTEM.—Of the funds appropriated pursuant to Section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

Mr. DECONCINI. Mr. President, this amendment is rather simple and straightforward, and reflects the longstanding interest of many Senators in the issue of Stinger missiles' security protection or lack thereof.

This amendment is cosponsored by the distinguished floor managers of the bill, Senator NUNN and Senator WARNER.

Mr. President, I would like to thank both Senators and their staffs for working with me and my staff on this very important matter that I have been concerned with for several years.

I would also like to take this opportunity to commend the diligent efforts of the Armed Services Committee on both sides of the aisle. There has been a long, hard struggle here. There are so many important things in this bill. Senator NUNN and Senator WARNER, with their leadership, and that of my distinguished colleague from Arizona and the distinguished Presiding Officer, have been very instrumental in writing this bill which is so important for the institution of the Senate as for the U.S. national security.

As a member of the Appropriations Committee, I thoroughly recognize the vital need for this body to authorize defense spending.

Additionally, Mr. President, this bill contains many important provisions and recommends prudent spending levels. Programs such as the Apache helicopter are strongly supported, especially in light of an impending zero-zero option between the United States and the Soviet Union, which makes conventional weapons a crucial variable in Europe. Also, this bill contains people provisions for our Armed Forces. In particular, I would like to single out the objection that the committee included in the bill to an OMB provision that initiated a test program requiring user fees for outpatient care at military hospitals by military retirees and dependents.

I have opposed this for some time. I submitted a resolution opposing it. We have 22 cosponsors, and so I am grateful to the Armed Services Committee for adopting this objection to that OMB procedure.

Now, Mr. President, the amendment that I have at the desk would direct that not less than $4 million should be available, out of existing appropriated funds pursuant to section 201(a), solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both basic and reprogrammable mircoprocessor configurations. The results of the demonstration and testing on the basic configuration for Stinger shall be summarized and reported not later than July 1, 1988, and the results for the reprogrammable microprocessor configuration not later than January 1, 1989.

Last year Congress provided $1 million to study the feasibility of developing electronic safety devices for the Stinger. As I have argued on the floor numerous times, this concern for safety measures comes directly from the possibility that Stingers could fall into the wrong hands, into the hands of terrorists, into the hands of enemies that would use them some day, God forbid, against our own forces. This is high technology as we know and there is a great proliferation of this particular weapon system today by our country.

Consequently, in following through on last year's directions from Congress, the Army did let a contract to General Dynamics, the manufacturer of the Stinger, to conduct the study. Two other companies have also initiated proposals to address the safeguarding issue. The Army has issued a contract to General Dynamics to exhibit such a requirement on the Stinger but has failed to release funds to address the need of that contract. So, that is like saying it is a good idea but we are not going to do it.

I have monitored the situation over the last year and I have been very displeased with the foot-dragging of the Army and the reluctance to move forward on what Congress directed them to do.

While I am not endorsing nor am I advocating a particular system for safeguarding the Stinger or whether or not we can devise such a system that will protect the Stinger from being disarmed if captured, I am supporting money directed at such research and such development and to test it and to see potentially if this can be properly implemented. As we have read in the press lately, the Stinger is increasingly being used to support U.S. interests all around the world. This should not eventually be used against us, and if this weapon falls into the wrong hands, I would hope that we will have a system that can disarm it remotely if necessary.

So, Mr. President, ideally the safety device improves the chances of democratic resistance efforts that are permitted to have this weapon as well as our allies who may use it in overt actions and provide us with the safety that if indeed this weapon falls into the hands of the wrong people, it might be disarmed and thereby not used against our own forces, God forbid, some day or against civilian targets.

I thank the manager of the bill, and particularly the Senator presiding, and my colleague from Arizona for considering this amendment.

Mr. McCAIN. Mr. President, I rise in support of the amendment by my good friend, Senator DECONCINI, the senior Senator from Arizona. I think it is well to note that he has been concerned about this issue for some years, and I think his concern, frankly, Mr. Presi-

dent, is very well founded. This kind of a weapon in the hands of terrorists can wreak unbelievable havoc. I am reminded of a few years ago when there was an apartment in Rome near the airport that had been occupied by terrorists, and those terrorists were in possession of a very rudamentary missile which was not nearly of the sophistication nor the capabilities of the missile about which we are talking here.

I think there is very little doubt that history shows us that over time any new weapon, no matter how carefully guarded or how careful the owner is in the dispensation of that weapon, sooner or later will come to widespread use. I see no reason why that would not be the case with the Stinger missile. This missile, as I said, in the hands of the wrong people, can cause incredible damage to the lives and property of innocent civilians.

I think it is very clear as recently as a couple nights ago from the speech of the President of Iran at the United Nations that there are people in this world who would seek to inflict damage, death, and injury to American citizens in response to either real or perceived acts on the part of the United States Government.

(Mr. DECONCINI assumed the chair.)

Mr. McCAIN. I think it is clear the paper studies indicate there are two potential technical approaches, neither of which have been demonstrated. The Army indicates and has made a strong case that there is a strong possibility additional funds and additional time—they are talking roughly of 10 months—may be required to fix one of the models of the Stinger missile. It is clear that the Army did let a contract to conduct such a study some time ago and there are concerns about an electronic safety device and the possibility of its vulnerability, but I have every confidence that these differences can be worked out between the Department of the Army and our staffs and Congress so that we can embark on this very important effort in safeguarding these missiles if they should happen to fall into the wrong hands and preventing them from being used. I strongly support this amendment. I yield the floor.

Mr. GLENN. Mr. President, I rise to support this amendment and will accept it. I would make a couple of comments in the meantime, however.

I congratulate the senior Senator from Arizona [Mr. DECONCINI] for offering this amendment. It is something that has bothered us for a long time. Can Stinger missiles that might fall out of inventory and into the wrong hands be used for purposes of terrorism or whatever? How can we stop that? That is the problem the Senator is trying to address. I might add that in the Governmental Affairs Committee, of which I chair, we have had hearings in which the Comptroller General, Mr. Boucher, has testified that we are having a lot of trouble finding the inventory numbers to match the Stingers that we now have in storage. We cannot locate all of them. If that does not chill you, I do not know what will. Because it means that some of these things may have gotten into terrorists' hands or white supremacy groups or whatever. We do not even know what organizations.

THE STINGER ELECTRONIC SAFETY DEVICES

Mr. WARNER. Mr. President, I join my friend from Arizona in cosponsoring this amendment and commend him for his diligent work and perseverance on this effort.

I share his concern over the possibility of this type of missile falling into the wrong hands and have considered the horrible consequences of terrorist use.

This amendment properly focuses the resources and efforts of the Army first on the basic Stinger, which is the model being used by those irregular forces we support. While it is encouraging to note the effectiveness with which these irregulars are using the Stinger, the concern is still there that these missiles might be captured, stolen, or otherwise fall into the hands of terrorists.

This amendment also provides funds for the development and demonstration of a safety device for the Stinger with reprogrammable microprocessor.

The Army has indicated that development and demonstration of a safety device for this Stinger configuration might require additional funds and money over and above that provided for in this amendment. Nevertheless, I agree that we should proceed with the development of a device for this configuration also.

The Army has also indicated their concern over the vulnerability of the Stinger when equipped with a safety device. Is it possible that we might undermine our own missiles with such a device?

We won't know, of course, until we build and test such devices.

This amendment properly provides for development and test of these devices. At some point in the future when we know the results of the tests provided for, then we can consider the questions of whether and how to install, retrofit, or deploy these devices.

With the terrorism that seems to be rampant around the world, we do not want to see Stingers added to that.

Having said that, I want to make absolutely certain that what we are approving today is not in any way a commitment to go ahead with installation of these devices on existing Stinger missiles. It is a study. It brings it through the development stage to see whether it works or not.

I, at the same time that I am for this, also am reminded all too well of the fact that it took us many years to make the Stinger workable, to get it up to the point where it was reliable.

When you start fussing around with systems to turn it off, we want to make absolutely certain that this cannot be back engineered by the Soviets or someone else to find ways of turning it off when we do not intend to turn it off.

There is a difference between the analog systems and the other systems. The analog or the digital system is what I am trying to say. And those require different approaches to them. We want to make certain that now we have the Stingers as a reliable missile we do not set something up that introduces a vulnerability into the system and makes it a less reliable weapon than it now is.

So I am all in favor of what the Senator is trying to do on this because it has been something that we have been concerned about for a long time. But we do have Stingers in second-party hands. Some of those may be able to even be subverted into third-party hands. We do not want to see that used for terrorism or for purposes for which we never intended when the missiles were built or were transferred to someone else.

I understand July 1 is the date by which the distinguished Senator would like to have an answer back on this. That is a very short timeframe to do something like this. I would presume a lot of work is already underway by some of these companies to see that they can meet that July 1 date.

With those comments I will accept the amendment on behalf of the majority. It will provide a demonstration and vulnerability testing without making the commitment to install them on existing Stingers until the results are available.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. DECONCINI].

The amendment (No. 728) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Chair wants to thank the managers and members of the committee for accepting the amendment.

The clerk will call the roll.

(Mr. BINGAMAN assumed the chair.)

The legislative clerk proceeded to call the roll.

Mr. McCLURE. 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. McCLURE. Mr. President, I ask unanimous consent that the distinguished junior Senator from Idaho [Mr. SYMMS] and myself be added as original cosponsors to amendment No. 721, earlier agreed to.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SYMMS AMENDMENT NO. 722

Mr. SANFORD. Mr. President, I rise to address the distinguished Senator from Idaho's amendment dealing with the Embassy treaties between this country and the Soviet Union.

It is easy for us, as Members of the Senate, to take offense at the efforts of the Soviet Union to plant surveillance devices in our new Embassy in Moscow. It is also appropriate for us to have some concern about the location of the new Soviet Embassy in this country. Certainly it sits on high ground. Certainly the conventional wisdom, if not the technical intelligence wisdom, is that the higher the ground the more you can see and the more you can hear. And so there is some cause for concern about the location of that Embassy.

But the suggestion of the Senator from Idaho that, because of those two conditions, we cancel the two treaties and start over is hardly a realistic approach.

All Members of this body share the Senator's concern for the security of our Embassy in Moscow, and more wish to cast a vote that appears to diminish their sense of outrage at this recent spying by the Soviet Union.

But there are implications here that need to be considered. And whether or not this amendment passes tonight, I would like the RECORD to reflect the fact that at some time, in conference or elsewhere, we are going to have to bring more sober thought to the consequences of canceling these two treaties.

This amendment does not require the new Embassy in Moscow to be torn down. That matter is under careful consideration by the administration, which has requested expert advice from a number of people. I am confident that the President is giving very careful thought as to what should be done about the Embassy there and the treaties.

Over the August recess I traveled to Moscow and had the opportunity to view the Embassy complex and discuss the situation with the personnel there. In light of that, I have two observations. First of all, this matter is on the President's desk. We should allow him to study the situation, make a recommendation, and then let's discuss it.

Second, we have moved 175 families into the compound in Moscow. The Soviets have moved into the living quarters of the compound at Mount Alto. At the present time, neither chancery building is occupied.

The effect of canceling these treaties would be that all of these families would have to move out. Well, what difference does it make to the Soviet Union if they have to move their people out? This does not present a large problem for the Soviet families currently living at Mount Alto. They can go to Chevy Chase, they can go on an open market to obtain their living accommodations. But in the Soviet Union, the situation is entirely different. Our people would simply be devastated. In that country, the Government controls all housing. Our people would have to take whatever accommodations the Soviet Union gave them.

I can tell you right now that the morale of the personnel of the American Embassy in the Soviet Union would plummet. If we forced all of those people who have finally found suitable living conditions, where their children can go to day schools, where they can have educational opportunities and recreational facilities, if we move them out in this kind of hasty action, the morale there will not be up to what it has to be if we are to maintain the kind of presence that we need to maintain in Moscow.

So I hope that we could leave the careful determination of this to a hearing of the Foreign Relations Committee. I think this is the kind of issue that needs to be carefully studied and decided. I hope that we do not vote hastily on a course of action that will have such drastic consequences for our people in Moscow.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. 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. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. Mr. President, I believe there is a time agreement on the amendment I am about to offer relating to underground nuclear testing. Is that correct?

The PRESIDING OFFICER. The agreement provides for a time limit on such an amendment of 2 hours equally divided.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 729

(Purpose: To impose certain limitations on underground nuclear testing)

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

The PRESIDING OFFICER. The Senator will have to obtain unanimous consent to set aside the pending amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. WIRTH, Mr. DECONCINI, Mr. PELL, Mr. STAFFORD, Mr. DANFORTH, Mr. SPECTER, Mr. MATSUNAGA, Mr. LEAHY, Mr. PROXMIRE, Mr. DASCHLE, Mr. KERRY, Mr. MITCHELL, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. CONRAD, Mr. BAUCUS, Mr. BURDICK, Mr. RIEGLE, Mr. LEVIN, Mr. MELCHER, Mr. METZENBAUM, Mr. SARBANES, Mr. SANFORD, Mr. LAUTENBERG, Mr. WEICKER, Mr. FOWLER, Mr. BUMPERS, Mr. INOUYE, Mr. ADAMS, and Mr. MOYNIHAN) proposes an amendment numbered 729.

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

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

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. UNDERGROUND NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The national interest of the United States would be served by the achievement of mutual, verifiable nuclear arms reductions with the Soviet Union and by mutual, verifiable limits on the number and yield of future underground nuclear explosions conducted by both nations.

(2) A 2-year, mutual moratorium by the United States and the Soviet Union on virtually all underground nuclear explosions above a verifiable low-yield threshold would be a crucial first step by both nations toward achieving the goals described in paragraph (1).

(3) A 2-year, mutual moratorium on underground nuclear explosions above a verifiable low-yield threshold would constitute a good faith step toward fulfilling the obligations of the United States and the Soviet Union under article VI of the Nonproliferation Treaty to pursue "effective measures relating to the cessation of the nuclear arms race at an early date" and under article I of the Limited Test Ban Treaty to seek "the permanent banning of all nuclear test ex-

plosions, including all such explosions underground."

(4) A level of weapon reliability sufficient to deter the use of nuclear stockpiles can be maintained at a greatly reduced rate and yield for underground nuclear test explosions.

(5) The task of monitoring the yields of explosions for compliance with a low-threshold moratorium can be made considerably easier by limiting test explosions to one small test area composed of strong-coupling rock, thereby allowing detection-identification of any off-site nuclear explosion, regardless of yield, to serve as sufficient evidence of violation of the moratorium.

(6) A 2-year moratorium on any underground nuclear test which has an explosive power greater than one kiloton could be verified with a high degree of confidence if the current external seismic monitoring network were supplemented by three in-country networks, each composed of four stations, deployed in the vicinity of each nation's primary test site and in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits.

(7) A joint research project between the United States and the Soviet Union to determine the number, type, and locations of additional in-country seismic monitoring stations necessary to verify long-term compliance with the limitations of a low-threshold test ban treaty would contribute significantly to the prospect of concluding such a treaty in the future.

(b) LIMITATIONS ON NUCLEAR TESTING.—(1) Subject to paragraph (2), during the 2-year period beginning 270 days after the date of the enactment of this Act, funds may not be obligated or expended by any department or agency to conduct an underground nuclear explosion—

(A) with a yield greater than one kiloton, except for two designated test explosions, each with a yield not exceeding 15 kilotons;

(B) in weak-coupling geologic media;

(C) at a location that is not part of a single designated test area; and

(D) unless a public announcement of a proposed explosion has been made at least 30 days before the date of the explosion.

(2) The restriction in paragraph (1) shall cease to apply if—

(A) after the restriction has become effective, the President certifies to Congress that the Soviet Union—

(i) has conducted an underground nuclear explosion having a joint seismic yield estimate which indicates a yield greater than one kiloton, except for two designated explosions with a joint seismic yield estimate indicating a yield not greater than 15 kilotons;

(ii) has conducted an underground nuclear explosion in weak-coupling geologic media; or

(iii) has conducted an underground nuclear explosion at a location that is not part of a single designated test area; or

(B)(i) the President certifies to Congress that the Soviet Union has refused, after the restriction has become effective, to implement reciprocal, in-country monitoring arrangements; and

(ii) Congress has enacted a joint resolution approving such certification.

(c) TERMINATION FOR CERTAIN NEW AGREEMENTS.—The restrictions on testing contained in subsection (b) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union which makes reductions in the number or yield of underground nuclear explosions permitted under treaties between the United States and the Soviet Union signed before January 1, 1987.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "designated test area" means an area not exceeding 100 square kilometers within the Soviet Union or the United States, as the case may be, which—

(A) is located within the boundaries of a single existing nuclear weapons testing site in each country;

(B) incorporates competent or water-saturated strong-coupling rock that does not contain closely spaced underground tunnels or a cavity with a radius greater than 20 meters; and

(C) has been the site, before the effective date of the testing restrictions specified in this Act, of five nuclear calibration explosions having a range of of independently determined yields, conducted for the primary purpose of improving the accuracy of seismic monitoring techniques, without the use of diagnostic equipment, except equipment for a Continuous Reflectometry for Radius versus Time Experiment (CORRTEX), or any other method of ascertaining the yield of explosions which is mutually agreeable to the United States and the Soviet Union.

(2) The term "joint seismic yield estimate" means a composite estimate at a high confidence level which—

(A) is based on the concurrent employment of several independent methods for calculating yields of explosions at designated test sites using different seismic waves from an underground nuclear explosion; and

(B) has been the subject of a technical report, provided in both classified and unclassified form to the Committees on Armed Services and on Foreign Affairs of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Armed Services and on Foreign Relations of the Senate, and the Select Committee on Intelligence of the Senate, conducted by a scientific review panel convened under the auspices of the National Academy of Sciences and comprised of ten highly qualified seismologists designated as follows:

(i) one by the Chairman of the Select Committee on Intelligence of the Senate;

(ii) one by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives;

(iii) one by the head of the Air Force Technical Applications Center;

(iv) one by the Director of the Defense Intelligence Agency;

(v) one by the Director of Central Intelligence;

(vi) one by the head of the Defense Advanced Research Projects Agency;

(vii) one jointly by the directors of the national weapons laboratories;

(viii) one by the Director of the Geological Survey;

(ix) one by the Director of the Office of Technology Assessment; and

(x) one by the President of the National Academy of Sciences.

(3) The term "reciprocal, in-country monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through—

(A) the conduct by either country of up to six on-site inspections on the national territory of the other, each of which shall be allowed to commence within 10 days after the day on which either nation has presented to the other a formal request demonstrating the need for additional information to identify a specific ambiguous event or activity related to apparent violations of the restrictions specified in subsection (b)(1);

(B) designation by each country, not later than 30 days after the date of enactment of this Act, of a candidate designated test area, followed by an independent inspection by the monitoring country, beginning not later than 60 days after the date of enactment of this Act and ending not later than 180 days after such date, of—

(i) the geologic and material properties within each candidate designated test area, including the presence and disposition of any underground tunnels and cavities; and

(ii) complete drill cores and logs from five calibration test holes of appropriate depth within each candidate designated test area, the drilling of which has been observed and the locations of which have been selected by the side monitoring that area;

(C) the provision of at least 30 days advance notice of—

(i) the scheduled date, time, depth, and coordinates for each nuclear test explosion of one kiloton or less;

(ii) the scheduled date, time, depth, and coordinates for not more than two explosions, each with a planned yield in excess of one kiloton, but not exceeding 15 kilotons; and

(iii) the coordinates, dates, times, and yields of industrial explosions larger than 20 tons of high explosive to be conducted within the nuclear test-capable areas defined in clause (D);

(D) the emplacement by each country, on the national territory of the other, of twelve high performance seismic stations (four bore-hole instrument packages sited within 1,500 kilometers of each designated test area and eight additional seismic stations in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits) such that the combined internal and external seismic monitoring network of each nation will be capable of detecting and identifying all nuclear explosions with yields exceeding one kiloton—

(i) at known nuclear weapons tests sites of the other country; and

(ii) at sites in the other country having a current capability to accommodate a decoupled nuclear explosion with a yield exceeding one kiloton; and

(E) the conduct of a joint verification study by experts on nuclear test verification techniques from both the United States and the Soviet Union for the purpose of determining the number and locations in both countries of additional in-country seismic monitoring stations needed to monitor long-term compliance with the terms of a low-yield threshold test ban treaty.

(e) SPECIAL PROCEDURES FOR CONSIDERING LEGISLATION APPROVING PRESIDENTIAL CERTIFICATION.—(1) For the purpose of expediting the consideration of a joint resolution referred to in subsection (b)(2)(B)(ii), the procedures specified in paragraph (2) of this subsection shall apply.

(2)(A) For the purposes of subsection (b)(2)(B)(ii), "joint resolution" means only a joint resolution introduced after the date on which a certification by the President under such subsection is received by Congress the matter after the resolving clause of which is as follows: "That Congress approves the certification made by the President, dated _____, with respect to the refusal

of the Soviet Union to implement reciprocal, in-country monitoring arrangements in connection with underground nuclear testing.", the blank space therein being filled with the appropriate date.

(B) A resolution described in subparagraph (A) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subparagraph (A) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(C) If the committee to which is referred a resolution described in subparagraph (A) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(D)(i) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under subparagraph (C)) from further consideration of, a resolution described in subparagraph (A), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(ii) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(iii) Immediately following the conclusion of the debate on a resolution described in subparagraph (A), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(iv) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subparagraph (A) shall be decided without debate.

(v) If, before the passage by one House of a resolution of that House described in subparagraph (A), that House receives from the other House a resolution described in subparagraph (A), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee.

(ii) With respect to a resolution described in subparagraph (A) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(vi) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subparagraph (A), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. HATFIELD. Mr. President, I have sent this amendment to the desk on behalf of the Senator from Massachusetts, Senator KENNEDY, and myself, and 32 of our colleagues.

Mr. President, 5 months ago my colleagues and I, in fact, 11 of my colleagues and I, rose on this floor to introduce legislation to impose for 2 years a mutual and verifiable moratorium on virtually all underground nuclear testing.

The legislation, the Underground Nuclear Explosion Control Act, represented the first serious attempt in the history of this body to address forthrightly the technical objections to a temporary limitation on underground testing.

Mr. INOUYE. Mr. President, will my distinguished friend yield?

Mr. HATFIELD. I am happy to yield.

The PRESIDING OFFICER. The Senator from Hawaii.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. INOUYE. Mr. President, it is my great pleasure and high honor to present to the U.S. Senate Lord Plumb, the President of the European Parliament, and a special delegation from the European Parliament visiting the United States. May we have a short recess so that Members may greet them personally?

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess for 5 minutes.

Thereupon, at 2:06 p.m., the Senate recessed until 2:11 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BINGAMAN).

The PRESIDING OFFICER. The Senator from Oregon is recognized.

(Mr. DODD assumed the chair.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with consideration of the bill.

Mr. HATFIELD. Mr. President, by addressing those objections—by incorporating reliability testing, by incorporating CORRTEX, by incorporating a specific number of seismic stations in each country—the legislation sought to get to the heart of what had been a very superficial debate in this body over the viability and indeed the advisability of a temporary limitation on underground nuclear testing.

Since we introduced the Underground Nuclear Explosions Control Act, Mr. President, 22 additional Members of this body have added their names to the list of cosponsors.

So it is that I rise today on behalf of 33 Senators to propose our legislation as an amendment to this bill.

Not only is it high time we addressed this issue, it is past time we addressed it.

Our colleagues in the House of Representatives have voted on this issue no less than three times this year—and every time they have passed a limited moratorium on underground testing by an overwhelming margin. Every time, we have remained silent. We cannot justify our silence anymore.

Mr. President, this amendment is based on that legislation passed in the House of Representatives. It cuts off funding for underground testing above 1 kiloton—not for 12 months as theirs does but for 24 months provided that the Soviets do not test. It employs seismic monitoring, and it requires that each side designate a single test site for any explosions under the 1-kiloton limit.

But our amendment goes further. It allows an exception for two nuclear warhead reliability tests on each side during the 2 years. In addition to the installation of seismic monitoring networks in each country, it requires the use of a CORRTEX device to calibrate the designated test sites. Accordingly, it allows 9 months for the implementation of the required verification and monitoring arrangements. It requires onsite inspection on demand. And it holds the administration to the intent of the moratorium by putting a check on its ability to avoid the cutoff simply by claiming that the Soviets have refused to accept adequate verification and monitoring arrangements.

Mr. President, we cannot justify our silence anymore. The time has come for a vote on the substance and on merits of a limited mutual and verifiable moratorium on underground testing.

Gone is the debate over reliability testing. By the administration's own admission, only one test in 1986 was conducted for that purpose. Included

in our amendment is an exception for two reliability tests under 15 kilotons by each side over the 2-year period.

Gone is the debate over verification. Unlike even the legislation passed in the House of Representatives, this amendment includes the administration's own steadfast requirement: The onsite calibration device commonly referred to as CORRTEX. That is, of course, in addition to the establishment of a verification network in each country including 12 high performance seismic stations, the announcement of all permitted tests 30 days in advance, and the creation of a joint research project designed to determine the number, type, and locations of additional in-country seismic monitoring stations necessary to verify long-term compliance with the limitations of a low threshold test ban treaty.

The real issue here is weapons development, weapons development that fuels the arms race and threatens the future of unborn generations and the very future of our planet. That, and that alone, is what testing is all about.

Unfortunately, however, I doubt that testing will really be the focus of our debate today. In fact, I doubt we will spend much time at all talking about testing or weapons development or reliability or verification.

My guess is that this debate will focus instead on politics. The politics of arms control, and most of all the politics of a summit.

Mr. President, the opposition to this initiative was handed some good rhetoric last week. Along with an important arms control agreement on intermediate and short range missiles came plans for a summit between President Reagan and General Secretary Gorbachev. And along with the arms control agreement came the announcement that talks would soon resume with renewed vigor on a wide variety of arms control issues including underground testing.

I fully expect the opposition to this initiative to hinge not on its merits, but on the effect it will have on our President as the superpowers move toward a summit.

Mark my words, Mr. President, it will be suggested that this is no time to "tie his hands."

It will be suggested that there is already an agreement in principle to begin discussions leading to the goal embodied in this proposal.

It will be suggested that this is no way to do business—Congress "spelling out the terms of an agreement" before an agreement has been reached.

To my colleagues, I say this: I support the President and I applaud his efforts. In the months ahead, I will do what I can to see that the proposed agreement on intermediate and short range missiles is ratified by this Senate.

But I will not accept the proposition that we must restrain ourselves from a course of action which is immediately attainable, eminently reasonable and urgently necessary.

If the administration can move faster than we can—and nothing would please me more—this amendment explicitly provides that any agreement—I repeat any agreement—negotiated by the superpowers which limits the number or yield in tests automatically terminates the force of this law—no questions asked.

Let me repeat that: Any agreement which limits the number or yield. Not down to zero, not even down to the level we seek to impose. Any limitation from current levels.

We want to do nothing more than establish the framework for a little healthy competition—in fact the healthiest possible form of competition.

We want only to send this message: Mr. President, we have worked long and hard to come up with a pretty good plan—a plan so tough in its requirements that it is not at all clear the Soviets would accept it.

But if you want to come up with another plan, Mr. President—any plan—and you can do it faster than the implementation period of this amendment—our moratorium drops out of the picture entirely. The same is true during our moratorium.

That does not constitute tying the President's hands—that does not constitute undermining the President's negotiating room. If anything, our amendment strengthens the President's hand by bringing a desperately needed sense of trust and cooperation to the bargaining table.

In addition, our amendment would give the President an opportunity to discover something we all want to know, something we all must know as negotiations proceed in Geneva on this issue: Are the Soviets serious? When they stopped testing for 19 months—a moratorium which was extended three times and finally ended last February—were they serious?

Of course, it is conceivable that the Soviets were bluffing all along. It is hard to believe that they stopped all testing for 19 months for the sake of a bluff, but maybe they did. Maybe they knew what a great public relations ploy their moratorium would become, and how bad it would make the United States look in the eyes of world public opinion. Maybe they knew all along that the administration would never go along with their moratorium and that Congress lacked the political will to force the issue.

Maybe, but so what? So that if they were bluffing? Let's call them on it. If the Soviets make one false move—if they refuse to accept the stringent verification requirements of this amendment, if they do not announce their allowed tests in advance, if they test outside their designated testing area, if they conduct more than two tests over a kiloton or anything over 15 kilotons—the deal is off.

Do we have the courage to explore whether maybe, just maybe, the Soviets were serious? Are serious?

Do we have the courage to work toward the day when arms control moves from rhetoric to reality?

In the end, that is what we are really debating. Not stockpile reliability, not verification, not negotiating room.

This is a very simple, straightforward amendment. Mr. President, I would hope that as this debate proceeds we can again keep to the crux and to the essence of this whole amendment; that is, the question of halting some way the runaway technology that is fueling the arms race. We can develop limits, caps, and numbers on existing weapons or future production of weapons.

But my colleagues, let me say that we have done nothing to really deal with the cancer of the armament problem. The cancer is technology, and are we willing to at least set some parameters on the runaway technology that has already assumed the master role over those of us who like to think of ourselves as being in control. We have become victims of our own technology. This is the time to at least take some step toward gaining some control over it.

Mr. KENNEDY addressed the Chair.

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

Mr. HATFIELD. Mr. President, I yield to the Senator from Massachusetts 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with my colleague, the Senator from Oregon, and some 32 other cosponsors in urging the Senate to accept this amendment.

Passing this legislation will create the opportunity to establish a mutual and strictly verifiable 2-year limitation on Soviet and American underground nuclear explosions above a monitoring threshold of 1 kiloton. On behalf of 32 cosponsors, today we are offering this legislation as an amendment to S.1174, the National Defense Authorization Act for fiscal year 1988-89.

Next year will mark the 25th anniversary of the Limited Test Ban Treaty, ratified by the Senate in 1963 with overwhelming bipartisan support. In article I of this treaty, the United States, the Soviet Union, and the United Kingdom pledged to continue their negotiations in order to achieve "the permanent banning of all nuclear

test explosions, including all such explosions underground."

I believe the time has come for binding legislation of limited duration that could provide the basis for a meaningful test-ban option in our future national security policy.

The Underground Nuclear Explosions Control Act of 1987 is not a "comprehensive" ban. However, it would lead to the installation of enhanced verification measures that would provide the technical data base needed to make a rational decision on whether to ban all nuclear explosions at some time in the future.

Our amendment would create the opportunity for both sides to reduce the explosive power of their nuclear tests to the lowest level consistent with effective verification and maintenance of a reliable nuclear deterrent. The amendment has many checks and safeguards built into it, and has been specifically designed to accommodate the concerns of some Senators about a complete test ban or an uninspected moratorium. This is an amendment that a majority of the Senate can endorse with confidence.

It sets up a strictly verifiable 2-year restriction on most but not all tests above 1 kiloton. If all the verification conditions are met, the restriction would take effect 9 months after enactment. This period will allow ample time to negotiate the enhanced verification measures the President is seeking for the Threshold Test Ban, measures which are already included in this amendment and which are required for the testing restriction to take effect.

Under this amendment, the Soviet Union must accept mutual onsite inspections, the installation of an incountry seismic monitoring network, and the calibration of its designated test site using the yield estimation device commonly referred to as CORRTEX or a method of equivalent accuracy.

To further assist verification, both sides will be required to announce all tests 30 days in advance and confine them to one small designated testing area. Over the 2-year period, each side will be allowed to conduct two tests that exceed the limitation, but, for the purpose of guaranteeing the "reliability" of each sides arsenal and assessing nuclear effects, these explosions are limited to 15 kilotons.

If the President negotiates a new agreement with the Soviet Union limiting nuclear tests if the Soviet Union conducts an unauthorized test, all restrictions would cease to apply.

In drafting this legislation, we have sought to satisfy concerns regarding verification and weapon reliability. We want the Senate to face the critical question: "Is it in our interest, and does it enhance international security, to slow down the nuclear weapons technology race with the U.S.S.R.?" I think the answer to that question is clearly "yes".

Sixty national church, labor, environmental, professional and arms control organizations representing millions of Americans have endorsed the Hatfield-Kennedy Nuclear Explosions Control Act. On May 19, 1987, the House of Representatives passed a similar test restriction for the second consecutive year by a vote of 234-187.

At its annual meeting in June of this year, the U.S. Conference of Mayors endorsed an immediate suspension of U.S. nuclear testing, contingent on a similar Soviet suspension of testing.

Leading authorities on seismology and nuclear weapons technology have likewise examined the provisions of this legislation and found them to be technically sound and a positive contribution to our national security.

Now, at long last, under new leadership the U.S.S.R. is challenging our preconceived notions and responding positively to U.S. requirements for effective verification. The U.S.S.R.'s willingness to respond positively to the administration's desire for improved verification of the Threshold Test Ban Treaty is only the latest in a series of Soviet concessions to United States views on the need for incountry monitoring systems and onsite inspections to verify a nuclear test ban.

But what about parallel movement in the U.S. negotiating position? What about the hopes and aspirations of millions of Americans and other citizens around the world who have marched and signed petitions and lobbied their governments for the achievement of a nuclear test ban? Are they to be disappointed yet again?

The Soviet Union has repeatedly indicated that it is willing to go far beyond the cautious agenda for nuclear testing negotiations announced last week. The U.S.S.R. has also stated that it will accept extensive and rigorous procedures for verification of a low threshold test ban. There are no remaining technical obstacles to the achievement of significant limitations on nuclear testing.

And what of the views of the more than 100 nations which are adhering to the Nuclear Nonproliferation Treaty? These nations are bound to wonder why the United States Government is willing to cooperate with the U.S.S.R. in improving verification of continued testing at 150 kilotons, while it refuses to implement verification measures which could be used to restrict tests to dramatically reduced yields.

To cast aside the present political opportunity afforded by this amendment, and by the parallel action of our House colleagues, will only deepen the cynicism already felt worldwide about the continuing failure of the nuclear weapon powers to conclude a meaningful restriction on nuclear testing. Unfortunately, the moral and political onus for failure to make progress toward a comprehensive test ban now rests with the United States. Senators should ponder the implications of that perception for our stature in the rest of the world.

The fervor often expressed in this body for intrusive verification must be matched by an equal fervor for concrete limitations. Words must be matched by deeds. The people of the world have waited 30 years for a nuclear test ban. Under the present negotiating agenda, they could wait another 30 years. In fact, unless we act today, they could wait forever.

Now is the time—not next year or in 10 years or some time in the next century—but now is the time to tell the world that the American people want real progress in the effort to end nuclear testing. I urge my colleagues to join with the cosponsors of this amendment in taking this important step toward strategic stability and a safer world.

In the time that remains, I wonder if I could inquire of my good friend from Oregon: Does the Senator from Oregon recall that in 1984 and 1986 the Senate went on record overwhelmingly—on June 20, 1984, by a vote of 77 to 22, in favor of resuming negotiations on a comprehensive test ban, and again in 1986 the Senate, in a bipartisan way, voted overwhelmingly for a similar proposal? We have seen the Senate take action in 1984 and 1986. The House of Representatives has also taken strong action on this issue on three different occasions.

I am sure that the Senator, as a prime supporter of both of those resolutions, recalls both the debate and the overwhelming bipartisan support for them at that time.

I would be interested whether the Senator from Oregon would agree with me that this legislation is consistent with the current negotiations that have been proposed by the administration; that there is no inconsistency between this particular amendment and the prospective negotiations; that we are basically heading in the same direction, at least in the first instance, and that is, to establish a reliable and foolproof system of verification.

What we are saying is this: If the Senate is willing to authorize funding for underground tests, which this particular bill does, we also have an important responsibility. Given the way in which Congress has voted in the past and the fact that we are committed as a country by the terms of the partial test ban treaty and the nuclear nonproliferation treaty, it is time for us finally to make progress in the area of banning nuclear tests. This amendment is consistent with steps we have taken in the past and is also consistent

with what the administration has said would be the thrust of the negotiations in Geneva.

Mr. HATFIELD. I am happy to respond to the Senator from Massachusetts.

He is correct. This subject has been before the body for a number of years. In fact, the Senator from Massachusetts has been in the trenches on this issue, been the leader on that issue, on each and every occasion.

We have been down this path. We have analyzed the opposition. As we prepared this amendment, we went over it point by point. We went over it from the standpoint of opposition and of the administration to those previous efforts. We went over why they raised certain objections and how those objections were reflected in the debate on the floor by those who did not support our proposals. We have met every one of those objections with the present wording of the amendment.

There was always this question: Is it unilateral? Contrary to some of the information that has been disseminated about this amendment; there is nothing unilateral about this proposal. We are not doing one thing and saying the Russians are free to do something different. We are relying fundamentally upon a verification system in this, the absence of which was objected to in the previous debates we have had. We have specified the verification systems, we have increased the verification systems, both with seismic stations as well as with CORRTEX and with onsite inspection.

Then there was always the issue of reliability. We have provided for the tests for reliability. In fact, we have made it "for reliability or any other purpose" we need to test—one for each year.

Then some people worried: What would happen if we depend on the Soviets' good will. That is not true of this amendment. There again, poor homework. If people read this amendment, they would know there is a period for implementation, that we are not committed to anything during the implementation period. If the Soviets do not implement, we do not implement.

As the Senator recalls in the past debates, the opposition always seems to be floating around some kind of new ideas about why a limitation on testing is objectionable. It's never the right time but there is always a right time to add moneys to increase the proposed programs.

So, again, today we are going to have a lot of clatter. It is unilateral, puts us at a disadvantage. We are going to lose all our scientists. Those claims simply are not true. Again I say that people ought to read the amendment and not base therein conclusion on past debates, on past proposals.

The Senator from Massachusetts very effectively laid the groundwork. Today, we are talking about a new circumstance, a new environment, a new proposal. It is one that makes good sense. Even though personally I would like not to see any testing, we have accommodated those of our colleagues who objected to the past proposals the Senator introduced. And we have a new proposal that I think deserves reconsideration.

Mr. KENNEDY. The Senator has expressed it very well, I think, the steps that have been taken by those who have developed this amendment to meet and address criticisms or reservations that some Senators have expressed in the past about limitations on nuclear testing, particularly in the areas of verification and reliability. We have dealt with those concerns in this amendment.

Finally, would the Senator agree with me that every President since 1952—with the exception of the current administration—has endorsed the concept of negotiating limitations on nuclear tests with the Soviets. President Eisenhower favored it. President Kennedy favored it. President Johnson favored it. President Nixon favored it. President Ford favored it. President Carter favored it.

Every President has supported the idea of comprehensive ban on nuclear tests and every President has taken steps to advance that objective, except this President.

I am mindful of the extraordinary progress that was made during the Carter administration. Even when that administration abandoned the SALT II agreement, it continued negotiations in Geneva with the United Kingdom and the Soviet Union to achieve a comprehensive test ban.

Those negotiations made enormous progress. They came within an eyelash of being concluded.

At that time, it was much more difficult to get accommodation in verification, but even then, substantial progress was made.

We as a country are being challenged to come to grips with one of the most important problems in the nuclear arms race, not only for our country but for people throughout the world. We are being challenged to reverse course. This amendment provides a positive response, a way of telling the world that the American people also want to limit nuclear explosions.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield.

Mr. HATFIELD. The Senator has given an overview of the efforts of many Presidents to reach this particular thing. I think the Senator by modesty probably failed in his overview to recognize that there was only one President out of the last 25 years who really achieved a limitation in space in a ratified treaty. It was not the lack of interest that the Senator has indicated but I think there again it is the fact that there is only one President; namely, President Kennedy, who had achieved that.

I think, though, in 25 years it is about time to mark up another achievement and this does give us that opportunity.

Mr. KENNEDY. I thank the Senator.

I yield back whatever time remains.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, we have 5 or 6 Members who will oppose this and they will be recognized in short order.

I start out yielding myself what time I might need to open the opposition in the debate on the amendment before us.

First, I want to say, Mr. President, that I commend Senator HATFIELD and Senator KENNEDY for what I think is a very reasonable amendment and for their work in this whole area of nuclear testing, and I have listened with great interest to their opening comments on the amendment before us.

Last week's announcement that the United States and the Soviet Union will begin negotiations on nuclear testing is certainly ample evidence that the Senators have been successful in focusing international attention on the issue of testing which I think we all applaud.

The Reagan administration should give careful consideration and study to the provisions of the Kennedy-Hatfield moratorium as it formulates its position on the upcoming negotiations with the Soviets.

The comprehensive verification provision merits particular attention in the view of this Senator.

This proposal makes an important distinction between testing required to maintain the reliability of our nuclear stockpile and testing to develop new nuclear weapons, and I salute them also for that part of their amendment.

However, there are aspects of this proposal that I cannot support at this time.

To institute a 2-year moratorium with only 9 months' notice and to allow only two tests of significant kilotonnage is in my opinion to demand too much too soon.

I would suggest to the Senate and to the Senators supporting this amendment that in the report that accompanied this bill the Armed Services Committee mandates that the Department of Energy study the ramifications for the nuclear stockpile of further testing restrictions. This is the most appropriate and prudent action that the Congress can take as the United Sates prepares to negotiate with the Soviet Union on nuclear testing.

Mr. President, I do not think, as has been anticipated in the opening remarks by the proponents of this amendment, that the passage of this would tie the President's hand. I think that would be a gross overstatement because I do not believe that it would necessarily tie the President's hand.

But my objection to it, nevertheless, may fall into the same category of people who would make a statement to that effect.

I simply say that and I have to be careful when I say things today because everyone is accused of plagiarism today and I suspect that I have not said a lot of unique, and outstanding things in my life, but to give Orson Wells credit in the television commercial that is running now promoting a certain wine Orson Wells simply says that "Our company never sells a wine before its time."

And I think someone else said one time and I do read from time to time that "Everything in its own time."

I emphasize, Mr. President, that is not an original statement by the Senator from Nebraska. I do not know who said it, but I think someone else did previously.

I simply want to try and put this in perspective that this is not a bad amendment. I started out by saying that I thought even the amendment had a lot of merit. I simply say with the announcement last week that the United States and the Soviet Union were going into negotiations on this very subject that this is not the time for us to pass this type of an amendment, however worthy it be in the long run.

Just for the record, I would like to read briefly the joint statement that was put out by the Soviet Union and the United States when they announced last week that they were going into negotiations on the matter at hand. I quote from the United States-Soviet joint statement:

U.S. and Soviet sides have agreed to begin before Dec. 1, 1987 full-scale, stage by stage negotiations which will be conducted in a single forum. In these negotiations, the sides as a first step will agree on effective verification measures threshold which will make it possible to ratify the U.S.-U.S.S.R. TTBT of 1974 and PNET of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete succession of nuclear testing as part of an effective disarmament process. This process, among other things, would pursue, as the first priority, the goal of the reduction of nuclear weapons and, ultimately, their elimination. For the purpose of the elaboration of improved verification measures for the U.S.-U.S.S.R. treaties of 1974 and 1976, the sides intend to design and conduct joint verification experiments at each others test sites. These verification measures will, to the extent appropriate, be used in further nuclear test limitation agreements which may subsequently be reached.

That is the end of the quote.

I would simply say, Mr. President, that given the movement that is going on very positively in this area today, and I give full credit for the role that they have played in bringing this about to both the Senator from Massachusetts and the Senator from Oregon and the other cosponsors of this amendment, I simply say that I know you are well-intentioned. If conditions were different than what I just outlined, I might well be a cosponsor of their amendment.

I just think it is the wrong time to pursue this despite the fact that it has great merit.

Mr. HATFIELD. Will the Senator yield for a question on my time?

Mr. EXON. I am glad to yield for a question on his time.

Mr. HATFIELD. The Senator raised two points in the earlier part of his remarks, one relating to the adequacy—or possible inadequacy—of the number of reliability tests permitted under this amendment.

Let me say for the record that within the last decade we conducted an average of about one reliability test a year. We based our formula in this amendment on that precedent. If the Senator thinks more reliability tests would be required, that could certainly be the subject of possible negotiation. But I did want the Senator to know we did not just pull the idea of one a year out of the air, but instead based it on the background and experience of the Department of Energy.

The second point the Senator made was on the question of the time for implementation. He suggested that 9 months might not be long enough. Again, I would entertain—and I am sure Senator KENNEDY and others would entertain—a figure that might satisfy the Senator. I might ask: What would be more in keeping with what he feels would be an adequate time?

In other words, what I am really saying to the Senator is that we appreciate the kind remarks and the analysis of the Senator. I think the Senator has pointed out, really more eloquently than either one of us could do, the fact that we have a totally new proposal before the body. The Senator from Nebraska has demonstrated his understanding of that by pointing out the specifics, and I appreciate that.

I would also like to indicate that this has been a composite amendment, born out of the composite thinking of many people. Some of those people voted against Senator KENNEDY's prior proposal and others cosponsored it. In the end, we worked out the corrtex question, we worked out the seismic stations. Maybe there are not enough seismic stations. So we are not locked into that. But my point to the Senator is that this may be the time when we meld our thinking on this subject. This can be the time when this body can take a stand, can take a position. My point is that I am willing to talk.

I would urge the Senator to review his point about the timing of this amendment. I think sometimes that we do not credit foreign governments and leaders of foreign governments with the depth of understanding and knowledge of our political system that they really have.

I am sure that anybody who has reached a position as head of state in Europe today has read European-American history and realize that a well-intentioned President went to Versailles after World War I. In good faith and with great idealism and with popular support, he negotiated a treaty. And yet the U.S. Senate never did ratify or approve that treaty, never did ratify the provisions of the League of Nations. Foreign leaders know very well that there is a most important role the U.S. Senate plays in any kind of an agreement a President may make abroad.

I am sure Mr. Gorbachev knows now that whatever he finalizes with a signature with President Reagan, we, the Senate, are going to have to ratify it. Therefore, it seems to me this is a excellent time for this kind of amendment, for this kind of initiative. It does not put the United States at a disadvantage, but instead puts everybody on an equal plane. No, let me take that back if the President is serious about negotiating limitations on testing, this provides strength for the President's hand. He can say to Mr. Gorbachev, "Look, we have here on record the U.S. Senate saying we want some kind of limitations on this. When we agree to something, I have good expectation to go home and get it supported. I can go home and not have to take the same chance President Wilson took."

So I think, frankly, I say to the Senator, this may be the best time, not the worst.

Mr. REID. Will the Senator from Nebraska yield?

Mr. EXON. For a question?

Mr. REID. No; for a statement.

Mr. EXON. I will be happy to yield to my friend from Nevada. He was next on the list.

I am going to take a few minutes off of our time to respond to what my friend from Oregon just said.

Once again, I find that I am not in direct opposition to what the Senator has said. Once again, I say to the Senator that the timing is simply not right. I have quoted Orson Wells, so I will not quote him again. That is my main objection to this amendment.

I will say, though, that with regard to the 9 months—and that is a very legitimate question that you brought up—my question is not just the length of time—9 months, 10 months, 6 months, 18 months.

I think that this is going to be one of the most difficult negotiating processes that we are going to have with the Soviet Union, because the reliability tests that we go to on an average basis does not necessarily mean that you will not need more or less tests in the future. The point is that a single problem that may be discovered in our nuclear deterrent may take one, two, three, five, six, or more tests to solve. If nothing is wrong, if nothing is amiss, then an extremely limited number of tests could be in order.

But the time element has to do with a combination of time, the number of tests that are necessary, and, of course, the yield. And all of these things have something to do with what we can expect to work out. I simply feel that it would be better at this time to leave that off to a later date.

I yield 20 minutes to the Senator from Nevada.

Mr. REID. I appreciate the manager of the bill's yielding the time.

Mr. President, we have before this body an amendment to a bill relating to the defense of this Nation. It is offered and supported by men and women of sincere conviction who are rightly and justly concerned about the terror of nuclear arms. But valid and sincere as are their concerns, the amendment they offer is, at best, wrong and counterproductive.

The past week may have been one of historic proportion. It is possible that Secretary Schultz and Foreign Minister Shevardnadze have cleared the final hurdles on the road to a treaty banning intermediate range ballistic missiles. If those obstacles have indeed been overcome, it is indeed a time for celebration. I see no need, however, to celebrate that occasion by legislatively abandoning America's ramparts or of hauling down the flag on our fortifications as a gesture of good will.

What is proposed to this body is a moratorium on the testing of most weapons, at the same time our Nation has hammered out a rational beginning in the process of creating a verifiable and acceptable procedure by which tests would be banned when weapons were abandoned.

There are apparently among us, at least some who believe that it is safe to rely upon the good will of the coalition against which we have armed and occasionally fought these 40 years past. While I am pleased, and indeed anxious, to test the willingness of the Warsaw Pact to negotiate and abide by arms control limitation treaties, I am most certainly not about to presume that the word is father to the deed.

The trouble with such negotiations, of course, is that they are long, slow, and laborious. By their attention to minute detail and in their seemingly interminable haggling over apparently endless issues, they cut against the grain of the American character.

We prefer the quick, straightforward, and simple solution; the handshake of the old West, where a man's word was his honor.

The Soviets, on the other hand, Mr. President, are hardened and experienced negotiators. They have come to the table, I believe, in large part because of the strategic defense initiative. They may well bargain to the point of peace, if they believe it in their own best interest.

If, however, we eliminate the reason for the Eastern bloc to negotiate, I can assure you they will take what we give and ask for more. The bear can be trained, Mr. President, but he is always hungry.

What my friends most sincerely offer is what they believe to be an easy solution. Unilaterally ban testing they say, and the Soviets will follow. Indeed, they may, for it is unquestionably in the military interest of the U.S.S.R. to see nuclear research in this Nation screech to a halt.

At this point our Nation and our allies, are outnumbered in central Europe in tanks, artillery, troops, and aircraft. Those weapons of war and mass destruction, including chemical munitions, would kill our young men and women in any conflict as sure as any nuclear bomb or missile.

We have an opportunity, a unique opportunity to put the world on the path to reduction of weaponry of all types. We may, if we are careful and persistent, place this globe on a road to that point where swords are indeed beaten into plowshares, and where when the lion lies down with the lamb the result is not always lamb chops.

The route, however, as history teaches us is neither easy nor quick. We cannot abandon our commitment to the defense of freedom; we cannot turn aside from the one policy we have developed which has finally convinced the Soviets it is in their best interests to negotiate.

Mr. President, the testing of nuclear weapons is vital to the defense of this Nation; it is a keystone in the policy which finally brought the Warsaw Pact to a serious bargaining position.

Mr. President, in the House of Representatives I supported a nuclear weapons freeze. The problem is nuclear weapons, not nuclear testing.

The use of nuclear weapons is a horrible thought. It is that horror which has maintained the peace; it may be that horror which in the end causes the abandonment of war as an instrument of national policy, at least among those nations whose power is capable of world destruction.

As long, however, as we rely upon those weapons to keep the peace, we must test them to maintain an effective and credible deterrence posture. We need to know that the weapons in our arsenal are safe and reliable. We need to know that they may survive any attack. We need to know their effect on our equipment and that of the enemy. It has been that testing program, which by creating smaller, more accurate and more efficient weapons, has enabled us already to substantially reduce the size of our nuclear arsenal.

Perhaps as importantly, we also need to test to know the future. We test those weapons to verify computer modeling, maintain scientific vitality, and to avoid technological surprises.

Finally, testing of nuclear weapons is directly related to the strategic defense initiative. As many of my colleagues know, I speak up when I believe the administration is in error. I also make it known when I believe they are correct.

When President Reagan proposed the strategic defense initiative I said I would support it. I did so because I believed we had the technological capability to create a situation in which the Soviets were forced to the bargaining table. I believe that policy is succeeding.

We all know, we have repeatedly seen, that the U.S.S.R. is terrified of SDI. They want to end it, and end it perhaps they will. But let the Russians end our defense initiative, only as part of a comprehensive program which eliminates the very threat against which SDI is designed to defend. That is the promise of our research, and of the massive amounts already spent, and it is promise which is bearing fruit.

We have just voted to reduce SDI to a figure which we will negotiate later with the House, but a figure which we hope can retain its vitality and viability as an effective tool in the search for peace.

That vote sends enough of a message to the Soviets that we are willing to search for peace. Without nuclear testing, however, SDI will cease to exist. It is simply inexcusable to abandon at this time the very means we have developed to create a realistic and acceptable end to the threat of war on this planet, and this body has already declined to do so.

We must remember, Mr. President, that we are dealing at the Nation's test site with highly complex scientific operations, which involve literally hundreds of scientists and engineers and thousands of highly skilled technicians. You neither create nor deactivate such a facility with the wave of some magic wand.

This amendment says that we could begin testing again if the Soviets continue their present weapons testing program, or if, in fact, they stopped and began again. Considering that their last test was on September 18, that seems a very great likelihood.

Mr. President, we have heard a lot of talk here about what Presidents have said and what they have done, but I would like to quote verbatim from an address given by President John F. Kennedy, on March 2, 1962. This is an excerpt from that address.

We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the future, nor can large technical laboratories be kept fully alert on a standby basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient. We have explored this alterntive thoroughly and found it impossible of execution.

Mr. President, the Soviet Union for 19 months said that they were not going to test and they did not test, but they were doing the same thing they had done from 1959 until 1962. They were doing their tunneling, preparing their instrumentation, and everything else necessary to get the tests ready for firing.

In period following the expiration of their self-imposed moratorium, they have conducted 17 tests. We conducted only nine tests during that period.

It is my opinion, and I think that of the scientific community generally, that there is no way to prevent or detect the tunneling and installation of instrumentation. They simply are going to get ready. In our free society, you cannot emulate that deception and nothing in the proposed legislation, indeed, nothing we can do, will resolve that problem.

Again, as President Kennedy said, "This is not merely difficult or inconvenient. We have explored this alternative thoroughly and found it impossible of execution."

I would further submit, Mr. President, that there has been a general desire of all Presidents to do something about the nuclear arms race. No President, however, wanted it done by legislation. They wanted it done by treaty. That is the route to take. It can be a more deliberate and more thoughtful process, and certainly then can be brought to the Senate for our review. That is the constitutional process.

In any case, Mr. President, the proposition is simply impractical. There is no commitment from the Soviets in this amendment. There is no enforceable agreement that they close their test facilities and retrain or transfer their staff. There is nothing to prevent a Soviet cessation of testing only until all facilities are completely disrupted, and then a rapid resumption by them of a testing program.

The United States, Mr. President, is not a totalitarian society. If we close down operations at the test site it will take a very long time before we can retrain and retain the scientists, engineers, and skilled technicians who perform jobs so vital to our national defense. The Soviets can go on as they did in the period 1959-60.

Mr. President, before I close I would like to point out to my distinguished friend from Oregon that when he introduced S. 1106, the basis of this amendment, he said:

This legislation will not end the arms race nor will it insure our future commitment to arms control. What it will do is offer us all—the Soviets, the Americans, and the literally billions of people in between who are now held hostage to the insanity of this arms race—a glimmer of hope that maybe tomorrow begins today.

In short, Mr. President, this amendment is offered only for its symbolic value. My colleagues must know that this is not a time for symbols. We have finally begun a rational approach to reducing nuclear arms. This is not the time to undercut the administration or its negotiators.

The administration has committed itself to negotiations which are aimed at a reduction in strategic nuclear weapons. Reduction in that arsenal may well reduce the need for testing. It is certainly the only rational reason for doing so.

Mr. President, we have before us two treaties which limit the testing of nuclear weapons at realistic limits acceptable to our national security. If this body is serious in its concern, those treaties could be quickly ratified. Rather than debating meaningless and counter-productive symbols, let's get on with the serious work of uniting to end the nuclear arms race.

Mr. President, there are, as Thomas Paine has told us, times that try men's souls. When Paine spoke of the summer soldier and the sunshine patriot, he looked to those who shrank from confrontation in times of crisis. He had, however, some advice for all of us in such circumstances.

"What we obtain too cheap, we esteem too lightly;" he said. " 'tis dearness only that gives everything its value."

The proposal before this body is one which on its face must appeal to those who seek a cheap and easy solution to the threat which confronts the world. If we have learned any lesson from history my friends, it is that in the search for a true and lasting peace, we must negotiate from strength, not from weakness, or the only peace this world will ever find will be the desperate peace of the vanquished, or the peace one finds in the silence of the grave.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, on our time I thank my colleague from Nevada. I compliment him on his fine statement.

I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. BOND. I thank the Senator.

Mr. President, I rise in opposition to this amendment.

I understand the goal of my colleagues who are supporting this measure—they want to reduce the likelihood of nuclear war. That is a laudable goal and one we all share. But a unilateral congressionally mandated test ban is the wrong way to pursue that goal.

Proponents of a test ban say that it will reduce the risk of nuclear war because it will keep the United States and the Soviet Union from developing new types of nuclear weapons. They further state that if the two countries are unable to monitor the reliability of their weapons, they will be less likely to rely on those weapons for a first strike. I must disagree with both of these propositions. First, over the years testing has allowed us to reduce greatly the size of our nuclear warheads and thus the potential overall size of our nuclear stockpile. Second, reducing the reliability of our nuclear deterrent will only serve to increase the unknown factors which could lead to nuclear war. If a country is unsure whether it can rely on its nuclear weapons, it may feel the need to use them in situations where it would not consider that use if it were more certain of their reliability.

Furthermore, at the current time a testing ban is not the top item of the agenda of our arms negotiators. They are trying to conclude an agreement to eliminate intermediate-range nuclear missiles. Completing the INF agreement should remain our top priority for the immediate future. A test ban treaty may very well be a laudable goal at some point, but it does nothing to reduce the threat posed by any of the thousands of warheads already in existence.

Mr. President, despite my concern that a test ban should not be our top arms control priority at this time, I oppose this amendment for another reason. I oppose it because it is not the role of the U.S. Congress to impose on the President unilateral conditions for negotiating arms control agreements. Especially at a time like the present when he is attempting to finalize the terms of a new arms control treaty with the Soviet Union.

The Constitution provides that the President shall negotiate treaties with other governments and the Senate shall either approve or disapprove those treaties. I believe the Senate

should stick to its role of ratifying treaties and leave the negotiating of terms to the President. Our negotiators in Geneva have their hands full dealing with the Soviets. They do not need an additional adversary—the U.S. Congress—sitting at the table and limiting their negotiating options.

Last week the State Department announced that prior to December 1 of this year United States and Soviet negotiators will begin a new round of talks on limiting nuclear tests. How can we in the Congress enact a provision that will tie the hands of our negotiators just as they are beginning a new round of talks?

There are other problems with this amendment as well. Because the test ban which it establishes is not the result of give and take between our Government and the Soviet Government, it does not take into account other related issues which at the least should be considered before we enact testing limits. For example, under an extended test ban, the reliability of our nuclear weapons would surely deteriorate, making us more vulnerable to the Soviet's superiority in conventional forces. When agreements are negotiated between nations rather than being imposed by Congress, details such as these can be addressed between the parties.

Another problem raised by this amendment is that it establishes a temporary moratorium on testing. By definition it will end unless some additional moratorium is negotiated or imposed.

History has shown us all too clearly that the Soviets have a great advantage over the United States during testing moratoriums. In our free society we cannot keep our testing laboratories running and keep our scientists on the payroll until their services are needed again. Talented physicists are not going to put their careers and research on hold on the chance that someday they may have the opportunity to resume their work. Instead they will go into other fields. This is not true for the Soviets. They can keep their Government labs open and they can keep their scientists working, preparing for the next set of tests. We know that they can do this because they have done so in the past.

In the fall of 1961, when the Soviets broke out of the 2½-year-old testing moratorium, they did so with a series of more than 40 tests—the most extensive series of tests ever conducted. They could not have done so if they had not kept their scientists working, preparing for the tests for several years. The United States on the other hand was not able to maintain its readiness to test and for that reason it was many months before we were even able to conduct our first test. As President Kennedy put it:

> * * * In a society of free choice, we cannot keep top-flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the undefined future. Nor can large technical laboratories be kept fully alert on a stand-by basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient—we have explored this alternative thoroughly, and found it impossible of execution.

Similarly, earlier this year when the Soviets end their unilateral moratorium on testing, they began what has developed into a major series of tests—far in excess of the tests the United States is currently conducting. It is difficult to believe that the Soviets were not preparing these tests during the time that it claimed to have given up the testing of nuclear weapons.

A final concern that I have regarding the proposal before us is that we lack the ability to verify it. The measure sets forth detailed provisions for verifying the proposed ban on testing. Yet many experts believe that they are not adequate to meet the need. The proposal would limit most testing to 1 kiloton—a level at which we cannot accurately assess the difference between a nuclear detonation, an earthquake or other seismic activity. If we do enter into a testing agreement with the Soviets, we must be sure that it sets forth stringent, high confidence verifiability provisions.

Furthermore, the proposal would limit testing to one designated national testing site. This would create additional verification problems because we would have no way of ensuring that the Soviets will confine their testing to their designated site. The Soviet Union is a massive nation—with huge unpopulated spaces. If the Soviets were to conduct tests outside the designated test site we would be hard pressed to be able to monitor them.

Mr. President, we have learned over the past several years that unfortunately the Soviets do not always live up to their arms control commitments. The list of treaties the Soviets have violated is extensive. In his most recent report to Congress on Soviet noncompliance with arms control agreements, the President listed many such violations including past suspected violations of the Limited Test Ban Treaty.

With this dismal record of compliance, it is critical that we ensure that any new arms control agreement with the Soviets provide for enforceable verification. The proposed amendment fails to meet this requirement. As President Kennedy said in the same speech I referenced earlier:

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium.

Mr. President, as I have stated, I believe the proposed amendment is not in the best interest of our Nation's security. It is a mistake for the Congress to attempt to usurp the President's constitutional authority by legislating the terms of arms control agreements. It is especially wrong to do so just as the President appears near to finalizing an agreement on an arms control measure. For these reasons I plan to oppose this amendment and I urge my colleagues to do the same.

I yield the floor. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The time is presently under the control of Senator HATFIELD and Senator EXON.

Mr. HATFIELD. I yield whatever time the Senator desires.

Mr. KENNEDY. Five minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

ON PRESIDENTIAL AUTHORITY AND ROLE OF THE SENATE

Mr. KENNEDY. Mr. President, opponents of this amendment argue that it represents an unwarranted intrusion into Presidential authority to conduct test ban negotiations. Once again we hear the refrain that it would "tie his hands" at the negotiating table.

But as my able colleague from Georgia noted the other day, the Constitution does not assign the Senate the decorative role of a "potted plant" when it comes to determining foreign and defense policies. Just as this body has done for the conduct of SDI tests, placing certain conditions on the expenditure of funds for underground nuclear tests is an entirely legitimate exercise of the legislative powers assigned to the Senate under the Constitution.

Under the terms of this amendment, any further restrictions would not take effect until 9 months following the date of enactment of this bill. This would provide the President with considerable time in which to negotiate a new agreement limiting nuclear tests.

The amendment also provides that any agreement negotiated before or during the 2-year period which reduces the number or yield of nuclear tests would automatically replace the restrictions in this amendment.

Given that the restrictions in this amendment expire in 2 years, the Soviets would have a strong incentive to negotiate in good faith lest they lose both the temporary restriction and the chance for a long-term agreement.

ON INTERFERENCE WITH THE CURRENT NEGOTIATIONS

We also hear the argument that we should set aside this amendment because the Soviet Union and the United States are now engaged in bilateral negotiations on nuclear testing, beginning with verification improvements to the Threshold Test Ban Treaty and then proceeding at some unspecified

future date to unspecified further restrictions on nuclear tests, which in turn are said to be dependent on further reductions in nuclear weapons.

Let us be forthright on this matter. This amounts to negotiations on a test ban thrice removed.

Every Senator in this Chamber knows that the recent change in the nominal status of the test ban talks—from informal technical discussions to formal negotiations—has come about only as a response to strong congressional pressure. Every Senator in this Chamber also knows that for nearly 7 years, this administration has opposed the negotiation of any meaningful restriction on nuclear tests, and continues to oppose such restrictions.

Does any member of this body really believe that this administration is now seriously going to pursue a test ban simply because it has obtained the Soviet Union's assent to renaming the talks? The Soviets have their own long-term political reasons for wanting to appear flexible and forthcoming in their dealings with this administration.

But does this mean that those who believe in the importance of a nuclear test ban should fold up their tents and go home, just because the Soviets have decided in the near term to make a political accommodation to this administration's verification concerns?

In almost 7 years, this administration has accomplished precisely nothing in the area of limited nuclear tests. Now, in the 15 months remaining to it, the administration will be lucky to produce a protocol improving the accuracy of yield estimates for Soviet tests near the 150 kiloton threshold.

Given that the charges of Soviet noncompliance with this threshold were largely based on known errors in our own yield estimation methods, one can hardly regard the negotiation of this protocol as a major step forward in arms control. The administration's rigid and exclusive insistence on this part of the negotiating agenda has always been suspect. In my view it is little more than diplomatic busywork. It is designed to create an illusion of purposeful activity on the nuclear testing issue to deflect the mounting political pressure worldwide for a meaningful restriction on nuclear tests.

If the administration's new commitment to negotiate a test ban is sincere, why then the insistence on improving the verification of tests at 150 kilotons when the Soviet Union has stated it will accept intrusive measures and inspections to verify much lower limits on explosive power, including a comprehensive test ban. I believe the answer is that this administration harbors no serious intention of limiting nuclear tests.

For example, the current negotiating team on the nuclear testing issue is headed by Dr. Robert Barker, who also happens to be Secretary Weinberger's chief assistant for nuclear weapons programs. Notwithstanding his other virtues and his considerable nuclear weapons expertise, Dr. Barker is not an official who brings to the table a strong institutional or personal commitment to obtaining further limits on nuclear tests.

In fact, Dr. Barker recently testified that he believed that the Soviet Union and the United States should continue modernizing their nuclear weapons forever: Dr. Barker stated:

> We are never going to be finished because there may be a need tomorrow to modernize a weapons delivery system in a way which will require the Defense Department to turn to the Department of Energy and say, please design us a nuclear weapon with these kinds of characteristics.
>
> Nuclear weapons testing is never going to be done, and neither we nor the Soviets in my view are going to be finished.

Last week, ACDA Director Kenneth Adelman stated that the current and any likely future negotiations would not lead to a cessation of nuclear tests. Mr. Adelman explained that this might be achieved:

> Way, way, way down the road, when there's peace on earth and good will toward men.

So, it should be obvious to every Senator that nothing has really changed in the administration's approach to further limits on nuclear tests. The need for this amendment is as great today as it was before the administration announced the changed format of the negotiations. It is a change in form, but not in substance.

Renaming discussions on a threshold test ban protocol as "comprehensive test ban negotiations" will not bring us even one step closer to a stabilizing reduction in the yield and frequency of nuclear tests, and it will not bring us even one step closer to a comprehensive test ban. The only way to do that is to support this amendment.

ON CHEATING

Critics of this amendment have also charged, without a shred of supporting analysis, that the Soviet Union could cheat on its provisions without being detected by U.S. monitoring systems.

Those of my colleagues who have examined this amendment will attest to the fact that it contains very extensive and stringent verification provisions. The restrictions on testing are contingent on the Soviet Unions implementation and adherance to these verification provisions.

Earlier this year, three of the leading figures in Ameican seismic detection research—Drs. Archambeau, Evernden, and Sykes—examined the technical provisions of this bill and wrote Senators HATFIELD, DECONCINI, and myself as follows:

> After careful review of the bill and all its provisions we wish to express our strong support for its passage . . . the combined verification capability, . . . as provided for in the bill, should be an extreme deterrent to a tester who realistically considers the risks of clandestine testing and, conversely, should provide the monitor with a high degree of confidence in his ability to identify any violations, should they occur.

NUCLEAR WEAPONS SAFETY, SECURITY AND RELIABILITY

Another objection raised against this amendment is that it would allegedly interfere with continued testing to maintain the safety, security, and reliability of the nuclear arsenal.

SAFETY

Let me first deal with the question of warhead safety. After four decades of development, the safety design of nuclear weapons is well advanced. All U.S. nuclear weapons are already "one-point safe," meaning that they will not produce a significant nuclear yield even if the chemical explosives are triggered at one point by the penetration of a bullet or by fire.

Another safety improvement, the environmental sensing device, blocks triggering signals from reaching the chemical explosive until the weapon has traversed its intended launch-to-target sequence. These devices do not require nuclear explosive tests to confirm their reliability.

Another safety improvement has been the use since 1980 of "insensitive high explosive," which reduces the probability of plutonium dispersal in an accident. Warheads containing IHE are now available for high-yield and low-yield bombs, all U.S. cruise missiles, the Pershing II, and the MX. In cases where new warheads containing IHE have not been developed, there has usually been no intention to do so for institutional or technical reasons.

For example, the Navy had the option of incorporating insensitive high explosive in the new Trident II warhead, and chose not to. The Department of Energy has stated:

> Warheads which do not incorporate IHE are designed to prevent nuclear yield in both normal and abnormal environments and are not considered unsafe. The DOE has not provided, and will never provide, to DOD a warhead which is considered unsafe.

WEAPON SECURITY

In the area of nuclear weapon security, the primary issue today is not further technical refinement, but rather the fact that many weapons in the U.S. stockpile, including the weapons on board ballistic-missile submarines, still have no built-in coded security devices. This amendment would do nothing to interfere with the introduction of modern category D coded locks into currently unprotected weapons, because these electronic locks operate on components that do not require nuclear tests to certify their performance.

RELIABILITY

Regarding the need for nuclear tests to maintain the reliability of today's nuclear arsenal, the record shows that from 1965 to the present, there have been only 7 instances of problems in 6 weapons designs, leading to 11 nuclear tests.

This translates to an average of one test every 2 years. This amendment provides for two reliability tests over a 2-year period, twice the historical rate. Such tests involve the primary stage of a thermonuclear weapon, and can be conducted under 15 kilotons, as provided for in this amendment.

Moreover, out of the total of 39 tests conducted since 1958 to assess or remedy problems in the stockpile, only 5 tests involved weapons that had been in the stockpile more than 3 years. This statistic indicates that the vast majority of so-called reliability problems in the stockpile are really a function of the constant introduction of new weapon designs into the stockpile. Without a continuing process of warhead modernization, one could expect that the rate of required stockpile confidence tests would drop well below the level provided for in this amendment.

According to a recent report by Livermore Laboratory's Scientific and Academic Advisory Committee:

> The committee concludes that the endurance of the stockpile, already great, continues to improve.

The chairman of this committee, Dr. Fred Reines, of U.C. Irvine, has stated that U.S. nuclear weapons are designed:

> To last one hell of a long time. . . . We should not be prevented from thinking in a constructive way about the possibilities of test bans. We are not precluded from this by any means.

According to the conclusions of a forthcoming study by senior physicist Ray Kidder of the Livermore National Laboratory—a report which I requested in conjunction with LES ASPIN, chairman of the House Armed Services Committee—none of the examples of stockpile problems cited by the Department of Energy support the case that today's stockpile of thoroughly tested weapons requires continued nuclear explosive testing to maintain confidence in its reliability.

Finally, Mr. President, I think the Senate ought to understand that those who speak for the administration, for the Secretary of Defense as well as for the Secretary of State, have testified before the Armed Services Committee that they are opposed to any further limitation of nuclear tests even with complete verification.

Therefore, I do think, given the position of the administration, at a time when we are moving ahead to authorize the whole series of tests, varying from 20 to 30 a year, we have a responsibility to speak on behalf of the American people by presenting what Senator HATFIELD and I both agree is a responsible, sensible, balanced proposal so that there might be a significant slowdown in the advance of nuclear weaponry, by both the Soviet Union and the United States.

I yield back the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield 5 minutes to the ranking member of the Strategic Deterrence Subcommittee, the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment which would limit nuclear testing over 1 kiloton except for one test annually not to exceed 15 kilotons.

As has been made very clear in the recent discussions about the INF proposal to eliminate whole classes of nuclear weapons from Europe, we, and our allies depend on nuclear weapons to deter both nuclear and conventional conflict. And so long as we depend on nuclear weapons for deterrence, we must maintain unquestionable nuclear competence, which our experts at the national nuclear laboratories tell us requires continued testing.

Mr. President, testing contributes to the confidence in our deterrence in a number of ways.

Testing permits us periodically to remove weapons from the stockpile and determine their reliability. Our experience with this testing has uncovered examples of problems that would have seriously undermined the effectiveness of the stockpiled weapons.

Testing permits us to carry on weapons developments designed to make our stockpile safer, more reliable, and more resistant to unauthorized tampering or use.

Testing permits us to maintain the effectiveness of our nuclear weapons stockpile in the face of dedicated Soviet efforts to undermine that effectiveness. Such modernization has been required to deal with the effects of Soviet hardening, for example.

Testing permits us to determine the effects of nuclear weapons detonations on the survivability of U.S. command, control and communications systems, critical satellites, and other systems that contribute to deterrence and whose operation in wartime is essential to effective retaliation if deterrence fails.

Mr. President, the yield thresholds proposed in this amendment would not permit such essential testing to continue. As a consequence, the amendment would begin a process of eroded confidence in the reliability of our nuclear stockpile, would prevent us from completing programs designed to make our weapons safer and more secure, would prevent us from completing modernization programs that respond to Soviet activities that would not be constrained by a testing moratorium, and finally would erode confidence in the wartime effectiveness of land- and space-based command, control, communications, and intelligence functions.

Moreover, Mr. President, we have heard expert testimony in the Armed Services Committee that monitoring compliance with a 1-kiloton limit is not technically feasible for the foreseeable future. Monitoring compliance with the 15-kiloton threshold involves uncertainty of a factor of two or better, which would raise serious national security concerns if the Soviets chose to take advantage of such uncertainty.

Mr. President, the road to real arms control is not through the back door of limitations on nuclear testing. The road to real arms control is through tough negotiations on real proposals to reduce significantly the numbers of nuclear weapons in the arsenals of both sides. This is precisely what President Reagan has instructed his negotiators to do in the ongoing negotiation in Geneva. Our negotiators are not aided by actions of the Congress that propose unverifiable testing regimes that would serve to both undermine confidence in the existing stockpile and to preclude improvements designed to make our stockpile more effective, more safe and more secure.

Mr. President, I encourage my colleagues to join me in opposing this amendment. I am confident that would be in the best interests of the people of this country.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, we have heard today again a variety of reasons why one should oppose this amendment, and I have attempted to respond to those objections. I especially appreciate those concerns which address the basic parts of the amendment and the conditions of the amendment, particularly those concerns the Senator from Nebraska.

But, obviously, we have moved on in the debate to really address the question: Do we want arms control or do we not? I think some of the almost specious arguments about whether or not we are going to lose jobs, whether or not we are going to close down laboratories and lose our scientific community, are really not very relevant to this whole debate. Those who are probably in a better position to know than any of us here on the floor agree—that is, people who are associated with or who have been associated

with the whole laboratory complex and the development of nuclear weapons. I would like to list a few who support this amendment.

Glenn T. Seaborg, who was associated with Lawrence Berkeley Laboratory at the University of California, was Chairman of the U.S. Atomic Energy Commission, and was a Nobel prize winner for chemistry; Richard L. Garwin, who has been a very distinguished scientist at Harvard University and also has been at the IBM Thomas Watson Research Center, Cornell, Columbia; J. Carson Mark, retired director of Theoretical Physics Division at Los Alamos Scientific Laboratory; Norris E. Bradbury, director, Los Alamos Scientific Laboratory, 1945 to 1970; Lynn R. Sykes, Lamont-Doherty Geological Observatory, Columbia University, member, Threshold Test Ban Delegation; Theodore B. Taylor, NOVA Corp. Damascus, MD, former Deputy Director for Science, Defense Atomic Support Agency. These are men who know.

Mr. President, these are men of known and world-known status in the field who certainly would have some sense of professional future for people in laboratory research and would certainly be concerned about the personnel and the basic science research. Mr. President, they support our amendment.

The one I really hate is the idea that somehow as long as we have nuclear weapons we have to test them. Again that is a very interesting point which comes back to whether we want to put any limitations on the Soviet Union. Do we want to be free to develop anything we want? If we do, the Soviet Union must be free as well. Whether it is for safety, whether it is for new weapons, whether it is for better accuracy, the questions are do you want a test ban, and do you want a limitation on armaments of this kind?

I think there are those who would argue that we should continue weapons development and escalate it. I have heard those arguments. I do not deny that people can make a very attractive argument on that basis. We live in a dangerous world, and as long as the Russians are here we are going to have to build those armaments. That is the argument. But they are locked in. We are locked in, we are locked into a horrible cycle of escalation that can only end in disaster.

Mr. President, you would think we were asking for a 200-year moratorium, not a 2-year moratorium. By the graphic concerns expressed that mean somehow putting ourselves at a disadvantage and the Soviet Union at an advantage, you would think we were talking about 200 years.

Mr. President, I raise this amendment before the body today, and I challenge anyone here to point to a single clause in this amendment that puts the Soviet Union at an advantage and the United States at a disadvantage.

I feel like the preacher who said: "If anybody knows why these two people should not be joined in marriage, speak now or forever hold your peace." There is silence—I will wait longer.

There is not one clause in this amendment that gives the Soviet Union some superior position and the United States some inferior position. My colleagues know that. It is a balance.

I have an interesting graph here—a visual aid, if you please. A group of scientists went to the Soviet Union to conduct research under the auspices of the National Resources Defense Council. That was in September. They had the opportunity, in fact it was almost an act of God, I suppose maybe an act of nature. As they had their instrumentation in place, as they were there doing seismic recording with their instrumentation, an earthquake started. Here are the lines indicating the earthquake recording on that instrumentation. Ten seconds later, by coincidence, there was a detonation by the Soviets, a detonation of TNT in a scientific test of some sort.

From any point in this Chamber, one can see clearly, between this side of the graph and this side, that we do have the technology, we do have the instrumentation, to record and be fully apprised of whatever seismic activity is going on in the Soviet Union. We can distinguish between that activity.

In fact, we have the testimony of scientists who are fully satisfied that it is possible, within the scope of this amendment, to be fully informed as to what seismic activity is occurring in the Soviet Union. Beyond that, it is possible to alert us instantaneously, almost, to the fact that the Soviet Union has violated the terms of this agreement. Should this become an agreement between the two countries, that violation in itself invalidates, cancels, wipes out—whatever other word you want to use—any obligation of the United States to maintain its moratorium.

What I am saying is simply this: There is nothing in this amendment that puts us at a disadvantage or at an advantage. No deal can ever be made that puts one party at a distinct disadvantage while the other party to the agreement enjoys a particular advantage. That is a fact of history.

All the President has to do is to say the Soviets have cheated. That is all the President has to do, and the deal is off. We do not require the President to present us with a seismic chart, scientific evidence that the Soviets have cheated. We do not have to get a confession from Gorbachev that they have cheated. It happens when the President says the Soviet Union has cheated. That's it.

Mr. President, I do not see how that can tie anybody's hands. Good faith? Yes, good faith is required, good faith on the part of the President. It is not a question of whether the Soviet Union lies or cheats or does anything. The President of the United States is the one who tells us, and his word alone would invalidate any further obligation under this amendment.

Mr. President, again I want to emphasize—contrary to my good friend from Nebraska, who feels this timing is not correct—I still feel this initiative gives a strengthened hand to the President, as we all wish him well, as he proceeds to a summit. I know of no better way we can strengthen the President's hands as he moves toward that opportunity than to say: "Mr. President, we are with you. We want to see an agreement." If, of course, he is serious.

All we are suggesting here is that there is a possibility of setting the stage for some kind of agreement that hopefully would last longer than 2 years. All we are asking for here is a ban of 2 years. That, in itself, is not going to be an inhibiting force in any way to the President, but rather a strengthening of his hands.

I think the timing is absolutely superb, and I hope my colleagues will agree with me.

Mr. President, how much time remains under my control?

The PRESIDING OFFICER. The Senator has 8 minutes remaining. The Senator from Nebraska has 26 minutes remaining.

Mr. HATFIELD. I thank the Chair.

Mr. EXON. Mr. President, I yield 3 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes.

Mr. REID. I thank the Senator. I appreciate the time.

Mr. President, in answer to my friend from Oregon, I say that the one thing that has not been answered is what happened from 1959 to 1962 and basically what basically would happen again.

There is nothing to prevent the Soviets from doing their tunneling or instrumentation and, as they did in 1962, come back with a series of tests.

Mr. President, I ask unanimous consent to have printed in the RECORD, a letter from Roger E. Batzel of the Lawrence Livermore National Laboratory. I submit that this is very graphic in illustrating the problems that are before the Senate as a result of this amendment. I will read one paragraph:

> The administration and Congress should agree in principle to a strategic program which progressively limits nuclear testing only in concert with major arms reductions and other technology controls.

Mr. President, I submit that this is the important thing, as I mentioned before—nuclear weapons, not nuclear testing. We have the order reversed.

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

LAWRENCE LIVERMORE NATIONAL LABORATORY,
May 13, 1987.

Adm. SYLVESTER R. FOLEY, Jr.,
Assistant Secretary for Defense Programs, U.S. Department of Energy, Washington, DC.

DEAR ADMIRAL FOLEY, We have reviewed the draft language of the Hatfield-Kennedy Underground Nuclear Explosions Control Act. This proposed measure raises a number of complex, technical issues. In offering our comments we have concentrated on technical matters.

There is now a substantial body of testimony by me and the other Laboratory Directors before various Congressional forums on the impact of nuclear testing limitations. (For example, see my testimonies submitted to the Foreign Relations Committee on January 15, the Senate Armed Services Committee on February 26, and the Senate Appropriations committee on March 25.) In these testimonies I explicitly stated the technical consequences of further test limitations and will not repeat all the detailed arguments here.

It is generally agreed that the major technology issues which affect stability are issues such as land-based MIRV's, singlets, targeting of mobiles and command posts, non-nuclear strategic defense, and the nuclear-conventional balance in Europe. Certain Congressional resolutions have distracted US-Soviet negotiations on such major issues by supporting a Soviet position which seeks to disproportionately weaken a US asset (technology) before addressing Soviet advantages (throwweight, number of accurate ICBM warheads).

The Hatfield-Kennedy proposal does not link test limits to arms reductions nor to limits on non-nuclear technology. Since warhead modernization is motivated by these factors, the Hatfield-Kennedy Bill does not address the fundamental issues despite its stated commitment to arms reductions. Test limits are not a "crucial first step". Serious negotiations on arms reductions are, as exemplified by the negotiations on Euromissiles. Even if some modest test agreement were needed to "break the ice," the administration proposal to exercise on-site TTBT verification measures provides this opportunity.

We support a strategy of arms control, arms reduction, and arms modernization which provides technological stability. The fundamental political, military, and economic conflicts between the major powers can then be addressed.

The administration and Congress should agree in principle to a strategic program which progressively limits nuclear testing only in concert with major arms reductions and other technology controls. The President has already made a proposal to the Soviets along these lines.

The verification measures proposed by the Kennedy-Hatfield proposal would not appear to be achievable technically or negotiable with the Soviets. If a 15 kt threshold had been chosen, it might be possible to verify observance of the 15 kt limit with an uncertainty of a factor of two or better, assuming that the procedures for carrying out the calibration explosions were well defined, that the internal seismic stations were in place for the calibration explosions, and that the explosion environments were well defined. These are all quite debatable assumptions. Verifying observance of compliance with the 1 kt limit is not technically within our grasp for the forseeable future. The provisions in this bill are clearly grossly inadequate to cover verification of such a limit. Specific comments on the various sections of the bill are attached.

Sincerely,

ROGER E. BATZEL,
Director.

Mr. CRANSTON. Mr. President, Senators will soon have an opportunity to vote on the Hatfield-Kennedy-Cranston amendment for a 2-year nuclear warhead testing moratorium.

The Soviet Union has made dramatic concessions in recent months to meet many of the demands of the harshest U.S. critics of a nuclear test ban. In April, the Soviets proposed that each nation explode a nuclear device at the other's test site for the purpose of calibrating seismometers. The U.S.S.R.'s draft test ban treaty submitted to the Conference on Disarmament this June contained provisions for an international network to transmit test data and mandatory onsite inspections. And in May the Soviets said the U.S. could use CORRTEX to measure the yield of some Soviet tests if the U.S. agreed to begin negotiations on a Comprehensive Test Ban. I would also point out that the Soviet Union has been unusually cooperative on verification issues in the ongoing INF talks. The Soviet move toward increased openness was most dramatically reflected when they permitted Members of Congress to inspect the sensitive Soviet radar installation at Krasnoyarsk during the last recess.

These are important concessions which could make it much easier for the United States and the Soviet Union to negotiate a Comprensive Test Ban Treaty. I hope these signs of openness and compromise on the part of the Soviets will help convince a few more of my colleagues here that the United States has a real opportunity. We can take a firm step toward controlling the nuclear arms race by ending nuclear explosions with yields in excess of 1 kiloton.

As some people have suggested, let's test the Russians, not weapons. Let's find out how far they—and we—are prepared to go. Let's undertake a mutual effort to observe a nuclear testing moratorium now, and move to begin negotiations in earnest for a test ban at the soonest possible date. I am delighted that the recent meeting between George Shultz and Soviet Foreign Minister Schevernadze has resulted in the promise to resume such negotiations.

Although I am a cosponsor and firm supporter of the Hatfield-Kennedy legislation, if it is adopted, I will offer an amendment which would have the effect of changing one small but significant part of this measure by eliminating the two so-called reliability tests provided for by this legislation.

The United States and the Soviet Union have an obligation under the Non-Proliferation Treaty to work toward a comprehensive test ban. I don't believe we should undermine this goal by allowing additional tests for any purpose. This proposed moratorium would be bilateral; the confidence of each side in its nuclear arsenals would gradually erode. This would not be a bad development: both sides would be less likely to think about using weapons which might not work.

I strongly urge my colleagues to support the nuclear warhead testing moratorium. We have nothing to lose—as the proposed moratorium would be contingent upon Soviet acceptance of our terms. But we have a great deal to gain if we can temporarily halt the superpowers' nuclear explosions, and begin working toward a permanent end to nuclear testing.

Mr. COHEN. Mr. President, in February 1984, Senator BIDEN and I traveled to Moscow and met with officials from the Soviet Foreign Ministry and Academy of Sciences. This was at the time when nuclear arms negotiations were on hold after the Soviets had walked out of the INF talks and had refused to set a date for resumption of the START negotiations. However, it was also following the President's January 1984, address in which he called for a joint examination of concrete actions that both countries could take to reduce the risk of confrontation. Such steps were among the subjects which Senator BIDEN and I discussed with Soviet officials in Moscow.

After returning to Washington, Senator BIDEN and I met with President Reagan and Secretary of State Shultz to discuss details of our discussions in Moscow and offer our recommendations. A few weeks later, in an April 1984, Senate floor statement, I outlined several concrete steps that I believed the United States should pursue to achieve progress toward the objective of reduced tensions and enhanced stability. Among these proposed steps were the ratification of the 1974 Threshold Test Ban Treaty [TTBT] and the 1976 Peaceful Nuclear Explosions Treaty [PNET].

Beginning in September 1984, the Senate repeatedly put itself on record in favor of proceeding to ratification, with any appropriate reservations, of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and returning to negotiations on a comprehensive test ban. I supported the amendments calling for these actions because I believed that the difficulties associated with TTBT

91-059 O-89-21 (Pt. 18)

and PNET ratification are resolvable and that negotiations are essential to make progress toward a comprehensive test ban.

Since 1984, the United States and Soviet Union have improved their relations in a number of areas, increasing cultural and educational exchanges and making progress in the nuclear arms control negotiations in Geneva. Up until last week, however, there was little movement forward on the question of nuclear testing.

Now, after a long and often frustrating hiatus, the United States and Soviet Union have agreed to full-scale, step-by-step negotiations on nuclear testing beginning before December 1, 1987. According to the joint United States-Soviet statement which resulted from the discussions between Secretary Shultz and Foreign Minister Shevardnadze last week, the United States and U.S.S.R.:

As the first step [in these negotiations] will agree upon effective verification measures which will make it possible to ratify the [TTBT and PNET] and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process.

In addition, the United States and Soviet Union agreed to design and conduct joint verification experiments at each other's test sites. These experiments have the explicit purpose of improving verification so that the Threshold Test Ban and Peaceful Nuclear Explosions Treaties can finally be ratified. In addition, the experiments will be used, to the extent appropriate, in further nuclear test limitation agreements which may subsequently be reached. The TTBT and PNET have been criticized for relying on an exchange of essentially unverified data on nuclear test sites and tests. The Shultz-Shevardnadze agreement for joint verification experiments could help resolve some of the current verification concerns.

In sum, the United States-Soviet announcement takes us several steps forward. Further progress hinges on the resolution of critical issues, such as appropriate verification arrangements, that can only be worked out through negotiations. In addition, the continuing need to maintain warhead safety, security, and reliability must be carefully considered.

The amendment proposed by Senator HATFIELD and Senator KENNEDY which we are considering would institute a 24-month moratorium on underground nuclear testing over 1 kiloton, save for two designated test explosions with yields not to exceed 15 kilotons. The amendment also sets forth in detail provisions to verify a moratorium on nuclear explosive testing. Suffice it to say, Mr. President, that the monitoring provisions suggested by this amendment are the subject of controversy among technical experts as to whether they would be appropriate and adequate.

A question and answer paper—prepared by the amendment's authors, themselves—states that these provisions would "probably not" be sufficient, even in conjunction with the current United States global seismic monitoring network outside the Soviet Union, to monitor a permanent very low threshold test ban. Moreover, we cannot legislate Soviet acceptance of the detailed provisions in this amendment.

Mr. President, I have long believed that mutually acceptable provisions for verification improvements and a comprehensive test ban can only be achieved through negotiations and that a moratorium would not advance these efforts. I would note that this view reflects the position held by the United States during the comprehensive test ban negotiations conducted by the Carter administration between 1977 and 1980. On numerous occasions, the United States rejected proposals calling for a moratorium on nuclear testing. For example, Charles Flowerree, U.S. Ambassador to the Conference on Disarmament, stated on August 5, 1980:

The United States has strongly and consistently held the position that a comprehensive test ban, in order to promote stability and mutual confidence among its participants, must be based on adequate measures of verification. A moratorium by definition would not be based on such measures.

We are engaged in a detailed and technically complex process of elaborating adequate verification provisions. Although we are confident that effective and mutually agreeable solutions can be achieved, a moratorium on nuclear testing could seriously complicate efforts to develop satisfactory verification arrangements. It could even have the effect of lengthening the negotiating process.

Mr. President, I believe that these arguments ring as true today as they did 7 years ago. Accordingly, in the light of current developments, I believe that instituting a moratorium now would be an especially inappropriate step. The issues are indeed complex, but I am confident that—with good will and a lot of work on both sides—they can be resolved through negotiations.

Last week's announcement must give all of us who have been following this issue for so long hope that real progress toward a comprehensive nuclear test ban finally is being made. We must now turn our attention to ensuring that this opportunity is vigorously and sincerely pursued. We must directly address through the negotiating process the issues which have blocked progress on nuclear testing constraints. Now is the time, not for taking measures such as the proposed moratorium, but for moving forward with substantive United States-Soviet negotiations with the ultimate goal of a comprehensive test ban.

A VERIFIABLE TESTING MORATORIUM SHOULD BE A TOP PRIORITY

Mr. WIRTH. Mr. President, I am pleased to cosponsor the pending amendment, joining with the distinguished senior Senator from Massachusetts [Mr. KENNEDY] and the distinguished senior Senator from Oregon [Mr. HATFIELD], and others. The amendment, as has been previously explained, requires the United States to abide by a stringent 2-year limitation on the number and level of nuclear tests so long as verification procedures are adequate to assure that the Soviets are limiting themselves in the same respect.

Nuclear testing, Mr. President, under the terms of this amendment, would be limited to underground nuclear explosions of 1 kiloton with the exception that it permits up to two tests not to exceed 15 kilotons. The amendment provides for detailed verification—something that opponents of test bans have been demanding for years.

The verification provisions are specific, Mr. President. They call for 12 in-country seismic monitoring stations and would permit the Soviets to establish such stations in the United States if we are permitted to establish a like number of such sites in the Soviet Union. They provide for independent calibration of the seismic measuring devices. They permit six onsite inspections on demand. And, to facilitate verification, they limit underground nuclear explosions to one designated test area in each country.

The limits placed on testing and the advances in seismic measuring instrumentation make detection and identification of offsite violations of the agreement a virtual certainty, Mr. President. Any such incident would constitute a violation and would be grounds for a Presidential certification of noncompliance—grounds for immediate termination of the moratorium by the United States.

Cessation of testing is a universally recognized route to arms control. Why, then, Mr. President, does the administration oppose this amendment? Why, then, is there any opposition in this Chamber? As I understand it, opponents claim that verifying Soviet adherence to the limits proposed in the amendment is beyond the ability of our scientists. This is a red herring Mr. President. Verification technology has improved dramatically during the last decade since earlier treaties limiting underground nuclear testing were negotiated, but which remain unratified.

Some opponents of this amendment also claim that continued tests of nuclear weapons are necessary to ensure the reliability and safety of our weapons systems. But this is an insufficient

justification for opposition, Mr. President, for several reasons. Existing nuclear weapons can be tested for reliability without exploding them. In fact, few explosive tests are conducted for the purpose of determining reliability. Furthermore, Norris Bradbury, former director of the Los Alamos National Laboratory, has stated that no reliability problem has been detected through an explosive test, and "in no case would it have been necessary to conduct a nuclear test to remedy the problem."

Likewise assertions that tests are necessary to ensure warhead safety fail to hold up. The main design safety features of the weapon preventing accidental detonation do not need explosive testing. All weapons in the stockpile are "one point safe," which means that no single system failure can trigger an explosion. Never, Mr. President, has the United States experienced even a partial accidental nuclear warhead detonation. The crash in Spain some years ago of a United States aircraft carrying nuclear weapons did not lead to a detonation, and the weapons were recovered with little contamination.

Opponents claim that, until the actual negotiation of a treaty similar to this legislation, testing must proceed in order to assure necessary progress is made in the development of new weapons essential to maintaining our national security in the face of constant Soviet advancement. But it is important to keep in mind, Mr. President, that this moratorium will restrict the United States only so long as the Soviet Union restricts itself in the same respect. By definition the Soviets cannot pull ahead of the United States in nuclear weapons technology to the extent that test explosions are a determinant of such progress; should the Soviets violate the moratorium, no further consideration or action on the part of the Congress or anyone else is needed: The restrictions on United States testing instantly and completely evaporate.

Mr. President, the United States already has over 30,000 nuclear weapons. I must confess that I cannot understand the logic of those who claim to favor efforts to end nuclear testing while opposing any verifiable mutual cessation of such testing until and unless a formal treaty is negotiated and ratified. Even if they do not so intend, their opposition is an invitation to continued testing by the Soviets and therefore a ticket to ever wilder, more expensive, more potentially deadly escalation of the nuclear arms race that began over 30 years ago. The effect of that position will not be, as they assert, to pressure the Soviets to come to the bargaining table.

Opponents of this amendment may claim that the terms of this amendment inappropriately restrict the authority of the President by, in effect, creating a situation with the effect of a treaty that he, as the chief of our Government's executive branch, has not negotiated. But that argument will not hold water, either, for two reasons. First, this provision in no way restricts the President's negotiating authority. Indeed, it creates an atmosphere far more conducive to treaty negotiations—since both nations basically, as long as they comply with the terms of this amendment, will be in compliance with what one might anticipate to be the basic terms of any testing treaty. Second, the amendment unquestionably gives the President the authority to terminate the moratorium in the event the Soviets violate its conditions either as to the limits on testing or to the provisions for permitting verification arrangements.

Mr. President, nuclear testing has been an item of concern with the American public since the mid-1950's. Bilateral discussions on a comprehensive test ban began under President Eisenhower, and every administration since—except the current one—has pursued that goal. As recently as last February 1987, 78 percent of Americans polled on the question favored stopping nuclear weapons testing as long as the Soviets agreed to do so, too.

Last week, Mr. President, the United States and the Soviet Union announced an historic arms control and disarmament breakthrough. As everyone in this body is aware, we have reached agreement in principle to eliminate intermediate-range nuclear forces. Equally encouraging, Mr. President, in the context of this amendment, was the news that both sides pledged to begin before December 1, 1987, negotiations leading to an agreement on verification measures that finally would enable the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976 to be ratified. Further, both nations agreed to move directly to negotiate further limitations on nuclear testing with the objective of drafting a comprehensive test ban—a measure absolutely essential to eventual major reductions in the nuclear arsenals of both countries. In this atmosphere of renewed willingness—after a hiatus of 7 years—to resume talks pointed toward further limitation of nuclear testing, we should not be contemplating more tests. Neither should we take seriously suggestions that this moratorium undercuts the position of our negotiators by giving away something for which we get nothing in return. We are giving away nothing. The moratorium proposed here is mutual. To the contrary, Mr. President we are getting something positive out of this moratorium. We are getting a further—and, I am hopeful, a permanent—reduction in the level of nuclear testing on our planet. We are increasing the possibility of finally putting a ceiling on the nuclear arms race that has raged for so long in both nations, and has posed a grave threat not just to the people and the civilizations of these two nations, but to all humankind.

The negotiation process no doubt will be long—and arduous. We would expect no less, because any treaty involving our national security must be meticulously negotiated to assure our security is maintained. But as long as both sides abide by the moratorium which the United States will join if this amendment is enacted, and as long as we have the technology and access to assure compliance with its terms by the Soviets, or ascertain violation by the Soviets and resume testing that in such a situation would be strategically necessary, I can think of no good reason for us not to stop testing now.

To reiterate some key points, Mr. President: Joining in the moratorium will in no way diminish our strength relative to the Soviets. We continue to participate in it under the terms of this amendment only so long as the Soviets verifiably participate fully as well. This moratorium is in the best interests of this Nation and of the Soviet Union. The world as a whole—and this Nation in particular—will be a safer place if this amendment is adopted and ultimately becomes law. Further, the moratorium which it would have the United States join is a critical milepost on the road to significant, mutual, verifiable nuclear arms reduction which will make the world a safer place for all its inhabitants. That is a major contribution for a simple amendment to one Senate bill, but a contribution that this amendment absolutely has the capability to make.

Once again, I compliment the principal authors of this amendment. I am proud to support this effort, and I urge all my colleagues to join in supporting the amendment.

Mr. PELL. Mr. President, I am pleased to be an original cosponsor of the amendment being offered by the Senators from Oregon and Massachusetts [Mr. HATFIELD and Mr. KENNEDY]. The proposal now has 34 cosponsors.

I believe that congressional approval of the concept of a mutual and verifiable moratorium on nuclear tests above the level of one kiloton could do much to get us back on track toward a permanent testing treaty. The proposal is both reasonable and practical. By calling for a moratorium of fixed duration, by specifying comprehensive verification provisions, and by incorporating safeguards providing for automatic termination if warranted, I believe the authors have crafted legislation which could lead to definite progress toward

a complete ban without jeopardizing our national security in any way.

Mr. President, I was pleased last week by the agreement reached at the meetings between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze that there are to be negotiations by December 1 on testing issues. As a first step, the sides hope to agree on additional verification measures which could lead to ratification of the 1974 Threshold Test Ban Treaty [TTBT] and the 1976 Peaceful Nuclear Explosions Treaty [PNET].

Earlier this year, on the basis of a Presidential commitment to support ratification of the TTBT and PNET, I chaired hearings by the Foreign Relations Committee on those two treaties. The committee reported them favorably with a reservation dealing with verification requirements.

The committee report noted that "most of the committee does not feel justified in concluding that additional verification measures beyond those which would be in place upon ratification are required for adequate verification. The record of the last 10 years with regard to Soviet component, and our own efforts to refine compliance assessments, are for most, no cause for alarm. The committee notes that all U.S. national security program objectives have been met while we have complied with the treaties and that, in the area of testing, there is no evidence of any Soviet cheating which produced some illicit benefits."

At the same time, however, the report said, "the committee recognizes that some enhancements in verification could be of value in providing additional evidence regarding Soviet compliance and could further dissuade the Soviets from misconduct."

Accordingly, the committee approved a verification provision which gave support to the administration's proposal for on-site inspection, but which also afforded the administration the necessary leeway either unilaterally or in order to reach a successful compromise with the Soviets.

Mr. President, I believe the way is open for the President to strike a good agreement with the Soviets which would open the way to ratification of the TTBT and PNET. Frankly, I believe that, had the administration not come up with an unwieldy and unworkable scheme for dual ratification, we could have had Senate consideration of those treaties by now, and the administration would now have the consent of the Senate for ratification. Because of the administration's performance in this matter, momentum was lost. That momentum can be regained now if both sides are willing. This new agreement is an encouraging sign.

Mr. President, approval of this amendment would place the Senate firmly on record in favor of further controls, and it would serve to give impetus to an early agreement in the new negotiations on TTBT and PNET verification.

It has been 24 years since President Kennedy achieved the first record on nuclear testing, the Limited Test Ban Treaty of 1963. In the time since, there have been dramatic improvements in our ability to monitor compliance with nuclear tests. There is no question in my mind that we can moitor compliance with the TTBT and PNET. I believe we can also agree on dramatically lower testing levels, as proposed in this amendment. With mutually agreed verification measures, we can take such steps without endangering our national security in any way.

We and the Soviets have pledged to other nations that we will strive to bring an end to nuclear testing. The actions set forth in this amendment would be a strong, positive step in that direction.

Mr. GLENN. Mr. President, I rise to speak in opposition to this amendment which would place restrictions on funding for nuclear testing. While I share the sponsors' frustration with the lack of progress in attaining a mutual and verifiable comprehensive nuclear test ban and I am sympathetic to what they are trying to achieve with this legislation, I believe that they are taking the wrong approach to this important issue.

In the past, I have joined with many of my colleagues in the Congress in calling upon the President to request Senate ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, and to resume negotiations toward conclusion of a Comprehensive Test Ban Treaty. I am particularly heartened by the recent announcement that the United States and the Soviet Union will resume negotiations on the cessation of nuclear testing. Hopefully, we will soon see significant progress in this important area of arms control.

A mutual and verifiable comprehensive test ban will put a qualitative freeze on the nuclear arms race and effectively prevent the development of a new generation of nuclear weapons, and will make nuclear proliferation to other countries more difficult. Coupled with quantitative reductions in nuclear warheads by the superpowers, I believe a CTB will go a long way toward reducing the threat of nuclear war.

This legislation would prohibit the expenditure of DOD or DOE funds to carry out any nuclear explosions with a yield exceeding 1 kiloton, or any nuclear explosion that is conducted outside a designated test area as long as the Soviets refrain from nuclear testing.

Mr. President, I believe that a comprehensive nuclear test ban should come about as a result of negotiations between the United States and the Soviet Union in reaching a thorough, detailed agreement with provisions for compliance and verification.

In their article in the spring of 1987 edition of Issues In Science and Technology entitled, "Toward a New Test Ban Regime," seismologists Paul G. Richards and Allan Lindh put forward what I believe to be a realistic approach toward attaining a Comprehensive Test Ban Treaty. This would involve the superpowers first negotiating a Low-Yield Threshold Test Ban Treaty. Such a treaty would require that the United States and the Soviet Union not conduct nuclear tests with yields in excess of approximately 15 kilotons, and would require them to commit themselves to lowering this threshold in stages over a period of several years. (With the establishment of in-country monitoring facilities, many experts believe that the uncertainties of estimating the yields of nuclear tests at 15 kilotons are not likely to be much different than they are for the 150-kiloton threshold of the current threshold treaty). Additionally, the superpowers would commit themselves to reaching a very low yield of 1 kiloton in the foreseeable future. A Comprehensive Test Ban Treaty would be the ultimate goal of such negotiations.

A staged "test down" treaty leading toward a CTB would address uncertainties about verification. In-country monitoring under this approach would allow both the United States and the Soviet Union the opportunity to build up a needed data base of seismic information about each other. Concrete demonstration of verification capabilities would be made prior to a decision to move to a lower threshold in order to ensure that each threshold reduction would result in a still-verifiable treaty.

Mr. President, I believe that the approach I have outlined for attaining a comprehensive test ban treaty with the Soviet Union is both reasonable and responsible. As the superpowers seem to be making renewed effort toward attaining this important goal, I hope that this approach is seriously pursued.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, 20 minutes or so remain on our side and 10 or 12 minutes on the other side. I would be almost in a position now to yield back the remainder of the time. There were other Senators who had indicated that they might wish to talk on this subject, but they are not on the floor.

I would simply ask the Senator from South Carolina if he has any further comments that he would like to make on this subject. If so, I would be glad to yield whatever additional time the

Senator from South Carolina might need. It would not hurt anything to expedite the procedures of the Senate a little bit, and I think we have thoroughly aired this matter. I would hope that in the next few minutes we could yield back the remainder of the time and get on with the next amendment that is scheduled.

Mr. REID. Mr. President, will the Senator from Nebraska yield just about 3 minutes to the Senator from Nevada?

Mr. EXON. I am glad to yield 3 minutes of my remaining time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. REID. Mr. President, I think it is interesting to note that during the Soviet surge after breaking out in the 1958 and 1961 moratorium within 3 months the Soviets detonated more megatonnage than the entire United States nuclear testing program from 1945 through 1961.

Recently, when the Soviets went into their so-called nuclear test moratorium for 19 months, from August 1985 to February 1986, they then detonated 17 nuclear test devices from just February to the present. The United States detonated nine. But for anyone to think that the Soviet Union during that 19 months was doing nothing is sadly mistaken. They were doing what I said they would do and what President Kennedy said we could not stop them from doing. That is, basically they were getting their testing ranges prepared and keeping them ready so that whenever they wanted to begin testing anew, they were able to do that, in a surge.

We are simply in a situation where you cannot work with the Soviets as the President of the United States said back in 1962.

Mr. KENNEDY. Mr. President, will the Senator just yield for a question on that?

The PRESIDING OFFICER. Does the Senator yield for a question from the Senator from Massachusetts.

Mr. REID. I have no time.

The PRESIDING OFFICER. Does the Senator from Nebraska yield time?

Does the Senator from Oregon yield time?

Mr. HATFIELD. Mr. President, I just want to take a few moments to set the record straight on the history. It has been implied, at least by the Senator from Nevada, that President Eisenhower announced that we were no longer obliged to live under the formal agreement of a test ban with the Soviet Union.

Let me set the record straight on that—the Soviet Union did not test before then.

Mr. REID. I said President Kennedy.

Mr. HATFIELD. The President of the United States made the announcement first. He announced that we would no longer be restrained and then the Soviet Union tested. Is that the understanding?

Mr. REID. That is right.

Mr. HATFIELD. I thank the Senator from Nevada. I wanted to make sure this was not an argument that somehow we cannot trust the Soviet Union. We have been down that path before, and this is not an appropriate reference.

Let me add, however, that there is plenty of evidence that the Soviet Union has violated treaties or violated agreements. No one could read history without knowing that.

But in this particular instance, President Eisenhower announced that we would no longer be restrained before the Soviet Union tested.

I wanted to make clear the sequence of that particular experience.

Mr. REID. Mr. President, will the Senator yield for just a 1-minute response?

The PRESIDING OFFICER. Does the Senator from Nebraska yield?

Mr. EXON. I yield 1 minute.

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

Mr. REID. Mr. President, that still does not answer the basic premise I made that the Soviets would be able to go ahead and do all the preparations for testing and would not be able to the controlled.

Mr. KENNEDY. Mr. President, will the Senator from Oregon yield 3 minutes to me?

The PRESIDING OFFICER. Does the Senator from Oregon yield?

Mr. HATFIELD. I yield.

The PRESIDING OFFICER. The Senator from Oregon yields. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, will the Senator from Nevada agree with me that those were unilateral actions taken by the two nations and not bilateral?

Mr. REID. No question about it.

Mr. KENNEDY. So this amendment is bilateral in nature and it requires verification procedures which are intrusive and which did not exist when you had the unilateral declarations in the late 1950's.

Would the Senator also agree with me that now we have satellite technology which we did not have in the latter part of the 1950's or really in the very early part of the 1960's and, therefore, in terms of preparation and other kinds of activities those would be observable which was not possible in the late 1950's.

So the only point I would just mention is that I do think, as the Senator has correctly pointed out the history, we have to, as the Senator from Oregon has pointed out and as I have tried to put it in some kind of context.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I want to make this point. So long as we depend on nuclear weapons for deterrence, we must maintain unquestionable nuclear competence which our experts at the national nuclear laboratories tell us requires continued testing. That is the only way to have nuclear competence which is to have continued testing.

Now, Mr. President, I think our experts in the Defense Department deserve consideration in their views about this matter, and we have a very able Chairman of the Joint Chiefs of Staff. I would like to read a letter that he has written to Senator NUNN on this subject. It is dated May 4.

> DEAR MR. CHAIRMAN. During the next few weeks Congress will make the critical decisions that will shape our national security, not just for the coming fiscal year but for several years to come. As you make the tough choices in striking the proper balance between our conventional and strategic forces, I urge you not to take any action which would halt our ongoing efforts to modernize our strategic nuclear forces. I believe that even a limited ban on nuclear testing would have such an effect.

I want to repeat that sentence. He says, "I believe that even a limited ban on nuclear testing would have such an effect."

Mr. President, this is the Chairman of the Joint Chiefs of Staff speaking. And I continue with the letter:

> For the last four decades, our national security has depended squarely on credible nuclear forces to deter an attack against the United States and her allies, and to defend against such an attack if deterrence should fail. Notwithstanding recent progress in arms control negotiations, our national security will continue to depend upon strategic nuclear forces for the foreseeable future. Today we are confident of the reliability and effectiveness of our strategic forces. We have been able to maintain this confidence through a comprehensive program of nuclear testing which tests neither at higher yields nor in greater numbers than necessary. Limiting such tests to one kiloton, even with allowable low-yield excursions, would preclude us from certifying the performance, survivability, safety, and reliability of our nuclear stockpile.

Mr. President, continuing with this letter from the Joint Chiefs of Staff, I quote further:

> Any restriction which requires nuclear testing below the limits of the Threshold Test Ban Treaty, which we are currently observing, will affect the entire spectrum of our nuclear systems and, most importantly, our ability to modernize those systems. Such restrictions would eliminate or severely curtail, depending upon the limit, those tests critical to the deployment of such systems as the TRIDENT II, the Small Inter-

Continental Ballistic Missile (SICBM) and the Short Range Attack Missile (SRAM II). In addition, depending upon the outcome of ongoing INF negotiations in Geneva, nuclear testing for the development and deployment of the follow-on to Lance, the Nuclear Depth Strike Bomb (NDSB), the Tactical Air-to-Surface Missile (TASM), the Artillery-Fired Atomic Projectile (AFAP), and nuclear bomb modernization could take on even greater importance. Furthermore, such restrictions would jeopardize our ability to hold at risk those targets which the Soviets are continually making more survivable through mobilization, hardening, and burial. I am referring not only to their nuclear forces but also to their command, control, and communications facilities and equipment. We must maintain the capability to develop and test suitable nuclear weapons, such as earth penetrating weapons, to hold these targets at risk.

Mr. President, this is the Chairman of the Joint Chiefs of Staff talking. This is the highest military man in the world, certainly in the United States. He is saying:

We must maintain the capability to develop and test suitable nuclear weapons, such as earth penetrating weapons, to hold these targets at risk.

Our own strategic deterrent also relies heavily on the survivability, in a nuclear environment, of our nuclear systems and our command, control, and communications systems. There are no substitutes for the underground nuclear tests which we use to evaluate the susceptibility of our systems to nuclear effects. Unless we continue our underground nuclear effects testing program, we will suffer major uncertainties about the survivability of many of these critical systems. A nuclear test ban below currently observed limits would preclude virtually all such tests.

I want to repeat that sentence from the Chairman of the Joint Chiefs of Staff. He says:

A nuclear test ban below currently observed limits would preclude virtually all such tests.

My assessment in this regard is not affected by whether the Soviets do or do not conduct such tests. I do not believe that our testing for the purpose of modernizing our forces will cause us or the Soviets to expand the arms race or to relax our efforts towards arms control. But I do know that without the flexibility to continue testing at current levels our nuclear deterrent will atrophy and the risks to our security will increase. It is with that firm conviction in mind that I urge you not to constrain our current nuclear testing program.

That is the Chairman of the Joint Chiefs of Staff, Mr. President.

He ends up with this sentence: "It is with that firm conviction in mind that I urge you not to constrain our current nuclear testing program."

Now we have given you not only our opinion, some of us on the Armed Services Committee, but we have given you the highest authority in the United States, the Chairman of the Joint Chiefs of Staff, and that should carry great weight with the Members of this body.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. EXON. Mr. President, I yield whatever time is necessary to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I join my colleagues from Nebraska and South Carolina in urging the Senate to reject this amendment. I do so, though, while, at the same time, I commend the Senator from Massachusetts and the Senator from Oregon for continuing to push this overall issue and put it on the forefront, because I think the agreement that has been entered into by the Soviet Union and the United States in the last few days with the visit of Foreign Minister Shevardnadze has been the result of a number of people expressing concern about testing for some time.

I think the Hatfield-Kennedy amendment goes too far. I believe the course the administration is on, with a step-by-step negotiation going on in finding a way to verify the existing agreements which have never been ratified by the Senate, I think that is the way to go. So I would not be in favor of this amendment.

But I do believe that the leadership that has been displayed in bringing this whole question of testing to the forefront has helped bring about a rational situation that begins in December with discussions going on between the administration and the Soviet Union that can lead to a step-by-step reduction of the number and quantity of tests and also can lead to verification procedures which will enable the Senate to consider and hopefully be able to ratify or give consent to ratification to the two treaties that are now pending and have been pending for some time.

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

● Mr. HECHT. Mr. President, let me say from the outset that I am firmly opposed to the Kennedy-Hatfield amendment or, for that matter, any legislation aimed at forcing a ban on nuclear weapons testing. I always have been. I am amazed that anyone could ever doubt that the regular, thorough testing of nuclear devices is absolutely vital to our national security. Only through testing can we maintain an effective, up-to-date nuclear arsenal—which is our last line of defense, and a deterrent to a Soviet first strike.

Mr. President, we have all heard over time that the only avenue to peace is to lay down our arms—to stop preparing for the unthinkable prospect of worldwide war. Well, there is no question that nuclear war is the most abhorrent, revolting, frightening thought anyone could imagine. No one wants war. The United States does not wish to invade the Soviet Union or any of its satellites. We do not seek to dominate the world. What we do want is peace. Pure and simple. But, Mr. President, to preserve peace, I believe the realities of the nuclear age and the threat posed by the Soviet Union make it incumbent upon the United States to be strong, capable, and ready to defend ourselves as well as our allies.

Mr. President, the track record of the Soviet Union is well documented, and I think it demonstrates what we are up against. That record is dismal when we take a look around the world. If the Soviets are serious about peace and reducing the threat of nuclear war, let them make just one show of good faith. Let them remove their troops from Afghanistan, let them leave Angola and the rest of the African Continent, let them cease exporting their revolution to South and Central America, and, as President Reagan recently observed, let them tear down the Berlin wall. How in good conscience, Mr. President, with these facts clear, can we let our guard down? I don't think we can.

The recent Soviet overtures toward reductions in intermediate nuclear forces are a step in the right direction. In my mind, however, there is no question that the Soviets would not be at the negotiating table this very moment had Ronald Reagan not kept to his convictions that you can only have peace through strength. And, being strong means being able to test at will the devices we must never use. To jeopardize this ability as a political concession to the Soviet Union would be both foolish and ignorant.

Mr. President, if we are to have security, we need a nuclear deterrent. If we are to have nuclear weapons, we must be able to test them. Testing is security; it's that simple.

For the security of America and the free world, I oppose the Kennedy-Hatfield test ban amendment, and strongly recommend my colleagues oppose it as well.●

Mr. EXON. Mr. President, this side is prepared to yield back the remainder of our time if the Senator from Oregon is prepared to do likewise.

Mr. HATFIELD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has approximately 6 minutes remaining. The Senator from Nebraska has approximately 12 minutes.

Mr. HATFIELD. Does the Senator from Massachusetts request any time to make any closing remarks?

Mr. KENNEDY. No; I do not.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. HATFIELD. Mr. President, I appreciate the ranking minority member

from the Armed Services Committee bringing to the RECORD the very eloquent statement of the Chairman of the Joint Chiefs of Staff and others. But I think we have to bear in mind, Mr. President, the very character of the responsibilities assigned to people in our military. They must pursue, they are compelled to pursue, scientific research and testing for the continued development of weapons systems. But, Mr. President, that should not come as a surprise. That is the character of the responsibilities these people have.

I think that we have to bear in mind that the Washington Naval Armament Limitation Conference that was held here in Washington was probably the only conference in history that actually dismantled existing weapons—and it came out of an agreement led by our distinguished Secretary of State and the civilian leadership of our Government, Charles Evans Hughes. I do not think we will ever get a call for arms control out of the Joint Chiefs of Staff, and we should not look to that organization for that particular leadership on this issue.

As far as this amendment is concerned, all the excuses have been removed, all the excuses ever uttered on this floor in the past on the substantive questions raised under previous test-ban proposals are gone. Reliability tests were always an argument—that concern is removed by the provisions of this amendment. On-site inspection was an objection raised—that is removed with this amendment. The question of using CORRTEX has been raised as an argument—that has been removed in this amendment.

Those were the basic concerns. Except, of course, for the basic, fundamental question: Do you want arms limitation?

If we do, let us not say we want real limitations, and then fail to take that immediate and necessary required first step to limit our technology through a testing limitation. That is the only way we are going to get true arms control, bilateral and verifiable arms control.

I think this is an appropriate time to give the President that message from the Senate. I hope that our colleagues support the amendment proposed by Senator Kennedy and me and 32 other colleagues.

Mr. BUMPERS. Does the Senator from Oregon have any additional time?

Mr. HATFIELD. Whatever time I have, I will give to you.

Mr. BUMPERS. I thank the Senator.

Mr. President, does the Senator from Oregon have any time left?

The PRESIDING OFFICER. The Senator from Oregon has 2 minutes and 34 seconds remaining.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I rise in very strong support of this amendment. Some day I would like to think that historians will record that the Senate went on record doing something very courageous to end what everybody knows on a daily basis, on a yearly basis, for a long time now is sheer insanity.

Some of the best arms controllers I know have consistently said that if you want to stop the arms race, stop testing. Now, the administration would have you believe, when the Soviets went for 500 days without testing and challenging us to join them, that it was easy for them because they had done all their testing. I am not sure, I do not want to misspeak myself, but if I am not mistaken, we conducted about 26 tests during the time they refused to test.

You are not ever going to get the arms race controlled unless both sides take a big leap at the same time.

Sometimes there is a slight military risk that is worth taking if it is going to save civilization.

To say that we have to conduct these tests for reliability everybody knows is nonsense. You know that probably less than 5 percent of our tests are for reliability purposes.

We are testing nuclear weapons now for a whole host of new weapons that have not even been deployed.

So, Mr. President, I rise in support of the amendment just simply to say that it seems to me it is very carefully crafted to provide for on-site verification. You do not have to worry about technical means or whether the Soviets are cheating or not. You go on the ground and watch the test. It provides for almost everything the Pentagon has said they must have in any kind of a test ban. So what else can the authors of this amendment do?

They have drafted it and crafted it very carefully to meet every objection the Pentagon has had in the past and yet they still object, and the arms race proceeds apace.

I hope our colleagues will take just a small leap of faith. You lose nothing militarily and you gain a lot toward saving the planet. I yield the floor.

Mr. LEAHY. Mr. President, one of the challenges of being the President of the United States is to have the courage to seize opportunities that can lead to a safer world. This is true above all on issues of arms control.

No Member of Congress wants this country to sign an arms control agreement that is weighted in favor of the Soviet Union. But neither can we afford to sit idly by and watch opportunities to reverse the arms race and reduce the risk of nuclear war slip by. Perhaps more than anything else in the nuclear age, we depend on the President to reduce the likelihood of that terrible possibility from ever occurring.

When the Soviet moratorium on nuclear testing was announced 20 months ago, it was criticized by hardliners in the Pentagon and elsewhere as being politically motivated—as if any arms control proposal by any nation, including the United States, did not have a political component. President Reagan, heeding their advice, refused to accept the Soviet Union's challenge to follow its example.

The result was predictable and deeply disappointing. After extending and reextending their unilateral moratorium for 18 months, the Soviets finally resumed testing in February 1987, shortly after the United States exploded its first test of the new year.

In the 18 months of the Soviet moratorium, the United States conducted 25 nuclear tests. Not once during that period did even the most hard-line opponents of a test ban allege that the Soviets violated their unilateral moratorium.

The President's decision to ignore the Soviets' offer, like his decision to break out of the subceilings on strategic weapons in the SALT II Treaty, was a tragic mistake. The United States, and the world, are less—not more—secure because of it.

Those mistakes are compounded with each additional nuclear test, and with each B-52 bomber armed with cruise missiles added to our forces.

Mr. President, I have lost count of the number of times I have spoken on this floor to urge the President to stop testing nuclear weapons. Last year, instead of seizing an opportunity to take a major step toward stopping the arms race, the United States relentlessly continued its own full-scale testing program.

The administration said one reason it refused to join the Soviet moratorium was because of the risks it could pose for the reliability of our nuclear weapons stockpile. In other words, if we're going to rely on nuclear weapons, we'd better make sure they work.

The truth is that few U.S. nuclear tests have ever been for the specific purpose of diagnosing design flaws. Rather, the overwhelming majority of tests are for validating nuclear weapons designs and testing new concepts for future weapons.

In any event, this amendment disposes of that problem. It allows both sides to conduct two reliability tests under 15 kilotons during a 2-year testing moratorium. This would be perfectly adequate to meet the reliability concern.

Another principal reason cited by the administration for rejecting a moratorium was inadequate verification technology and procedures. This, however, is nothing more than a pretext

for what is really a lack of political will. I would be the first to insist that verification is central to any meaningful arms control agreement. But there is little doubt that monitoring uncertainties in either a low-yield arms control regime or a comprehensive test ban could be reduced to acceptable levels with available technology for onsite monitoring at Soviet and United States sites, unilaterally derived calibration data, and exchange of geological information about each side's testing sites.

Again, this amendment satisfactorily resolves the verification problem. It provides that each side will have one designated test site, and includes detailed in-country monitoring and verification requirements. Twelve seismic monitoring stations would be allowed in each country and there would be arrangements for calibration of designated sites using the U.S.-designed CORRTEX technology or a mutually acceptable alternative procedure.

This should be acceptable to the administration, which has been praising CORRTEX for months. It has even insisted that Soviet seismologists who want to monitor the nuclear test site in the United States on the same basis as Natural Resources Defense Council seismologists have been allowed to do in the Soviet Union, must witness a CORRTEX demonstration.

Just this month, the administration and the Soviets agreed to begin talks on December 1 on verification measures relating to the threshhold test ban and peaceful nuclear explosions treaties. It may be that agreement will be reached to employ CORRTEX and other measures the administration feels are essential. The President has my support in those talks.

However, more talks, however hopeful, on possible progress toward verification of the TTBT do not lessen the need for this legislation. Initiation of this mutual, low-threshold moratorium with extensive verification arrangements could pave the way toward negotiation of a long-term treaty on testing.

I think the administration's objections to this legislation, and indeed to moving toward a complete halt to all nuclear tests obscure its real reason for opposing a testing halt. The administration is committed to continuing nuclear testing, both for its enormous buildup of nuclear weapons and because it wants to explore nuclear options for star wars. The unfortunate reality is that the administration does not want a testing halt, no matter how thoroughly verifiable.

I cannot stress too vigorously how deeply I disagree with this point of view.

As one who has repeatedly come up against this administration on issues of arms control, I strongly support this amendment. It is a responsible, moderate, workable response to the administration's criticisms of a testing moratorium. It even provides an escape clause, if the President certifies that the Soviets have conducted a test in violation of the legislation. The United States would not be bound unless the Soviets agree to the same testing restrictions.

What do we possibly have to lose by such an arrangement that outweighs its potential benefits? Without nuclear testing, neither side can perfect more dangerous or destructive nuclear weapons. By putting the arms race on hold, reductions in nuclear weapons stockpiles become the logical next step. That has been President Reagan's stated goal for 6 years, but instead he has led us in the opposite direction.

We can no longer sit back and watch the arms race escalate out of control because of a lack of political will to stop it. The President has left us with no other choice. The Congress must take this most important first step toward real arms reductions.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. SHELBY. Mr. President, I yield 5 minutes to the Senator from New Mexico.

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

Mr. DOMENICI. Mr. President, obviously, the proponents of this amendment are doing the world a great service in focusing on nuclear arms and emphasizing the tremendously dangerous situation that our world lives in with the continued buildup of nuclear arms.

However, Mr. President, it seems to me that the approach to limiting underground testing is predicated upon an extremely dangerous premise, if not an erroneous premise. We are being told that if we support this kind of effort, at least implicitly we are being told, somehow or another we are going to reduce the nuclear armaments in the world.

I submit that there are no experts involved in nuclear underground testing that support that proposition. None.

As a matter of fact, because of underground nuclear testing, the United States of America because we have produced new weapons that are more reliable, without testing would not have been able to put them on delivery systems. That is the issue.

We have been able to effectively reduce the quantity of American nuclear power in terms of a delivery by one-third. Nuclear testing has permitted us to have more confidence in the highly technical delivery systems of today. Thus, we have less nuclear weapons in terms of the delivery than we did before.

I submit, Mr. President, that there has been a lot of talk about the military wants everything and we ought to give them everything, and some say if you vote against this amendment, you are giving them what they want, which is more nuclear weapons.

Well, Mr. President, there are three nuclear laboratories in the United States run by civilians. They have operated under a very simple charge, a very simple mission: Maintain America's nuclear deterrence.

If there is anyone around who have been heroes of this era, it is them. Civilians. Civilian directors running laboratories in the Sandia Laboratory and Los Alamos Laboratory in New Mexico and Lawrence Livermore in California. And, Mr. President, not the generals but the directors of these laboratories have appeared before our committees. They have read this amendment. They have read this proposal. And they have told us that we ought not do it; that, as a matter of fact, what it will do is produce less reliable nuclear weapons; that it is apt to produce on the side of one or the other larger nuclear bombs rather than smaller ones because, as a matter of fact, the Soviet Union knows how to do that. They do not have highly sophisticated things. They do not need as much testing. Consequently, there is absolutely no deterrence built into this. It is built on the premise that the way to build down in terms of nuclear weapons is to build down in testing.

As a matter of fact, the opposite is true. Underground testing will not drive us or the Soviet Union to significant reductions in the arsenal of nuclear weapons. There is no one who says that.

Then why are we doing it? The experts, not the military generals but the civilian experts in charge of maintaining the deterrent, say that the best way to keep the deterrent as safe as possible, as slim as possible, to be able to use new technology with lesser weapons, less of a stockpile, it to be able to test.

So it seems to me we are putting the cart before the horse. We want less nuclear bombs, but we will get it by less nuclear underground testing, and nobody who is an expert is telling us that that is the case.

All of this that I am discussing and that others are discussing, and that the directors of the laboratories have discussed before the committees, all of it is before us, but, in addition, the truth of the matter is that the Soviet Union and the United States are probably going to enter into an agreement and we ought to let them do it. We ought not do it here on the floor of the Senate.

Mr. President, we have before us yet another proposal to impose further limitations on the testing of nuclear weapons. This legislation has some unique features to it, but it is similar to the various other proposals that have been introduced in both Houses. Whether you seek to strictly limit or ban testing for 1, or 2, or 3 years, the end result is the same—our country's ability to maintain an effective and credible nuclear deterrent would be seriously damaged.

I don't pretend to be an expert on nuclear weapons technology. But I do have access to some of the best minds in the world in this area at our nuclear weapons laboratories at Los Alamos and Sandia. I can tell you those people are plenty worried about the impact this proposed legislation could have on our national security.

This legislation is well-intentioned. But it is misguided and it is dangerous. It seeks to slow down the nuclear arms race by limiting nuclear testing.

The rationale is simple—limit testing and you slow down the development of nuclear weapons.

This rationale, however, is based on the assumption that innovations in nuclear warheads, as a result of testing, have been the principal drivers for new weapons systems.

That assumption is wrong.

It is the development of delivery vehicles, such as cruise missiles, that has produced our new weapons systems. Not the development of nuclear warheads. For practical and economical reasons, nuclear warhead designs are adapted to delivery vehicle designs. In other words, the delivery vehicles come first and then the warheads.

Thus, what fuels the arms race are the delivery vehicles—the missiles that carry the warheads. And limiting nuclear testing will do nothing to halt their development. It will not restrict the growth of defense technology.

What would happen, under the proposed testing limitations, is that we would continue developing new delivery vehicles and fitting them with newly designed warheads that have not been adequately tested.

This would only make our nuclear weapons unreliable and unsafe.

Some might ask—why design a new warhead?

The fact is you just cannot take an old warhead design and use it for a new delivery vehicle. New delivery vehicles often require new, more finely tuned, and sensitive warheads. And those new warheads need to be tested.

Either way, with improperly tested new warheads or old unadaptable warheads, the result is the same—a low level of confidence in our nuclear deterrent capability.

And we wouldn't even succeed in controlling the arms race.

As a matter of fact, because of the diminished confidence in our deterrent, I could foresee a scenario where some future administration would want to compensate by fielding more and higher yield nuclear weapons.

We would be worse off than we are today.

If we want to control and reverse the nuclear arms race, then let us work with the Soviets to stop building cruise missiles, ICBM's, and bombers. Let us move to rely less on our nuclear forces and more on conventional.

Let us focus on the broader issue of national security policy.

Should the United States redefine its national security policy and reduce its dependency on nuclear weapons, then it would make sense to seek further limitations on nuclear testing.

But we have not done that yet. We are still heavily dependent on our nuclear deterrent. And the only way you can ensure the effectiveness of that deterrent is through testing.

No amount of calculation or simulation of testing effects in laboratories has been able to replace actual nuclear testing, either as a means to discovering serious problems with our nuclear weapons, or later as a means of confirming that they have been dealt with successfully.

Mr. President, there is simply no substitute for nuclear testing. Our national labs have confirmed this. And I think the labs should know what they are talking about since nuclear weapons have been their business for over 40 years.

Recently, the director of Los Alamos National Labs, Dr. Sig Hecker, wrote to Secretary of Energy Herrington opposing the proposed legislation. I would like to read you some of his observations about the importance of testing. I think he puts it in a way we can easily appreciate.

Dr. Hecker acknowledges that testing is one of the most important elements of establishing competence in any high technology venture.

He states that testing is:

> Indispensable in the automotive industry where hydraulic shakers take an automobile frame through millions of cycles simulating road tests;
>
> In the aeronautics industry where wind tunnel tests help shape new designs;
>
> In aerospace where almost every component is flight tested before acceptance;
>
> And in almost every other industry imaginable.
>
> In fact, government tax payers, and consumers alike would consider it a breach of professional ethics not to test a product before placing it on the market.

As Dr. Hecker notes, it was Congress who recently created the Office of Operational Test and Evaluation in order to improve the Department of Defense's testing procedures.

It seems to me we should be consistent in our thinking.

The point is that the need for testing nuclear weapons is fundamentally no different than for any other technological system.

If anything, the need is greater.

Nuclear weapons are complex systems, which, in time, undergo changes that can affect their reliability. Due to chemically active materials used in warheads, a certain amount of deterioration is inevitable. Without nuclear testing, some potential reliability problems would fail to be discovered.

During the last 3 decades, over one-third of all nuclear weapons designs introduced into the stockpile have encountered reliability problems. Of these problems, 75 percent were discovered and subsequently corrected because of nuclear testing.

Every U.S. strategic missile except the Minuteman II reentry vehicle has experienced surprises in underground nuclear effects tests. Most of the surprises require redesign and retest, some repeatedly, in order to achieve the level of survivability our intelligence estimates say will be necessary.

Thus, so long as we rely on our nuclear deterrent, our goal should be adequate testing.

This raises another question. What is adequate testing?

According to the proposed legislation, adequate testing for the proposed 2-year limitation period would mean a 1-kiloton limit for all tests except two. The United States and the Soviet Union would each be allowed 2 "reliability" tests. The yield of these reliability tests could not exceed 15 kilotons.

The authors of this legislation state that this level of testing is "consistent with the historical U.S. rate for such tests."

This argument is simplistic and misleading.

According to Dr. Hecker, the claim of the adequacy of one test in each of 2 years up to 15 kilotons is not consistent with the experience of the two weapons design laboratories over the past 25 years.

Specifically, experience has shown that a single test can identify the existence of a problem which then is more than likely to raise questions about other weapon designs that can only be resolved by performing similar tests on those other weapons. That is, discovery of a problem in one design by nuclear testing often raises questions about other designs that only can be answered by further nuclear testing.

In these type of situations, under the proposed legislation, the U.S. would have to withdraw from the 2-year limitation agreement.

As to the 1 kiloton limit, it would effectively eliminate the ability of our national laboratories to ensure the reliability, safety, and survivability of our nuclear stockpile.

Crucial fission triggers of most stockpile weapons could not be tested at 1 kiloton. Important factors in the thermonuclear operation of most stockpile weapons could not be tested at yields of 10 kilotons or less. Many strategic nuclear systems cannot be tested at the full yield even under the present limit of 150 kilotons.

Some may ask—so what if we cannot maintain an effective nuclear deterrent?

If testing limitations were mutual and could be verified, then both United States and Soviet nuclear stockpiles would deteriorate at the same time. Both sides would lose confidence in their nuclear weapons, and be more reluctant to use them, thus creating a more stable nuclear relationship.

Well, I will tell you, I just do not buy that argument, particularly since the deterioration of the stockpiles would not occur at the same pace.

Since Soviet nuclear weapons are heavier and more simple in their design than United States weapons, they would generally be more durable. Just as importantly, our confidence in our nuclear stockpile would decrease much faster than theirs since we place so much more emphasis on security and safety considerations.

These imbalances would only create greater instability.

Consequently, for all the emphasis the proposed legislation places on verification methods and procedures, it again misses the point.

And the point is that the United States continues to rely on its nuclear deterrent for its national security. And nuclear testing is critical to ensuring that capability.

I do commend the authors of this legislation for their thoroughness in trying to address the verification issue. According to the measure, both the United States and the Soviet Union must:

First, accept on-site inspections upon demand.

Second, allow installation of an in-country seismic monitoring network.

Three, allow use of a Corrtex device to calibrate the designated test sites.

Four, announce all tests 30 days in advance and confine tests to one designated site each.

However, even these provisions are not enough to guarantee verification.

While nuclear explosions greater than 100 kilotons can easily be detected, identified, and located, we cannot accurately determine yields. Determinations of yields under 100 kilotons are even more uncertain.

I have some real problems with this legislation, as well as with other proposals that seek to reduce the current 150 kiloton testing threshold. While I support the goal of reducing nuclear testing, and maybe someday even eliminating the need for it, we must first reduce nuclear weapons.

Nuclear testing limitations cannot be used as a means to achieve this end because nuclear testing is not responsible for the nuclear arms race.

To the contrary, the knowledge gained from nuclear tests has made it possible for our country to reduce its nuclear stockpile by almost a third during the last two decades.

It is because of testing that the aggregate explosive power of our current stockpile is only one quarter of what it was in 1960. I suggest we consider these facts.

Mr. SHELBY. Mr. President, I yield back the remainder of my time.

Mr. President, I ask unanimous consent that the vote on or in relation to the amendment occur after the vote on the Dodd amendment this evening.

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

Mr. HATFIELD. Mr. President, may I inquire of the Chair as to what the schedule is on amendments with time agreements?

The PRESIDING OFFICER. The chair will state that the pending amendment is the Dodd amendment which is scheduled to have a vote beginning at 6 p.m.

There are some amendments which have time agreements if the Senator from Oregon would like the Chair to elaborate.

Mr. HATFIELD. There is a time agreement of one hour having to do with a binary chemical weapon amendment by the Senator from Arkansas [Mr. PRYOR].

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 730

(Purpose: To prohibit the expenditure of funds for the final assembly of lethal binary chemical weapons before October 1, 1988)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] for himself, Mr. PRYOR, Mr. DANFORTH, Mr. LEAHY, Mr. CRANSTON, Mr. WEICKER, Mr. METZENBAUM, and Mr. DASCHLE, proposes an amendment numbered 730.

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

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

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS FOR PRODUCTION OF LETHAL BINARY CHEMICAL MUNITIONS

(a) EXPRESSION OF CONGRESSIONAL POLICY REGARDING CHEMICAL WEAPONS.—It is the sense of Congress—

(1) that extraordinary progress has been made in recent months at the Chemical Weapons Disarmament Conference in Geneva by the United States, the Soviet Union, and 38 other nations in the negotiation of a treaty banning the production and stockpiling of chemical weapons;

(2) that any treaty banning the production and stockpiling of chemical weapons to which the United States becomes a party must include requirements for enforcement, for the on-site inspection on demand of all storage, production, and destruction facilities, and for the accounting of chemical weapons which may be developed in the future;

(3) that it is essential to the continued progress of negotiations on a verifiable treaty banning the production and stockpiling of chemical weapons that the Soviet Union demonstrate a good faith effort to address the requirements described in clause (2); and

(4) that a one-year delay on the final assembly of lethal binary chemical munitions by the United States could enhance chances for the successful negotiation of a multilateral and verifiable treaty banning the production and stockpiling of chemical weapons and would indicate to the Soviet Union and other negotiating nations the good faith commitment of the United States to conclude such a treaty.

(b) TEMPORARY PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act to or for the use of any department or agency of the Government may be obligated or expended for the final assembly of lethal binary chemical munitions before October 1, 1988.

(c) DEFINITION.—As used in subsections (a) and (b), the term "lethal binary chemical munitions" has the same meaning given such term in section 818(b) of the Department of Defense Appropriations Authorization Act, 1976 (Public Law 94-106; 50 U.S.C. 1519).

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order that this amendment may be considered at this time.

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

The amendment of the Senator from Oregon will be in order.

Mr. HATFIELD. Mr. President, for 7 years, the administration has requested funds for the production of a new generation of nerve gas weapons. For 7 years we have come to this floor to oppose that request. Many of us have come to this floor to oppose the request in part because we believe that the United States captured the moral high ground in 1969 when President Richard Nixon declared a unilateral moratorium on the production of nerve gas weapons. That high ground ought not be abandoned quickly or easily.

We have also come to this floor because the administration's request has been financially and militarily unjustifiable. Mr. President, we have come to this floor to suggest to our colleagues that the production of an entirely new

generation of nerve gas weapons is simply not necessary.

Of course the administration has changed its arguments over these past 7 years.

First the administration tried to tell us that our current stockpile was leaking. The administration went so far as to appoint a blue ribbon panel to examine this issue. The panel's conclusion: the stockpile was not leaking.

Congress denied the administration's request.

Then the administration tried to convince us that our stockpile was not sufficient "to force the other side into protective posture," the stated goal of our nerve gas program. From a variety of unclassified sources, we learned that the nerve gas weapons currently in our stockpile fired around the clock as 5 percent of the total artillery fire could sustain between a 35- and a 135-day war in Western Europe.

Again, Congress denied the administration's request.

Then the administration tried to convince us that Western Europe was vulnerable to a nerve gas attack by the Soviet Union. So we asked our NATO allies, the countries which were declared to be vulnerable. Mr. President, not a single one voted to store our nerve gas weapons. Western Germany even went so far as to ask that its current stockpile be removed. In its eagerness to secure West German cooperation, this administration agreed.

Congress delayed the administration's request.

Finally, renewed production of nerve gas became a bargaining chip, a carrot to get the Soviets to negotiate seriously. That is what we were told.

Finally we bought in and Congress granted the administration's request.

Mr. President, the United States is now back in the nerve gas business for the first time in 18 years. After almost 20 close votes in 6 years, Congress last year appropriated money for the production of a new generation of these ghastly weapons.

There is, however, one more decision to be made.

Congress last year delayed final assembly of these new weapons until October 1, this year, 1987. That is next week, Mr. President.

The real irony of this is that the Soviets recently accepted on-site challenge inspections and observers believe that a comprehensive agreement banning the production and stockpiling of these weapons could be achieved in a matter of months at the multilateral negotiations in Geneva.

Maybe it was our decision last year to appropriate production funds for these weapons that convinced the Soviets to take the negotiations seriously. I do not know.

What I do know is that the Soviets now are taking the negotiations seriously.

The question is whether we are going to take them seriously, too. The question is whether we are willing to risk an unnecessary and profoundly dangerous new arms race for no reason at all.

My appeal, Mr. President, is very simple: delay final assembly for 1 more year. That is all this amendment does—delay the final assembly of those components we have already produced.

Every Member of this body has heard the distinguished Senator from Arkansas [Mr. PRYOR] and me come to this floor year after year to oppose the administration's nerve gas request. Indeed, many of our colleagues are no doubt tired of the broken record: moral high ground, militarily unnecessary, fiscally irresponsible.

We have used these arguments. They are as valid today as the day we started this argument 6 years ago. But, Mr. President, we have lost on those arguments. Production is now underway. There can be no question about this Nation's resolve. The entire world, friend and foe alike, knows what we are now ready and willing to do.

But a week before final assembly begins, Mr. President, I want to remind my colleagues of something we all have learned the hard way over the years. It is all well and good to support a bargaining chip, but a bargaining chip ceases to be one when it becomes part of the stockpile. A bargaining chip, if it is a valid argument at all, is no longer a bargaining chip once it enters the stockpile.

That is the fundamental reality which should guide the vote of every Senator today. Before a bargaining chip is assembled, the theory is that it will be given up for the right deal. After it is assembled, the reality is that we will do virtually anything to hold on to it. If that includes forsaking a possible agreement, so be it.

Once these weapons are assembled and put into the stockpile, the potential for an agreement could go right out the window. Not because of Soviet intransigence in this case, but because of American economics.

To that handful of my colleagues who have changed their votes in recent years, who thought long and hard about changing their "no" votes to "yes" votes, I ask you to reconsider your position. We are no longer challenging production. Make a distinction between this amendment and the Hatfield-Pryor amendments of the past.

As the Senator from Virginia knows, he stood here on the floor of the Senate and argued against our amendments in the past because they banned production; this amendment does not stop production. All we are saying is let us not assemble these components for 1 more year.

That, Mr. President, is a critical distinction. I repeat, that is a critical distinction. It is a critical distinction between the votes you have cast in the past and the vote you are about to cast today.

Mr. President, I would like to keep the amendment in its prior form, as I know the Senator from Arkansas would, but we have yielded to the reality that if we can postpone assembly for 1 more year, God willing, we might achieve some kind of an agreement that we could then implement, execute, observe, and honor. But that agreement would be more difficult to achieve once our new weapons go into the stockpile.

If you vote with us today, you can favor production—even though I do not. If you vote with us today, you can favor replacing the existing stockpile. If you vote with us today, you can favor showing the Soviets that we mean business. That was not true in the past. That was not true of votes on this issue even last year.

But this year you can do all those things and still say you tried. You tried to avoid it. You tried to give it one last chance.

Mr. President, that is what this is all about. Those who vote for this amendment can say they gave peace one last chance.

For even the most pro-defense, most hawkish Senator—you can give peace a chance without giving an inch. For the life of me, I cannot imagine what the objection to that might be.

Mr. President, each Senator might—just might—make the difference. This vote is likely to be close. In fact, we have had the Vice President of the United States twice on this issue cast the deciding vote because of a tie. It was that close. Remember? I understand his mother called him both times and gave him Holy Columbia. I wish we could give her with a vote.

So let me say that to all the staff seated in the back of this Chamber, to all the staff listening on their televisions and their radios: This vote is likely to be close. Do not let your Senator come to this floor working from the assumption that this is the old nerve gas vote—revisit it, pro or con, up or down.

I beg of the staff—inform your Senators. Do not give your boss the shorthand description that this is the nerve gas amendment. Let him or her know that this is a different, a distinctively different, nerve gas amendment.

It is not, I should say, only a question of a weapon. I think we have—and the staff has—a moral responsibility to examine the difference.

Mr. President, I do not often address my remarks to the staffs. But I do know that in my own schedule, the complete chaos that exists in some days of my schedule leads me to settle

for shorthand descriptions. But I say to the staff today: of all the votes that will be cast, this is one I hope you will take the time to intrude into the schedule of your Senator. Inform him or her that this is not the old nerve gas amendment.

I think this is the end of the line on this subject. I think this is the last inning, for if we do not seize this opportunity—this opportunity that will elude us within a week—we may never have the opportunity to address this issue again. We ask only to delay the final assembly of these weapons for 1 year.

What is it that people think they might lose in voting for this amendment? The current stockpile is certainly adequate for another year. The destruction schedule for the existing shells has fallen behind. No Western European ally has agreed to accept these new weapons. Let us bear in mind that the deployment of these are the only thing that makes them effective, the forward deployment. Because production facilities have been built and production itself is actually under way, there is no risk. We are not losing any time. United States resolve is not in question.

I want to emphasize these points, Mr. President. The current stockpile is unquestionably adequate for another 12 months. The destruction schedule for the unitary shells have fallen far behind and no Western European ally has agreed to accept these new weapons. That has to be underscored.

As a result, the amendment we offer today would not affect the timetable for replacing or deploying nerve gas weapons. All our amendment would do is to give the negotiations a chance to succeed. Again, I pose my question: what do we lose by waiting 1 year? For those of you who have swallowed the administration's arguments and are now prepared to spend several billions of dollars over the next decade for this program would you not like to know if it is really necessary?

The bottom line, Mr. President, is that passage of our amendment would do nothing to change the nerve gas modernization schedule and everything to support the conclusion of a comprehensive treaty banning these weapons entirely. By retaining our "bargaining chip" we stand nothing to lose and everything to gain.

Mr. President, I yield to my colleague from the State of Arkansas, the coauthor of this amendment, whatever time he desires.

The PRESIDING OFFICER. The Senator from Oregon has approximately 14 minutes and he yields to the Senator from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, I thank the distinguished Senator from Oregon for yielding to me. I will take only a few moments. Today this Chamber, Mr. President, stands poised to launch into a large and expensive program to build new chemical weapons.

I am very proud, Mr. President, to be able to cosponsor this very important amendment, a critical amendment with my good friend, Senator HATFIELD of Oregon.

We will take this dangerous step during the next fiscal year when U.S. manufacturing plants begin to churn out lethal chemical weapons for the first time since the Nixon administration banned production in 1971.

Mr. President, we owe it to ourselves to move very carefully as we consider resuming nerve gas production. We are in the midst of sensitive negotiations with the Soviets about chemical weapons and observers say we are closer to a treaty than we have been at any time in the last decade. An agreement seems to be close at hand.

That is why Senator HATFIELD's amendment for a 1-year moratorium on the final assembly lethal binary chemical weapons makes so much sense. A moratorium would be seen as a good faith gesture while continuing to hold out the threat of renewed production if a treaty is not agreed to.

Quite honestly, Mr. President, this amendment is not such a big deal; it will only really affect one-third of our offensive chemical program.

One segment the program, the Bigeye chemical bomb, is in such bad shape that the Navy had to disqualify it from testing last spring. In its fiscal year 1988 defense bill, the House of Representatives has eliminated all production funds for the Bigeye and the Senate has cut production funds by 80 percent. When speaking off the record, many Defense Department officials will tell you that the Bigeye is nowhere near ready for production.

The second segment of the offensive program is made up of research and development on future chemicals applications of the miltiple launch rocket system and alternatives to the troubled Bigeye bomb. None of these programs are ready for production and will not be affected by 1-year moratorium.

That leaves the third segment: the 155 millimeter binary chemical artillery shells. The 155's will be affected by this amendment. They do seem to be ready for production and a moratorium would set them back 1 year.

But Mr. President, a moratorium on 155's will not have much of an impact on our overall chemical stockpile. Although figures on our current stockpile size are classified, I think we can all agree that the one thing our military has an an ample supply of is unitary chemical artillery rounds.

So, while the production of 155 milimeter chemical rounds will be affected by the Hatfield amendment, the ultimate chemical deterrent referred to by opponents of this amendment will be mostly unchanged.

Mr. President, I am not going to talk about the immorality of chemical weapons or the horror of nerve gas. We have heard about all of that before and each of us knows how we feel.

I will say, however, that no matter how one feels about chemical weapons, it makes sense to support a moratorium on their production for 1 year. It will not weaken our military or set a bad precedent for the future. Therefore, I urge my colleagues to vote for the Hatfield amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. SHELBY. I yield to the Senator from Maine for a question.

Mr. COHEN. Is it the Senator's understanding that the amendment would in fact establish a moratorium for production of the 155 millimeter shell? Is that what the Senator said a moment ago?

Mr. PRYOR. It would establish a moratorium for a 1-year period for the final assembly of the 155 millimeter shell.

Mr. COHEN. I am pleased to hear the Senator correct that. I understood his statement was to put a moratorium on the production. His amendment would allow the production to go foward. Is that correct?

Mr. PRYOR. That is correct.

Mr. SHELBY. I yield myself such time as I may consume.

Mr. President, 2 years ago, and again last year, after exhaustive debate, the Congress determined that it is vital to the United States and NATO's security to produce a new U.S. chemical deterrent.

The reasons for that decision remain as compelling today as they were 2 years ago and even last year:

Binaries redress the dangerous imbalance in Europe in created by the Soviet Union's considerable superiority in chemical weapons. By virtue of their deep strike capability and a more persistent agent, modern binary weapons offer a more effective deterrent to a potential Soviet chemical attack.

Without these modern weapons, the U.S. chemical deterrent will not be credible. The existing U.S. stockpile is aging, deteriorating and increasingly unsafe. The new binary weapons will be much safer to handle and store, thus lessening the risk to military personnel and civilians who work or live in the vicinity of chemical weapons storage sites.

Without the modern binaries, the Soviet Union has no incentive to negotiate seriously on a chemical weapons ban. Our negotiators in Geneva attribute recent Soviet acceptance of

United States onsite challenge inspections for verification of a chemical weapons ban to the United States determination to go ahead with binary weapons production.

Anyone who thinks that the progress in negotiations to date is sufficient for the United States to postpone its binary program is sadly mistaken. First, any indication of flagging United States resolve will be interpreted by the Soviet Union as a signal that procrastination and the passage of time may allow them to achieve their goal of depriving the United States of a modern chemical deterrent without being required to relinquish their own.

Second, though considerable progress in the negotiations has been made, it will still be at least a year, if not longer, before a treaty will be achieved. There are still many difficult issues, including the critical issue of the implementation of verification procedures, that remain to be resolved. Anything less than a firm U.S. commitment to stick to its binary modernization program will be detrimental to the success of the negotiations.

What will bring the Soviet Union to the bargaining table in earnest? I do not think it is going to be a delay in the program. I do not believe it is going to be a delay in the final assembly of these chemical weapons. I do not believe it is going to be a ban here in Congress of these weapons. I think that is the wrong message at the wrong time.

We just have to look back a few years to the intermediate-range missiles. Senators will recall the problem we had in Europe, the problem we had with the Soviet Union, when we said we were going to deploy the intermediate-range missiles in Europe. They put every kind of pressure in the world on us. But when did they start to negotiate? They started to negotiate after that, not before.

I believe that if we go ahead with the binary program, the Soviet Union then has the incentive to negotiate in earnest, the incentive to reach an agreement. Otherwise, it is a unilateral situation, and I do not believe we want to deal with the Soviet Union from a position of weakness.

If we do not have these weapons, we are going in empty handed. I would like to think that we could go in with strength. We have to negotiate from strength. I believe it is not only a sound military reason, but also a political reason to do it. It is essential that we go ahead now with a modernization program of our binary weapons.

Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I do not think anyone can challenge the motivation of the two cosponsors of this amendment. I know that both are very good and dear friends of mine, and we have supported each other on a number of issues. We happen to differ on this one.

They are both men of great passion and conviction and are idealists. But the fact remains that deterrence is not based on passion and it is not based on conviction and it is not based on idealism. It is based on capability. The question is, do we have a capable deterrent, and what is the status of that deterrent today and its future tomorrow?

The Senator from Arkansas said that we have an agreement at hand. I hope so. I have been one who joined Democratic Members in pressing for a chemical weapons treaty and urged the administration to table one in Geneva.

I have gone to the Soviet Union to try to pressure them to come to the bargaining table to deal with this issue, because I think it is not secondary in importance, but certainly on a same level of importance as the reduction of nuclear weapons. So I favor very much arriving at an agreement with the Soviets upon the elimination of chemical weapons.

It is said that this amendment will accelerate the attainment of an agreement, and I suggest that it might prolong it. I believe that to the extent that we show a determination to go forward not only with the manufacturing process, not only with the modernization program, not only with the assembly, but also the actual deployment, we may force the Soviets to realize that we are serious in going forward.

Even if their negotiating approach is not affected, I would favor replacing the unitaries with binaries, purely from a safety point of view. The fact is that the binaries are safer for us. They are safer for our servicemen and servicewomen to handle or to be in proximity to. They are not lethal unless they are mixed; they are not mixed unless they are fired; they are not fired unless we are attacked.

I look at it from a safety point of view for our men and women who have to deal with our present dangerous, toxic chemical weapons. I want to remove and reduce that danger as much as possible.

So, until such time as we arrive at an agreement to eliminate all chemical weapons, I favor replacing what we have with binary stocks to the extent that we can.

I believe that we will in fact achieve an agreement sooner rather than later if we reject this amendment.

I know that the Senator from Oregon has said that, for example, this may be the last clear chance and has painted the argument in terms of an apocalyptic vision of what is going to take place in the event the amendment is defeated.

I want to give peace a chance. I also want to give safety a chance. So I am for peace and safety in opposing this amendment.

Second, the argument is made that we have to stop the assembly of these weapons, since once they get into the stockpile, that is the end of it; they will never be taken out.

I think, as the Senator from Alabama has just very directly pointed out, we produce Pershings, we produce ground-launched cruise missiles. These were in fact deployed. We now have an agreement—hopefully it will be completed in the near future—to remove those weapons. They entered the stockpile. We are now talking and negotiating their actual removal from West European soil.

So the argument once they get into the stockpile they will never be taken out simply does not stand up.

So I would like to urge my colleagues to reject the amendment no matter how nobly motivated, and I want to reiterate I do not question or challenge the intent of the two sponsors. They have been consistent over the years. No one has been more consistent than my friend from Oregon in trying to prevent, first, the building of facilities in the district of the Senator from Arkansas, the modernization plan itself, the manufacturing process, and now the assembly. He has been very consistent in his opposition, and he certainly is someone who is a credit to the view.

But I believe that we should not be persuaded by the argument the delay of final assembly is only for 1 year. It is 1 year this year, then next year it will also be 1 year. The Soviets may or may not throw out a little bit in the way of negotiating tactics, and then 1 more year from now we will be back here with the two Senators standing up saying "Give peace a chance just one more time and delay it again. A little progress is being made. Do not jeopardize it now."

I think, Mr. President, we will achieve agreement with the Soviets, which I desperately want, much sooner if we reject this amendment and if we, in fact, allow the assembly of the weapons to go forward.

The PRESIDING OFFICER. The time yielded to the Senator from Maine has expired.

Mr. SHELBY. Mr. President, I yield 8 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I thank the distinguished floor manager. I may use all that now or may save some of it a little later.

Let me stress one thing that I think has been misunderstood about this.

What we are talking about is not whether the United States will have chemical weapons. We already have them. What we are talking about is whether the chemical weapons we

have are going to be safe for our own troops to handle.

Now, we can argue all day about whether it is good for the United States to have chemical weapons and whether that is too hideous a weapon for war, although war is very hideous in its own right, of course.

What we have been talking about here and argued about, debated and voted on over the last couple years is whether we are truly going to have more safety for our own troops and for people in the areas where these weapons are stored.

At the present time our artillery shells are unitary shells. The gas mixture is in there. It is mixed. If it is broken, even if the seals are broken, if it leaks, if there is a corrosion effect, if whatever happens we have a leakage out of those shells, then the people around that shell are dead. That is the stark reality of it.

Now what the production provides is that we will go to binary shells. What makes those any better? They are still hideous weapons but what makes them any better?

Well, binary weapons mean that the active agents are not combined in the shell until it is already fired, until it has made so many revolutions, until it has gone through a certain G force and the mixture does not occur to make that a lethal shell until it has been fired and is on its way to do its job. That is what we are talking about producing.

In other words, it is safety for our own people, it is safety for our own troops handling this, it is safety for the people in the areas of Germany or here or Arkansas or wherever this material is handled that they be kept apart.

We could take those two components and right here on the floor of the Senate we could pour those chemicals apart and they would not harm anyone. We could go about our business. You combine those chemicals and you have a leak of a very few drops in this Chamber and everyone in the gallery and this whole Senate Chamber would be dead. Now, that is what we are talking about.

So we are not talking about whether the United States will have chemical weapons. We have them. They are unitary. They are dangerous. They are old. And I would not want to be around where they are being handled.

But what we are producing now beginning with the artillery shells, the 155 millimeter shells, is we are just going into production on shells that are safer for our own people.

Now, let me back up a little bit. What is the history of warfare? The history is where we have a present force of whatever it is—rifles, machine guns, planes, tanks, artillery shells—if you have a pretty good set of shells to use against the enemy they are less likely to start using theirs against you.

That is the whole theory behind deterrence. That is the whole theory behind the whole nuclear weapons setup. That is the whole theory behind what we are now negotiating on INF and want to start negotiating in START. If we say we have the deterrence, they would know we will use it and they are less likely to use it against us because of the fear of reprisal—mutual assured destruction.

Let us go back to the history of chemical warfare. It is to show that to be very, very true with chemical warfare I tell you. Go back to World War I. The Germans thought the allies did not have chemical weapons. What did they do? They used them, mustard gas. And it was hideous and it was horrible and we still have some of our very, very old people now still in veterans hospitals as a result of that gas used in World War I, World War I, mind you. Now, the British then had a small stock of gas, and it was used over in France, and when it was used for the first time the Germans withdrew their chemical weapons and never used them again in World War I.

We come up to World War II. In World War II both sides did not do it and both sides knew the other side had it, and it was not used in World War II.

Get to Vietnam, it is sort of a hazy situation over in Vietnam whether some was used or not used.

There is not any doubt what has happened in Afghanistan. The Soviets have used gas in Afghanistan because the Afghanis have not had a counterweapon that they could use, a countergas capability they could fire at the Soviets.

So I think it is very clear at least from those examples to me to indicate that the possession of those weapons is important.

What have the Soviets done? They are far, far ahead of us in chemical weapons capability. We know that. They have gone for the defensive measures also. They have their vehicles that are more gas-proofed than ours. They have gone into the whole area of gas protection much more completely than we have by far.

And we have a minimal capability to do it now, but it is in these unitary weapons and I think keeping a gas capability, a chemical weapons capability is very important just for its deterrence standpoint.

We have that in a minimal way now with the unitary weapons, but I want to see those weapons be more safe for our own people and our own troops in the depots in which they are stored and the transportation problems with these weapon systems.

And the binary production is exactly what we are talking about here, and that it is what, as I understand it, would be stopped by this.

I can understand the concern of the distinguished Senator from Arkansas, my colleague. He is concerned about the manufacture of this and the direct impact it has in his State and that is something to be concerned about, but I would submit that making these shells binary is safe. We do not combine those chemicals. We do not combine them until the weapon is actually fired.

The Bigeye bomb that we will also be discussing, the Bigeye is a weapon system that has had a lot of problems. There is not any doubt about that. And we have followed that very, very closely through the years. It has been one difficulty after another. And I wish they had those problems, but we are to the point now where they are down to the final stages of testing, as I understand it, and to stop the program now just when we are giving an additional range which is what it would do, that is an air-carried weapon now, to be delivered farther than just the 155 artillery shell, you can put it on an airplane, go out, in other words, you extend the range of your chemical deterrence capability. That is what the Bigeye would do. And we are in the final stages of testing on that one which will be debated shortly, I guess.

So I favor that kind of a deterrence against the Soviet superiority in chemical weapons. I favor having that counterdeterrence, but I want that counterdeterrence to be safe and that is what the binary weapons do; they keep the active ingredients separate. They are not combined until the shell is fired. That is why we need to defeat this amendment.

The PRESIDING OFFICER. All time has expired.

The Senator from Alabama has 10 minutes 50 seconds remaining.

Mr. SHELBY. I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina [Senator THURMOND] is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment that would prevent the obligation of funds for final assembly of binary chemical munitions.

Last year, after a long period of controversy, the Congress authorized production, including final assembly, of binary chemical munitions. This action was taken in view of facts that have not changed in the past year. These facts include the following.

Binary munitions are safer to store and handle than existing unitary munitions. The two agents become lethal only after they are mixed together in a process that does not begin until after the weapon is fired.

The unitary weapons in the existing stockpile are between 17 and 38 years old, and there are signs of deterioration. Some of these munitions are leaking, and they pose an increasing hazard to our military personnel.

In 1984, the National Academy of Sciences concluded that "about 90 percent of the inventory of chemical agents and nearly as much of the munitions inventory has little or no military value."

Mr. President, these factors, and the importance that the Warsaw Pact places on chemical warfare, have resulted in our senior military leadership identifying this lack of credible chemical deterrent as the most serious deficiency in our conventional defense posture.

Mr. President, that is important that our senior military leadership have identified this lack of credible chemical deterrent "as the most serious deficiency in our conventional defense posture."

Mr. President, the Senate last year defeated a similar amendment by a vote of 57 to 43. Several months ago, the House defeated an amendment with a similar intent by 230 to 191. I hope my colleagues will join me and maintain the bipartisan support that has existed for this critical military requirement by voting against this Hatfield amendment.

Mr. President, there is no question in my mind that in World War II the Germans would have used chemical weapons. They had the weapons, but they knew the American forces had the weapons. That is the reason they did not use them. We have got to have those weapons. We have got to have them ready and we have got to keep them up to date. They are subject to deteriorate as time passes, and so it will be a deterrent if we have these weapons in good shape.

And the binary weapons are much safer than unitary weapons. Because, as has been stated, these chemicals come together after the weapon has been fired. So there is no danger to military personnel in handling these kinds of weapons. There was danger in handling the unitary weapons. But the binary weapons are much safer and, in my opinion, we are very wise to go with that form of chemical agent.

I hope the Senate will not vote for this amendment.

The PRESIDING OFFICER. The Senator from South Carolina yields back the balance of his time.

Who yields time?

Mr. HATFIELD. Mr. President, with all due respect to my colleagues, I think we have heard again the same old tired arguments that were used 7 years ago. We already went through that "safety" charade—on the question of leaking canisters. As I indicated earlier, that was disproven by the President's own blue-ribbon commission.

Mr. President, we have been identified as presenting this in the context of apocalyptic concerns. There is something desperately dangerous about nerve gas. But is there anything so dangerous about a delay? Is there such a danger today that a 1-year delay in the assembly of this weapon is going to threaten our defense, going to threaten the Western alliance, going to weaken the United States?

Of course, I think we have to be concerned about the volatility of the world in which we live. None of us can predict the events of the next moment, let alone the next year. But I think we have to recognize that in the history of warfare—and I would cite Liddell Hart, who I think is probably the best of all military historians—when we are talking about a single weapons system, it has to be taken in the context of all weapons systems. By extrapolating here something out of our arsenals that we have had a moratorium on for all these years, how can that somehow be the pivotal point of whether or not we are going to have a valid arsenal or an ability to defend ourselves—to argue that is to take the whole thing out of context.

Bear in mind that it is not a matter of matching, as Liddell Hart says, the potential adversary numberswise. It is, instead, to determine whether or not you have an offensive or defensive capability and where you want to put it. It is also the matter of the totality of your arsenal, not on any one weapon system. Finally, it is the sufficiency. It is not a matter of item for item, 10 for 10, 20 for 20. That can be the basis of our policy, but our administrations, through Republicans and Democrats alike, have always said ours is a defensive posture that we are maintaining for the peace of the world.

Mr. President, all of us are concerned about the safety factor of any weapon that our young men and women are expected to handle. No one disagrees on that point, so let us not make that the argument. We all agree. There is no debate on that. The safest thing that we can do is to eliminate the weapon on a multinational basis.

Everyone so far today has had the hope or expectation we may get an agreement within a year. Hopefully that will come about even sooner.

If that agreement is concluded, in all probability it will include the elimination of this weapon. That is the objective of the conference, to eliminate the stockpiling and production if nerve gas weapons. I would say to my good friend, the manager of the bill, why pay money on something that all of us have high hope that we can eliminate why not a 1-year delay, a 1-year delay on this?

We are not affecting production. We are not affecting our will. We have already built the capacity to produce. We are not affecting our deterrence.

Do we want nerve gas so badly? Are we really willing to risk even the possibility of this treaty because we want to push this thing at this time? A breather of only 1 year on the assembly in no way affects our deterrence, our will, our capability.

Let me also add one other point again, to emphasize forward deployment. The burden ought to be on those who oppose this amendment to indicate one scintilla of evidence that our allies are willing to receive, even if we produce this particular weapon, to receive it. And if we want to go through that argument about the Ministers of NATO as against the political leaders of NATO, we can go through that again. The bottom line is that they are not willing to accept it.

But remember that the same people who were arguing 7 years ago that we had to have a bargaining chip are arguing that somehow that bargaining chip will be thrown away if we wait. It is not thrown away. If we have to have pressure and leverage on the Soviets to conclude what is happening at Geneva, they are fully aware of the fact that we have the components and we could move to assembly.

I think what we are really seeing here today is an attempt to turn the bargaining chip into an operational weapon.

Mr. WIRTH. Mr. President, I rise in support of this amendment to delay the final assembly of nerve gas weapons for 1 additional year.

While I remain steadfast in my opposition to the production of chemical weapons in all forms, I consider the present amendment as the best possible approach given our current circumstances.

Proponents of chemical weapons argue that our production and stocking of these weapons will deter the Soviets from using like weapons. They further argue that binary weapons reduce the danger inherent in the production, transport, and storage of chemical weapons.

So let's look at this amendment with respect to deterrence and danger.

This delay will not diminish what chemical weapon supporters claim to be the deterrent value of chemical weapons. The production facilities for binary weapons have been built, and production of component parts is actually underway. So our will and capability to produce chemical weapons is not in question.

Nor does this delay affect our ability to deploy binary chemical weapons in Europe as part of our forward defenses. At present the United States has no agreement for such deployment, and there is no guarantee that full assembly of binary weapons would force such an agreement. In fact, the

only agreement we have in place with the Federal Repubic of Germany is for the removal of unitary chemical weapons presently deployed on their soil.

Now to the danger of producing and storing chemical weapons.

Adding to our chemical weapons dilemma is the often-postponed, still-controversial, and still-delayed destruction program for our present stockpile of unitary, obsolete chemical weapons.

So if we proceed as planned, we could have not only a huge stockpile of unitary weapons to contend with, but an additional—albeit somewhat safer—stockpile of binary weapons that—positioned here in the United States—provide deterrence from a distance.

I agree with the sponsors of this amendment that—with the possibility of success in negotiations for a comprehensive ban on chemical weapon production and stockpiling—now is the time to show good faith by delaying our binary production.

Mr. DASCHLE. Mr. President, I rise in support of the Hatfield-Pryor-Danforth amendment to limit production of chemical weapons.

The Hatfield-Pryor-Danforth amendment would bar for 1 year the final assembly of 155 mm nerve gas artillery shells—shells which, if produced, will be added to this country's current, huge arsenal of chemical weapons. While the Pentagon complains that some weapons in its stockpile are too old to use, the fact remains that we could remove the unusable weapons from the stockpile and still have an overabundance of these artillery shells. We simply don't need to spend scarce financial resources on more chemical weapons.

Chemical weapons have devastating, morally indefensible results. While some speak of the need for chemical weapons as a means of deterring a Soviet chemical attack, the real-life effect of chemical weapons has been the death and suffering of innocent people. Both American and enemy soldiers will wear gas masks and protective gear during a chemical attack. Their movement will be inhibited, but they will be protected. The defenseless civilians who happen to live in the way of these weapons will not be so fortunate.

Finally, it is important to note that we are growing closer and closer to an international agreement to ban all chemical weapons. There are reports that such an agreement could be reached in 1988. As we near an agreement, it makes no sense—economic or otherwise—to add to our current stockpile weapons that would have to be destroyed.

Mr. President, I thank Senators HATFIELD, PRYOR, and DANFORTH for offering this important amendment. I am pleased to be a cosponsor, and I urge my colleagues to support it.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who yields time?

Mr. GLENN. Will the distinguished floor manager yield me 2 minutes?

Mr. SHELBY. I yield 2 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I think if we applied the same kind of logic which has just been applied to chemical weapons, we would say that if we go ahead and unilaterally reduce our nuclear stockpiles first or reduce our tank supply first or reduce the number of ships first, then it will be somehow easier to negotiate.

That is rather tortured logic to me, because we are not negotiating in that situation from any equal capability, an equal capability we do not have to begin with. We are far inferior in this field of chemical weapons. It seems to me we would be going further downhill in our comparison with the Soviets as we try to negotiate with them.

I do not see that that makes any real sense.

We know that if we have a strong capability, they are more likely to respect that strong capability and negotiate in good faith. So I do not agree at all that the best way to negotiate is to say that they are weaker on that side and we will make ourselves more weak so we will be in a better negotiating posture. That to me makes very little sense.

I yield back the remainder of my time.

Mr. HATFIELD. I must say to the Senator from Ohio either I did not make my comments clear or his interpretation is totally without any foundation in fact. We already have the stockpile, whatever condition it is in. We already are producing the binary. We are not unilaterally doing anything except to say that we are delaying by 1 year the assembly of the component.

Mr. President, it comes right back to the same old problem: We are willing to risk anything that might create a war or hostility, but we are not willing to take one small step in the risk for peace or a limitation of arms. One year delay in the assembly is all we are asking. Is that too much to ask?

I yield my remaining time to the Senator from Arkansas.

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

The PRESIDING OFFICER. The remaining time is 5 minutes 21 seconds.

Mr. PRYOR. For the proponents?

The PRESIDING OFFICER. For the proponents, 1 minute 33 seconds.

Mr. PRYOR. Mr. President, quickly, if I may respond to my friend from Ohio, Senator GLENN: One, there has been a lot of argument about deterrent, that we have to go into this new generation of nerve gas to have a deterrent. I think I am correct. Only about 5 years ago, one of the most eminent scientists in this world from Harvard University, testified before the Congress that today our present usable stockpile of chemical agents could kill everyone in the world five times over. Five times we could kill everyone, Mr. President. If that is not a deterrent, what is it?

Finally, my friend referred to Pine Bluff, AR, saying that the people there need not be afraid because this would be safer.

Mr. President, it may be an argument on the other side, but a lot of people in Pine Bluff want to go into the new generation of nerve gas simply because it is going to create something called jobs, j-o-b-s. Jobs drive too many military decisions in this body. I hope these points will be considered as we hopefully vote for the Hatfield amendment to postpone assembly.

Mr. HATFIELD. I ask for the yeas and nays, Mr. President.

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

The yeas and nays were ordered.

Mr. SHELBY. Mr. President, I yield myself as much time as I shall consume.

Mr. President, I reject the argument that this is a tired argument, that this is the same argument we have had year after year. We talk about safety. If we delay the assembly of binary weapons, what are we really doing? We are putting it off. We are laying the predicate for another year. We are delaying it for another year.

What if a year hence we have not reached the negotiations with the Soviet Union? Where are we then? I predict then, if that happens, that the proponents of this amendment will say, "Let us delay it again. Let us do it again."

For whom is this safety? I say it is for the Soviet Union, not us, as the distinguished Senator from Ohio pointed out. If we have some weapons and they have them, I believe this will bring them to the bargaining table.

I do not know in the history of the Soviet Union where they have unilaterally, when they had a massive advantage, a distinct advantage, come and negotiated that advantage away.

I will stand before you like most of us here if not all. I would like to rid ourselves and rid the Soviets of chemical weapons, but the binary weapon is a big improvement. It is a safety improvement. But it would say, "We have them. Let us negotiate them away and let us allow verification that this is true, that we have gotten rid of them and you do it."

To go to the Soviet Union empty-handed I think is the wrong signal. It is the wrong message at the wrong time. As I said earlier, we have to have a strong message. I believe this Congress can send the strong message by going on and taking the next step with our chemical weapons. We owe that to our people who handle them, safe weapons, safe chemicals. Because of what the Senator from Ohio said, let us send a strong message and not a weak message.

I yield back the remainder of my time.

Mr. President, I ask unanimous consent that the vote on or in relation to the amendment occur after the vote on the Hatfield-Kennedy nuclear testing amendment this evening.

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

Mr. PRYOR. Mr. President, I had forgotten our time agreement. I believe we are ready at this time for the second amendment, the Bigeye amendment.

AMENDMENT NO. 731

(Purpose: To prohibit use of funds for the Bigeye bomb)

Mr. PRYOR. Mr. President, at this time, I send an amendment to the desk on behalf of myself, Mr. HATFIELD, Mr. DASCHLE, Mr. INOUYE, Mr. METZENBAUM, and Mr. HARKIN, and ask for its immediate consideration.,

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR), for himself, Mr. HATFIELD, Mr. DASCHLE, Mr. INOUYE, Mr. METZENBAUM, and Mr. HARKIN, proposes an amendment numbered 731.

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

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

The amendment is as follows:

On page 3, line 22, strike out "$4,967,627,000" and insert in lieu thereof "$4,965,578,000".

On page 4, line 16, strike out "$8,210,782,000" and insert in lieu thereof "$8,207,823,000"

On page 15, line 7, strike out "$8,706,452,000" and insert in lieu thereof "$8,711,452,000".

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. RESTRICTIONS ON THE BIGEYE BOMB PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated pursuant to an authorization contained in this or any other Act may be used for procurement or assembly of the BIGEYE binary chemical bomb, for the procurement of any component or subcomponent for such bomb, or for the procurement of any construction facilities or equipment associated with the production of such bomb until specific legislation has been enacted after the date of the enactment of this Act authorizing the obligation and expenditure of funds for production of the BIGEYE binary chemical bomb.

(b) EXCEPTION FOR RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION.—The requirements of this section shall not apply to funds obligated solely for the purpose of carrying out research, development, testing, and evaluation in connection with the BIGEYE binary chemical bomb program.

(c) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Except as provided in subsection (b), the funds appropriated to carry out the BIGEYE binary chemical bomb program in fiscal year 1987, and which remain unexpended on the date of the enactment of this Act, may not be used to carry out such program in fiscal year 1988.

Mr. PRYOR. Mr. President, we have had a healthy debate this afternoon about chemical weapons. Now it is time to turn to another part of this debate, because this relates not to chemical weapons or whether we are going into a new generation of nerve gas or not, but this is a question of our military procurement system and how a good weapon is made and a bad weapon defended.

Mr. President, we all remember the Divad antiaircraft gun. I know the memory of that weapon is clear. The Bigeye bomb today seems to be the Divad.

I wish my distinguished colleague from Illinois was on the floor now, Senator DIXON. He got on the floor and very succinctly, and as a bottom line, said, "Mr. President, very simply, the Divad is a gun that does not shoot straight"

He was successful in leading the fight to cancel the Divad gun.

Like the Divad, which was finally canceled, the Bigeye today is flunking its tests. Like the Divad, the Bigeye is being carried forward by sheer momentum, by stubbornness.

In short, Mr. President, we are on the eve of producing a badly flawed weapon.

Mr. President, my amendment does not cancel the Bigeye bomb but it does postpone its production.

There are three simple parts: First, it eliminates $5 million in this bill for fiscal year 1988 for Bigeye production. This is exactly what the House of Representatives has done.

Second, it prohibits the expenditure of $35 million for Bigeye production from the fiscal 1987 defense bill that Congress said could not be spent until fiscal year 1988.

Third, and very importantly, it directs the $5 million we save into a research and development account for accelerated work on a better, deep-strike chemical weapon.

Mr. President, that is what this proposed amendment does. No less, no more.

Mr. President, the Bigeye bomb is in very deep trouble.

Since 1963—imagine this, since 1963—for the past 24 years, the Bigeye bomb has been researched, studied, dissected, developed, and tested. But today, according to very recent test results and the General Accounting Office report, the Bigeye bomb is still barely functional.

Last February, this bomb went into its last set of operational testings. It passed this series of tests in order to then go into production. Then in March of this year testing on the Bigeye bomb was halted, it was stopped after the bomb was found to have functioned in only 6 out of 10 bomb drops.

A 60-percent success rate is a flunking score by even the most liberal of graders.

The bomb has been in the workshop all spring and all summer and the Navy now reports that the bomb is fixed, it is ready to go.

Now, Mr. President, I do not know how many times I have heard that about the Bigeye bomb or how many times we have heard that about other weapons systems. But each time it is said, and I say this respectfully, the Bigeye bomb comes out fighting but it still falls flat on its face.

Mr. President, the Bigeye bomb does not work.

According to a recent report by GAO, the biggest fix on the Bigeye bomb is a "fixed" testing program. GAO reports that the Navy's testing of the Bigeye, and I quote, "is unrealistic" and I quote further from the GAO report:

The results of operational testing will not generate the information needed to determine if the Bigeye is ready for production.

In other words, Mr. President, because these tests are so skewed, because they are unreliable, even the Bigeye's miserable 60-percent success rate underestimates how bad off the Bigeye bomb really is.

Mr. President, I have a copy of an unclassified version of the GAO's recent report to the chairman of the House Foreign Affairs Committee, Congressman FASCELL of Florida, regarding Bigeye testing dated June 4, 1987. That was as recent as this summer. I ask unanimous consent that this unclassified version of this report to Chairman FASCELL be entered in the RECORD.

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

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, June 4, 1987.

Hon. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: In a June 26, 1986, letter, you requested GAO continue its work on examining the operational issues of the Bigeye bomb. This is a status report which provides an evaluation of the operational test plan. As you know, GAO was also assigned the task of monitoring and evaluating the operational tests of the Bigeye in the fiscal year 1987 Defense Authorization. This report does not address any operation-

al test results, but only discusses the test plan.

We evaluated the Bigeye test plan on the basis of conformance with test plan criteria laid down by the Defense Department. Drawing upon both the DOD criteria for test plans, and the work of experts in defense OT&E, GAO found that the Bigeye test plan presents four major problems, and several minor ones.

DOD Directive 5000.3 specifies eight elements that must be present in an operational test plan: a statement of objectives; measures of effectiveness; operationally realistic scenarios; threat simulations; a list of required resources; a statement of known test limitations; data gathering methods; and data analysis methods.

GAO believes that the Bigeye test plan has four important limitations which will seriously affect the usefulness of the overall test program:

1. Unrealistic Mission Profiles: There is no explanation for why operational scenarios based on little or no threat are used as the basis for 60 percent of the test runs by the Air Force; only 11 percent of the Navy runs assume such scenarios. Similarly, there is no explanation for the absence in either service of test runs based on a scenario that assumes a high air and high ground fire environment. Given circumstances considered likely for the use of Bigeye—a full-scale ground war in Europe against the Warsaw Pact—it is unclear why the Bigeye scenarios assume a "moderate" threat level as the highest for testing purposes. While there may be a good reason for the choices made by DOD, no explanation is offered in the test plan. As things stand, it is clear that, whatever the reason, Bigeye will not be tested under operationally realistic conditions.

2. Absence of Data Analysis Plan. The Bigeye test plan contains no data analysis plan. In general, test experts believe that a data analysis plan is one of the core requirements for a properly conducted test, since it specifies how the collected data will be analyzed, including what defines the failure or success of the test. The absence of a data analysis plan can permit the collected data to drive the later analysis, thereby introducing the possibility of both problematic evaluation and bias. Furthermore, the lack of a plan prevents outside evaluators from thoroughly understanding the assumptions used by testers, along with the criteria for judging test results. In the case of Bigeye, numerous questions remain unanswered about how data will be evaluated precisely because there is no data analysis plan.

3. Proliferation of Independent Variables. There are at least 22 independent variables which affect testing of the Bigeye. "Independent" variables are, by definition, factors that can be controlled by testers in order to judge the effect of a variable on the performance of a weapon (e.g., day versus night flights, type of aircraft, number of bombs used, fuze time, height of bomb release, etc.). GAO believes that given only 33 missions and 22 independent variables, it will be very difficult, if not impossible, to decide what factors are responsible for the success or failure of the Bigeye. GAO also believes that some of these variables could have been controlled (e.g., using only one type of aircraft, only having daytime flights, only using one weapon at a time, or using crews of roughly equal experience). For example, only two night tests will be conducted, and there are so many other variables at work that even if both succeeded, or failed, it would be impossible to state that night employment was the factor responsible for success or failure.

4. Significance of Known Test Limitations. In the Bigeye test plan, DOD cites 10 limitations to achieving operational realism, ranging from the absence of electronic countermeasures to no correlation between simulant and lethal agent. While some of these limitations are necessary (to conform to existing law), GAO believes that the limitations raise two related problems. First, some of the limitations could be removed (e.g., by testing ECM effects in the laboratory, simulating hostile fire maneuvers through jinking); second, the test plan does not make any attempt to quantify the effects of the cited limitations. An adequate data analysis plan would have addressed this important problem.

In addition to these four major concerns with the Bigeye test plan, GAO has encountered problems with obtaining data on the Bigeye test results that we were promised would be made promptly available. DOD stated that data from the test runs would be sent to GAO in no more than 20 calendar days from the time they were available, approximately 10 days after each test run. However, GAO has not received one piece of data as of this writing, 105 days after we filed our first request on February 19.

While this information on the test plan has several new aspects, I am struck with a feeling of déjà vu. In our past work on Bigeye, we have encountered three of the same problems we face now: namely, a lack of realistic testing, an absence of a stated analysis plan (laying out, for example, the criteria detailing which tests will be counted and which not), and an inability to obtain data in a timely manner. The absence of realistic tests in the developmental phase of Bigeye testing is partially responsible for the current decertification of the weapon; and unclear criteria have led to questionable and varying rates of success and failure. Unfortunately, we see the same problems occurring again. Unless they can be resolved, the results of operational testing will not generate the information needed to determine if the Bigeye is ready for production.

A similar letter is being sent to the Chairman, Senate Armed Services Committee and to the Chairman, House Armed Services Committee. Staff from those committees were briefed orally on May 11, on this subject.

Sincerely,

ELEANOR CHELIMSKY,
Director.

Mr. PRYOR. Specifically, Mr. President, GAO notes to Chairman FASCELL four major problems with these tests. Not knowing what else to call them, I will call them "fudge" factors because in effect they help to fudge the results of the tests for the Bigeye bomb. One fudge factor really shocked me. It is this: bombing mission profiles for Bigeye testing, which are supposed to be realistic battle conditions, never assumed a high air or ground fire environment. In fact, in 60 percent of the Air Force missions, these tests assumed there was little or no threat to the bomber delivering the Bigeye bomb.

Mr. President, that is patently ridiculous. The GAO noted:

Given circumstances considered likely for the use of Bigeye—a full-scale ground war in Europe against a Warsaw Pact—it is clear that Bigeye will not be tested under operationally realistic conditions.

Mr. President, it would appear that the Bigeye tests are rigged to make that bomb look better than it is.

In previous years I have discussed with my colleagues on this floor the Bigeye's many flaws and its many problems. One, it must be lofted or thrown over a target there by making accuracy elusive and endangering both the pilot and the plane. The ancient fuse that tells the bomb to spray a target is riddled with problems. The device that mixes binary chemicals is prone to failures, thereby often rendering the spray harmless.

Those are a few of the things that have made the Bigeye the Divad of 1987.

Mr. President, there is only $5 million in this year's bill for Bigeye production, but there is another $35 million from previous year funds that now, unless we do something, can become available this fall. This is not a great deal of money when we consider the enormity of the billions of dollars that we are discussing this afternoon in the defense bill.

Mr. President, it definitely puts a foot in the doorway to the spending of billions and billions of dollars on this program in the future. If this Senate wants a deep-strike chemical weapon, there are far better alternatives than the Bigeye bomb.

The Defense Secretary only recently identified those alternatives for Congress in a classified document. Mr. President, I have that classified document in this notebook, should any of my colleagues care to see it. It is excellent reading for those who are interested. I cannot go into its contents here, but I can say that it does contain alternatives to a Bigeye bomb that has failed and is going to continue to fail and they make enormous sense.

In recently talking off the record to people in the Department of Defense, I am told that many in that Department agree the Bigeye bomb is an embarrassment. But no one, no one is willing to go forward and state this in public very simply because it might hurt their career. So today we have the "party line" at DOD: We need one Bigeye bomb to fill the gap until effective deep-strike chemical weapons can be produced.

Mr. President, if that be the case, then we should make sure that our stop gap weapon works. Right now the Bigeye has only proven that it does not work. Defense spending is going to be tight for some years to come and we cannot afford to pour billions of dollars—in fact, ultimately, $2 billion—into a weapon that does not do its job. All I want to do is withhold production funds for the Bigeye bomb until it proves itself. In the meantime we need

to accelerate our work to develop better substitutes, so that my amendment puts $5 million in the research and development account for those necessary defense agencies.

I intend for this money to be controlled by the Assistant Secretary for Atomic Energy for research on standoff deep strike chemical alternatives to the Bigeye bomb.

Mr. President, as you know I am not a big fan of chemical weapons, but I am a big fan of making good weapons when we make them and not wasting the taxpayer's dollars no matter what the project.

The Bigeye is in bad shape. Allowing it to go into production would be throwing critical defense dollars down the drain. If we are going to fund a chemical weapons program, we ought to have a delivery system that works. The Bigeye bomb fails that test.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PRYOR. I am glad to yield to the Senator from Oregon.

Mr. HATFIELD. I want to commend the Senator from Arkansas for continuing this battle. He has, like many have, grown weary, but he has not relented. He has been defeated but he has not been struck down, and he pursues this with admirable tenacity.

I admire him for it, and am proud to be a cosponsor of this amendment with the Senator from Arkansas.

Mr. President, I want to prepare people not to faint because I may say something positive about a weapon. In fact, I am prepared to say two things positive about this particular weapon. First of all, this turkey is a testament to the tenacity of those who pursue chemical weapons. For that kind of tenacity demonstrated here, I think they deserve some kind of a commendation. Second, of all the nerve gas weapons that I hate, I hate this one the least. I hate it the least, because this one does not work.

Anyone looking at this particular weapon has to really ask: Are we really concerned about the deficit? It is going to cost billions of dollars. Are we really concerned about balancing the budget? If ever we had an example of the squandering and waste of the taxpayers' money, it is on a weapon that just doesn't work.

Unless it is just a matter of being caught up in the fervor for nerve gas weapons, I do not know how anyone could support the continuation of the Bigeye.

I thank the Senator from Arkansas.

Mr. PRYOR. I thank the Senator from Oregon for his comments.

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

Mr. President, I believe it is premature at this time to talk of canceling the Bigeye weapon when the test program on the weapon is not yet complete. We have had 10 tests out of a scheduled 58. It is about one-sixth of the tests. I believe that the Bigeye test program will be completed by the middle of October. At that time the Secretary of Defense is expected to make a preliminary judgment regarding the test results. But given the importance of binary weapons that we have been talking about for the last hour or so here on the floor, in modernizing our chemical deterrent the only prudent course, I submit, is to wait until the results of the whole tests here are evaluated.

We spent according to some figures about $125 million on the Bigeye. We are talking about $5 million more for a few more tests. By cutting the administration's request and what was it? It was $20 million to $5 million in the Armed Forces Committee. The committee has already effectively barred the Bigeye production until the President certifies that Bigeye has successfully completed the test program I just mentioned.

But what are the safety factors here? The Bigeye represents the United States only near-term option for addressing the imbalance in deep strike chemical weapons. I believe it would be wasteful, and I believe it would be damaging to the United States and our NATO allies to cancel the Bigeye program here before all the test results have been analyzed, and they have been evaluated.

I submit to you that when you have a car that you have gone through the production of the first test production, you have some flaws in it, and you might have a lot of flaws. But do you cancel the whole development program because of that? You work it out. I believe you are going to see a working out of the flaws here. Senators have talked here today about letting us start over—let us start over and develop a new program.

I have some statements that are not classified. The Department of Defense report on long-range standoff chemical weapons, and I quote:

> Given the mid to late 1990's initial operational capability for these alternate systems, if any, they cannot be viewed as a substitute for the Bigeye system in meeting this critical deficiency that we have in the United States of America. At the present time the Department of Defense has not identified specific candidates for developed operational requirements for standoff weapons for chemical agent delivery.

I think that is where we are today. We have not identified that. Let us keep this testing going. We are only talking about $5 million more. I believe it makes sense. I believe that we will work out the problems here.

Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

I might just offer a couple of points. The Senator from Arkansas in his closing comments said that we ought to hold the money until this weapon proves itself. That sounds rational and reasonable and responsible on the face of it. But the problem is it is quite deceptive in its superficial appeal because he has already said the testing is skewed, or cooked, or phony, or false.

So in his opinion no matter what the test results prove it is going to be a turkey, according to the Senator from Oregon as well. So to say that hold the money until it proves itself sounds reasonable but the fact of the matter is it is never going to prove itself as far as the cosponsors are concerned because the tests have been cooked or phonied-up in order to accomplish that result.

No. 2, it seems to me if you adopt that argument what you are doing is saying that the Department of Defense, its civilian and military leaders, are deliberately putting this Nation at risk. It is deliberately putting this Nation at risk and it insinuates to me at least the most corrupt intentions on the part of our leadership.

I simply cannot believe that is the case, that the Secretary of Defense, that the Joint Chiefs of Staff and all of our military leadership would deliberately put this Nation at risk by producing a weapon that they knew in advance did not work, could not work, and nonetheless were driven by contractor greed in order to accomplish this result. I find that hard to accept as an argument.

The third point I would make is the Armed Services Committee has already in view of the testing results eliminated $20 million out of this particular program, reserving $5 million so they could continue to test. I do not know of a weapon yet that has successfully completed all of its tests without some flaws being revealed. That is why we have tests to reveal the deficiencies in any given weapons system.

So I think the Armed Services Committee has acted responsibly in saying, wait a minute, until we are satisfied that the deficiencies have been corrected, we do not want to go forward, and we do not want to start production. I think the Senators have failed to take this step into consideration.

Another point I would make is the GAO has recently filed a report indicating we have problems with a whole bunch of systems, the Phoenix missile, the Sparrow missile, the Sidewinder, and there may be more. I do not know what was used when a couple of years ago our F-14's knocked down some Libyan aircraft. I do not know what they were using because obviously these weapons do not work. You might as well scrap the Sidewinder, the Phoenix, and every other system we have. We were shooting down Libyan jets. Unfortunately we shot down one of our own recently with something. It was not just good intentions.

Another point that was made is that we ought to develop a better system. The Senator from Arkansas says let us take that $5 million and put it for a better deep strike system. One has to weigh how serious that argument is, whether he is really committed to a deep strike system in view of his rather consistent and, as the Senator from Oregon has indicated, rather admirable tenacity in trying to terminate these weapons in any event. But now he is holding out this sort of illusory $5 million program for a better system.

I believe the Senator from Oregon said it exactly right as far as his opinion is concerned: that he would rather have a chemical weapon that does not work than one that does. That, I believe, is quite the objective of postponing this for another year, setting aside $5 million for some illusory deeper, more penetrating, more effective system only to find next year that particular weapon is another year into the distance, and we will continue to be without the kind of capability the Bigeye will in fact produce.

So I hope the amendment will be rejected.

Mr. SHELBY. Mr. President, I yield 8 minutes to the distinguished Senator from Ohio.

Mr. BYRD. Mr. President, will the distinguished Senator from Ohio allow me to call up an amendment, briefly speak on it, and have others who are cosponsoring the amendment also speak on it at this time without the time being charged against the pending amendment?

Mr. GLENN. So long as we do not lose our time on this. Was the majority leader going to set aside this amendment temporarily?

Mr. BYRD. Yes.

Mr. SHELBY. I have no objection. I will agree to that, and we will come back to it.

Mr. WARNER. So far as I know, there is no objection on this side. Indeed, the action by the majority leader is consistent with the unanimous consent we have been working under in general terms for some days.

I wonder if I might be recognized for a few minutes in the nature of a colloquy, and I will later reserve time to debate.

Mr. GLENN. Mr. President, will the Senator yield for a question?

How much time remains on both sides on this amendment?

The PRESIDING OFFICER. The Senator from Alabama has 37 minutes, and the Senator from Arkansas has 32 minutes.

Mr. GLENN. That is a considerable amount. I thought if it were a few minutes, we could conclude this. I do not object.

Mr. PRYOR. Mr. President, reserving the right to object, and I will not object, I should like to inform the Chair that this is my amendment, and I am not going to object to having it laid aside.

I inquire of the majority leader as to the possible amount of time that the amendment he is substituting at this time on the agenda might take.

Mr. BYRD. It could conceivably take 30 minutes. The sponsors are Senator NUNN, Senator BUMPERS, Senator ADAMS, and Senator SASSER. Senator WARNER is not a cosponsor. The other Senators are cosponsors of the amendment, and most of them are on or near the floor, and I think they would want to say something with regard thereto.

Mr. WARNER. Mr. President, I will explain the reasons why I will be speaking in opposition. But I draw to the attention of the distinguished majority leader that while the proponents of this particular amendment certainly will have debate, I am quite certain there are others on this side; and it may be that the proponents of the pending measure, the Senator from Oregon and the Senator from Connecticut, would want to speak to it.

So, while we may have some debate here, there will be a subsequent debate before action, and I think that would be a courtesy to the two Senators who are absent, the proponents of the pending measure.

Mr. BYRD. Yes, the Senator is correct.

Mr. WARNER. This would be in the nature of introductory comments connected with the amendment, and then the debate would follow later this evening.

Mr. BYRD. The debate will occur later.

Mr. GLENN. It is now about 25 to 6. We have votes starting at 6 o'clock. Would those be set back?

Mr. BYRD. They would.

Mr. GLENN. To a later time?

Mr. BYRD. Yes.

What I am saying is that the vote which would have started at 6 o'clock would be delayed by just that much, because I am going to get consent that the time remaining on the pending amendment remain intact.

Mr. GLENN. I was trying to get an idea when this would come up again, whether we are going to have the votes on time at 6 o'clock, or whether this subject would delay the beginning of the voting period at 6 o'clock.

Mr. BYRD. It would delay the beginning of the voting period.

Mr. GLENN. The Senator from Virginia and I had a commitment at about 6 or 6:30. This discussion, then, would probably go through that time period. Is that correct?

Mr. BYRD. Very likely.

Mr. GLENN. A further question: The consideration of the Bigeye amendment of the distinguished Senator from Arkansas would come up, I presume, after the voting period. The proposal of the majority leader would be discussed, and we would have our voting period for the stacked votes, and this would be the pending business?

Mr. BYRD. The sequence of the pending amendment would not be disturbed at all. I am merely getting consent at this point to call up this amendment, tack it on to the Weicker amendment. I can, otherwise, get the Weicker amendment before the Senate by calling for the regular order. I do not want to do that. I want to get consent that time on the pending amendment stop running until a brief period in which those of us who are sponsoring this amendment might explain it, offer it, and then we will go back to the pending amendment and delay the rollcalls which would otherwise have begun at 6 o'clock by that much time.

Mr. SHELBY. And then, after we go back on the amendment we are on now, we will finish it, and then the voting will start. Is that correct?

Mr. BYRD. That is correct.

Mr. GLENN. I did not understand it that way. Is that correct, that we would go back and finish the time on this amendment before the voting period would start?

Mr. BYRD. That is right.

Mr. PRYOR. Mr. President, I should like the majority leader to know that I am not objecting in any way. I just did not want to see the present amendment before the Senate, the Bigeye bomb amendment, evaporate into the late evening hours; because I have found out that the earlier you vote and discuss things around here, the better mood we find our colleagues in. As darkness comes, people get very grumpy and testy and vote against everything. I am hoping that we can resolve this amendment in a reasonable time.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. PRYOR. I have yielded the floor.

Mr. COHEN. I inquire how much time the Senator would take to conclude his argument? We perhaps could complete this.

Mr. PRYOR. Several allegations have been made by the Senator from Maine.

Mr. COHEN. How long would that take?

Mr. PRYOR. I do not think that answering those assertions of the Senator from Maine would take much longer.

Mr. BYRD. Mr. President, let me see if I can clarify what the voting situation will be.

Presently, the order provides for the first rollcall vote to begin at 6 o'clock today. That vote would be followed by rollcall votes on other amendments that have already been ordered and

stacked. If we follow the regimen that is in place, at the hour of 6 o'clock today, the debate on the pending amendment will stop and the rollcalls will begin and will be completed when all amendments that have been ordered in thus far have been disposed of, at which time the discussion would return to the Pryor amendment, and whatever remaining time there now is on that amendment will be available then.

What I am suggesting is that we be allowed a few minutes at this point to offer the amendment to the Weicker amendment, have a brief explanation of it, then return to the Pryor amendment, finish the time on the Pryor amendment, and delay the first rollcall vote until the time on the Pryor amendment has been consumed or yielded back. That would require unanimous consent; and if changing those votes to 6 o'clock or later is inconvenient to anyone, they may object.

Mr. President, have I sufficiently explained my request, not to have to repeat it?

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I shall shortly send to the desk an amendment sponsored by Senators NUNN, BUMPERS, ADAMS, and SASSER, in addition to myself, to the amendment proposed by Mr. WEICKER and Mr. HATFIELD.

Mr. President, briefly, this amendment does these things:

This amendment determines that the circumstances that are required to meet the conditions in section 4(A)(a) of the war powers resolution have in fact occurred and what we will be saying as part of the legislative history is that actually the President should have already sent a report up to the Congress in conformity with the requirements of that war powers resolution.

We are not saying, however, that he must submit a report within 48 hours, as required by the act.

He has 30 days within which to send the report. He can do it earlier, of course. At the end of the 30 days, or beginning at the time he sends the report, whichever is the earlier, there will be 60 additional days, as would be the case under the War Powers Act. But at the end of that 60 days, instead of, as would be the case under the War Powers Act, which says that "the President shall terminate any use of United States Armed Forces," we are not saying that. We are not saying that the President has to bring everything out of the Persian Gulf, we are not saying he has to bring all the helicopters, all the frigates, all the battleships. We are not saying that at all.

But we are targeting the War Powers Act. We are narrowing the focus, narrowing the thrust. We are saying that at the expiration of that time, the reflagging and the convoying of ships, has to stop, unless in the meantime the Congress has declared war or has extended the period by law.

We are also setting forth in this amendment certain specific items to be addressed in the report that the President sends to the Congress.

So, in reiteration or in summation, let me say we recognize and support the presence of the United States in the Persian Gulf. We are saying that the requirements of the War Powers Act have indeed fallen into place, and who could argue that hostilities are not imminent. Hostilities have already occurred.

We are saying that the President send up the report in 30 days rather than 48 hours as required by the War Powers Act and as required by the amendment offered by Mr. WEICKER and Mr. HATFIELD, and then we track pretty much the language, at least in its effect, of the War Powers Act except we do not say he has to bring out all or any of the U.S. Armed Forces from the Persian Gulf. We do not say that. We say stop the reflagging and the convoying. In so many words, within 60 days after the report if, meanwhile there has not been a declaration of war by the Congress or an authorization of these actions by the Congress, then reflagging and converging will terminate.

It is a rifle shot. So, the otherwise broad and far reaching and perhaps unforeseen implications of the War Powers Act would not come into play as they should otherwise. The actions that have occurred in the gulf actually fulfill the conditions under which the War Powers Act are invoked. I cannot deny that.

So this is an attempt on the part of the amendment sponsors to give the President some flexibility, give him some elbow room—30 days, not 48 hours—for the report, and then the final termination of the reflagging and convoying can be as much as 90 days—first 30 days, then the 60 days. This amendment supports the presence of our forces there. I hope that we may have bipartisan support. Others of the sponsors will speak to this.

Think in a rather broad-brush way, Mr. President, that suffices for my efforts at this point.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I congratulate the majority leader for proposing this amendment to the Weicker amendment. I understand the position of the Senator from Connecticut and I respect that because he sees the law books and he sees the law being ignored and he sees an act of hostility in the Persian Gulf. He reads the War Powers Act, and it says imminent hostilities.

I join the Senator from Connecticut in believing the imminent hostilities have occurred. And he sees the President not complying with the War Powers Act. So I agree with the Senator from Connecticut.

But I am a coauthor with Senator BYRD and others of this amendment, because what we really need now in the Persian Gulf and the debate that ensues on this whole subject is a surgical instrument and not a very, very heavy sledgehammer, and the War Powers Act has its usefulness but it also has its severe limitations, and I think we have to face those limitations and we have to deal with them.

So, on the one hand, we cannot ignore the law. We believe in the law, the spirit of the law as well as the letter of the law. On the other hand, we have a dangerous, volatile situation over in the Persian Gulf and it is not clear under the War Powers Act that would be triggered under the Weicker amendment what forces would have to be removed if indeed we trigger the War Powers Act, the President having failed to do so, and if indeed we do not give affirmative approval during the time required, do we have to, for instance, under the War Powers Act remove all forces from the Persian Gulf, if Congress does not give affirmative approval? Or, on the other hand, do we remove only those forces that have been put in the Persian Gulf to augment the new mission escorting and flagging, reflagging Kuwaiti vessels?

I do not know the answer to that. I am not sure anyone knows the answer to that.

The Byrd amendment goes right to the heart of the problem and that is the Congress of the United States and the American people in my view have not been convinced by this administration with clear and convincing evidence that reflagging and escort missions are in our strategic interest.

Now, I believe the American people and I know this Senator believes that having a strong military presence in the gulf, particularly at this juncture, is very important. And I would not want to vote for any amendment that required a pullout of American military forces from the gulf.

Maybe we have the right amount of force there; maybe we do not. But I do not believe that Congress can legislate that with the degree of care and sensitivity that needs to occur.

I think in these cases, the Commander in Chief, the President of the United States, the Department of Defense, and the Joint Chiefs have to make the decision about the military forces. But I think Congress does have the right and the obligation to require the administration to come up and

convince us that this flagging operation or reflagging operation and this escort mission is in our strategic interest, and I do not think they have done that.

So the Byrd amendment does not require the removal of any military forces, not a plane, not a helicoper, not a ship.

But it does say to the administration "Either you come up in the given time period and convince the Congress that this reflagging and this escort mission is in our strategic interest or you cease and desist with this operation at the end of the given time," and the Byrd amendment also takes the 48 hours, gives the President more time, gives him 30 more days to make his report and pinpoint the key questions that would have to be answered, key questions relating to what is in our strategic interest, what are the plans of this administration.

The newspapers have reported that maybe Secretary James Webb asked the question, how do we tell under this policy when we win? The newspapers have quoted him as saying, how do we know we declare victory and when the flagging operation has worked?

That is a good question because the last thing we need is an open-ended commitment that none of us can define the accomplishment thereof and, so, I think this amendment carries out the wish and I think correct impulse of the Senator from Connecticut.

But I believe it does it with precision without requiring the removal of our military forces and without telling the parties in the Middle East that these forces are going to be removed.

There is nothing in this Byrd amendment that says to anybody in the Middle East—Iraq, Iran, any party there—that the Congress of the United States is about to jerk the rug from under the American policy as far as our military deployment and as far as our desire to maintain the international right of traffic in that crucial area of the world.

So, Mr. President, I think the Byrd amendment is the right response from the Congress under a very difficult set of circumstances where there are, I must admit, no good answers. There are no good answers when the President has already made a commitment which he did not seek nor get approval of Congress for before he embarked on it.

I believe this is the correct approach. There are a number of problems with the War Powers Act and I think we all have to address those problems. I think we have to start thinking about those problems.

Just one problem, for example, that is rather obvious in this situation. The War Powers Act can be triggered by an adversary. An adversary that understands, our law can come in, as the Iranians did—and I am not saying they read the War Powers Act and did it for this reason; they probably had their own different reasons—but an adversary can, by taking a hostile action against military forces deployed, can, bang, trigger the War Power Act and set off a 60-day debate in the Congress of the United States and cause great confusion. Now that is not a very good situation. We can, in effect, be jerked around by the jerks. And I think that is not very attractive.

There is another obvious loophole in the War Powers Act. The President of the United States can ignore it. What do we do when the President has people come up and brief us and tell us that hostile acts have occurred but sits down at the White House and says the War Powers Act has not been triggered and yet it has not been rendered unconstitutional? What do we do? Do we ignore the law? Do we say the law of the land does not mean anything? Or do we send the Sergeant at Arms down to force the President to take certain action?

Well, I do not think we can enforce or force the President to take action that he does not want to do unless we go to court. That could be an answer down the road. But nobody wants to do that.

Another obvious loophole that we have to understand is that if the War Powers Act is triggered, the President comes back with a report. If he triggered it himself, he comes back with a report. And the report would define, supposedly, those military forces that would have to be withdrawn in carrying out the action unless the President's approval was given.

If a President did not want to act in good faith—and I am not in any way alleging that this would occur; it would be ludicrous, but it could happen—the President could come back and say, "We have two rowboats and one helicopter that are involved in hostilities." And, therefore, the report itself becomes the instrument which defines what is withdrawn if there is no affirmative approval in the time limit. So we could end up, if there were games being played, with basically two helicopters and two rowboats being withdrawn.

Mr. WARNER. Will the Senator yield for a 1 second question?

Mr. NUNN. I did not mean to take this much time.

Mr. WARNER. That was the essence of my question; that we would each have about 3 or 4 minutes and then we were going to get into the general debate a little later. That was my understanding.

Mr. NUNN. I did not hear the first part. I would certainly yield the floor at this time.

Mr. President, but I do endorse the approach by the Senator from West Virginia and congratulate him on coming up with the best answer that I think we can come up with under an extremely difficult set of circumstances.

I apologize to my colleagues for taking this much time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I think we have to have a understanding as to the time.

I ask unanimous consent that Senators WARNER, ADAMS, and BUMPERS may have—how much time each?

Mr. BUMPERS. I do not really need to speak on this. I will be happy to waive my time.

Mr. BYRD. And Senator SASSER.

Mr. ADAMS. 3 minutes, Mr. Leader, is fine with me.

Mr. BYRD. All right.

Mr. WARNER. That is fine.

Mr. BYRD. And that the rollcalls which were ordered to begin at 6 o'clock begin upon the termination of the time that is to be allotted to these other cosponsors of the amendment, plus Mr. WEICKER, I believe, had a question or a statement.

Mr. WEICKER. I do not have a statement. I just have one question prior to going up to study this amendment. Maybe the Senator from Virginia can respond, also.

Has this language been approved by the President?

Mr. WARNER. I will address that momentarily.

Mr. BYRD. Mr. President, I can address it for my part. This language has not been approved by anybody at the White House—anybody—as far as I know.

Mr. WEICKER. I thank the Senator.

Mr. BUMPERS. Will the leader yield for a question?

Mr. BYRD. Mr. President, did I get consent?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Did I get consent that the time for each of these cosponsors would be limited to 3 minutes each and that the votes under the previous order would then begin? I have cleared this with Mr. PRYOR.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask the leader: When, then, would the votes begin? At what time? How many cosponsors are there? What is the total number of 3 minutes for each Senator?

Mr. BYRD. I would say probably 12, no more than 15 minutes.

Mr. BAUCUS. So the votes would begin at least by 6:15?

Mr. BYRD. Circa 6:15, yes; roughly.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WARNER. Mr. President, I do not reserve the right to object. It would be helpful to this Senator and perhaps other Senators if the distinguished leader would—is the amendment at the desk so we can see the final copy? Are you about to send it to the desk?

AMENDMENT NO. 732

Mr. BYRD. It is at the desk. I call it up. I ask unanimous consent that it be considered as called up and read.

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

The amendment is as follows:

Strike all after subsection (a) of the amendment and insert in lieu thereof, the following:

(b) Congress expresses its support for:

(1) a continued US presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf;

(2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and

(3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

(c)(1) The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in Section 4(a)(1) of the War Powers Resolution.

(2) Within thirty days after the date of enactment of this Act, the President shall submit a report to the Congress, in classified and unclassified form. The report shall provide a complete review of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the flag of the United States. This report shall also include a discussion of the following—

(A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(B) the anticipated duration of the operation;

(C) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(D) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(3) Within sixty days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and reregistration.

(e)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c)(3).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution which authorizes escorting of reregistered vessels in the Persian Gulf or the reregistration of those vessels under United States law, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c)(2) is received by Congress.

(C) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate is in order and not debatable. Amendments to the joint resolution are in order under a two-hour time limitation for each amendment. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(f) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

Mr. BYRD. Will the Senator withhold that? If I have any modification, it would be to the expedited procedures.

Mr. WARNER. With the understanding that the modification would be to the expedited procedures part, I would withhold the request as a courtesy to my colleague.

The PRESIDING OFFICER. Is there objection to the majority leader's unanimous-consent request?

Mr. COHEN. Mr. President, reserving the right to object, could I ask the majority leader a question concerning the understanding of the Senator from Arkansas, Senator PRYOR? I was under the impression that as soon as this was introduced and we had a minimum of debate, we were going to

return to the Pryor amendment and finish it and then go to the rollcall votes.

Mr. BYRD. Yes, that was precisely the way I originally presented it to the Senate. But I had an objection from a Senator to our doing that, so we asked Mr. PRYOR if it would be agreeable with him to change it. I had an objection from a Senator who is not on the floor. He wished to state that he objected to doing it that way. The Senator had a right to object. It was his understanding that the votes would start at 6. He was not on the floor when I made that request.

Mr. GLENN. Was there objection to that? I was under the impression also that we were going ahead with the Pryor amendment and the vote would start then. Was there an objection to that request?

Mr. BYRD. Yes.

Mr. BUMPERS. If the leader would yield for an observation, and I just mentioned this to Senator PRYOR's staff, I do not believe he objected to that.

Mr. BYRD. No, Senator PRYOR did not object to that. Senator PRYOR is perfectly willing to go as we had earlier intended and to start with the votes and carry on with the remainder of the debate on his amendment after those rollcall votes that had been ordered occurred.

Mr. BUMPERS. But you did have an objection to finishing the debate on the chemical weapons and then starting a rollcall? You had an objection to that?

Mr. BYRD. Yes. The Senator from Montana called up and objected. He was not here on the floor.

Mr. BUMPERS. I believe I could talk the Senator from Montana out of that. He could not possibly have any legitimate reason for objecting to that.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first I would like to say that the distinguished majority leader, the chairman of the Senate Armed Services Committee, the Senator from Arkansas, and the Senator from Washington have been the principal ones who have worked on this. I wish to express my appreciation to each of them for including me throughout yesterday and most of today.

Until we reached such a point, I felt in good conscience this Senator could not recommend to Senators on my side and others that this amendment be adopted. I make that clear to the distinguished majority leader and my good friend.

Mr. President, I have also been in consultation with the National Security Adviser at the White House who in turn has consulted with Mr. Baker and the President. Unequivocally, there is every hope that the Senate will not adopt this amendment nor adopt the amendment by the Senator from Connecticut. I will later this evening address the reasons.

The distinguished majority leader said it is like a rifle shot.

Indeed, it is, Mr. President, like a rifle shot. This amendment fires a warning shot across the bow of every ship in the gulf that is there in the pursuit of freedom and the freedom of navigation and peace, not only the U.S. ships, but allied ships. It sends a signal that you may be brought home.

I refer especially to the observations of the chairman of the Armed Services Committee. I will go into some detail later.

Mr. President, this amendment is really War Powers II with but a thin veil. We shall draw that veil back and look at it this evening. Certain provisions in it—and I shall momentarily hope to see the final draft—in this Senator's judgment do, in fact, trigger the War Powers Act.

There is a very serious question, I say most respectfully to the majority leader, that if this amendment is to be adopted, the President faces a dilemma: Which is the law that he must follow, the War Powers Act or this amendment?

It lays down a two-track piece of legislation.

Mr. President, this amendment will start the clock ticking, ticking in the sense that there is uncertainty about the commitment of U.S. forces, uncertainty about the commitment of our allied forces at the same time that the Secretary of State is working with Mr. Shevardnadze in the Security Council, at the time our allies are growing in numbers in terms of their support, at the time the citizens of the Gulf States have accepted increased risks by way of their cooperation to their overall effort.

I regret that we were not able to bridge the gap. An honest and good-faith effort was made but now we must do battle and battle we will do.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I thank the majority leader for the effort he has conducted and also the Senator from Virginia for his effort in working on this amendment.

Mr. President, it is a very simple but difficult proposition that we face with the War Powers Act. The President could solve it very easily by simply having the administration comply with the law of the land. That is where we got into trouble, because there is absolutely no question in the mind, I do not think, of any Senator in this entire Chamber that you have imminent hostilities when we are out picking up mines and preventing people from mining and when they do not stop we shoot at them. Not only that, we killed a number of them. We are in combat.

So that has to be recognized or this Senate does not live in the real world. We are representatives of the people and we must live in the real world.

What we have done in this amendment, and I compliment the majority leader for his leadership in it, and the chairman of the Armed Services Committee, is to say to the President, "All right, we all understand that a complete withdrawal from the Persian Gulf, which would be required by the Weicker amendment, might not be in the national interest of this country, but we have to have a national policy. We cannot operate with an administration policy, a congressional policy, a court policy.

"So, Mr. President, send up to us, and we have given additional time, your plans and what the policy is on the reflagging and escorting of these ships, because that is the provocative act. That is what starts the escalation."

We have been in the Persian Gulf for 40 years prior to this. We will probably be there for 40 years more. But it is the steady escalation and the prevention of that escalation that the Senate wants to have happen now so that we are not in a situation of having to respond to an undeclared war.

We have been on our feet for days, Mr. President, stating to the Members of the Senate and to the American public that it is the desire of the Senate, certainly this Senator, that we simply do not drift into a higher and higher level of combat as we did in Vietnam, as we did in Lebanon, without a check being applied.

The chairman of the committee, the distinguished Senator from Georgia, put it very well: As you start to work with this act to apply that check when the President ignores the law and ignores the Senate, it means that you have to use a rifleshot procedure, to go right at the thing we are concerned about, which is the reflagging and the convoy, stay on that subject, and to also give fair warning that this is going to have to be paid for and that the power of the purse is the ultimate enforcement.

Mr. President, I hope this amendment will be adopted and that we will proceed with it rapidly.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, it has now been almost precisely 1 week to the hour since we debated an amendment by Senator ADAMS, Senator HATFIELD, Senator WEICKER, and

me trying to get this body to do its duty and invoke the War Powers Act because we argued we were in a position and had introduced American forces into imminent hostilities.

The argument on the other side was, first, the President has the right to conduct foreign policy.

Nobody aruges that.

Second, we were not in imminent hostilities.

Our amendment failed 50 to 41, and within 48 hours an admiral of the U.S. Navy said, "This is a hostile act."

Whether you like it or not, there are hostilities, and this body, it seems to me, has leaned over backward to cooperate with our President.

This amendment which several of us have worked on for the last 48 hours, thanks to the leadership of ROBERT C. BYRD, again makes every effort to cooperate with the President by saying, "We are not asking you to pull our ships out of the Persian Gulf. On the contrary, we support our presence there."

We are saying, "No more reflagging, no more escorting in convoy."

The Senator from Virginia said this is a two-track operation. Now the President does not know what to comply with.

He may not, but he knows what not to comply with because he has not complied with anything.

Mr. President, there are a lot of people in this body who have not read the War Powers Act. One of the reasons I am quite sure of that is because there is one little paragraph in this, section 3, right at the beginning of the War Powers Act, that I have not heard mentioned on this floor. It says, "The President, in every possible instance, shall consult with Congress before introducing United States troops into an area where hostilities might occur."

Well, the President has not even shown the U.S. Congress the courtesy of consulting. Or, if he has, it has been kept a magnificent secret from me. Then when we say: Mr. President, since we have to raise the money for this war, why do not you comply with the War Powers Act and give us a chance to decide and help you decide whether this is a correct policy, how far we want to go and so on? Not a peep.

So, whether we come back with a lesser amendment and say: Mr. President, we are giving you the benefit of every doubt we can conjure up; the word is sent over: Never; on the War Powers Act or this amendment or anything else.

So what we are saying, the Members of the United States Senate, the President is asking you not just to allow him to conduct foreign policy but also to conduct a war and with not so much as a "by your leave" from you.

The truth of the matter is, anything we could craft that would be meaningful, the President will veto. Anything we could craft that he would sign would be a toothless tiger.

I would rather fall on my sword or go down in flames doing my duty and abiding by the laws that are on the books than to do nothing. It is an abdication of responsibility of the highest order if this body does not take some action to keep the President from loosening the dogs of war. As it was said in Philadelphia: Do not put the right to conduct a war in the hands of the people who have to raise the money, and vice versa.

We have got a continuing resolution coming through here very shortly. If this amendment fails you can rest assured there will be an effort to cut off all funds. This matter is not just going to escalate in the Persian Gulf. If something is not done soon, it is going to escalate in the Congress and the American people are all going to be the losers, as are we.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, there will be more said on this when we return to it. I thank those who have worked with me to develop the language of the amendment. I thank them for their cosponsorship and I also thank the distinguished Senator from Virginia [Mr. WARNER], for the efforts that he gave to developing an approach other than that which is embodied in the Weicker-Hatfield amendment.

I am sorry I do not have the good sponsorship of the Senator from Virginia, but that is a matter that he has to decide.

Mr. President, I yield the floor.

VOTE ON AMENDMENT NO. 686

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Arizona [Senator MCCAIN]. The yeas and nays have been ordered. The clerk will please call the roll.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. This will be a 15-minute rollcall. What I want to emphasize is that following this rollcall vote all other back-to-back votes, I believe we got consent on yesterday, that they be 10 minutes each.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, both cloakrooms should state to Senators that I will call for the regular order at the end of the 10 minutes on each back-to-back vote. That means it will be cut off and Senators will not make the votes if they do as they usually do.

I am sorry to have to say that but I say it again. The Republican leader was here at the time I made this statement yesterday. So let us have everyone understand.

Mr. BUMPERS. Mr. President, if the Senator will yield, how many votes do we have? Five?

The PRESIDING OFFICER. The Chair will respond to the question. There are five votes that can be expected.

Mr. BYRD. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—96

Adams	Garn	Mitchell
Armstrong	Glenn	Moynihan
Baucus	Graham	Murkowski
Bentsen	Gramm	Nickles
Bingaman	Grassley	Nunn
Bond	Harkin	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Pressler
Bradley	Hecht	Proxmire
Breaux	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Helms	Reid
Byrd	Hollings	Riegle
Chafee	Humphrey	Rockefeller
Chiles	Inouye	Roth
Cochran	Johnston	Rudman
Cohen	Karnes	Sanford
Conrad	Kassebaum	Sarbanes
Cranston	Kasten	Sasser
D'Amato	Kennedy	Shelby
Danforth	Kerry	Specter
Daschle	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Lugar	Symms
Dole	Matsunaga	Thurmond
Domenici	McCain	Trible
Durenberger	McClure	Wallop
Evans	McConnell	Warner
Exon	Melcher	Weicker
Ford	Metzenbaum	Wilson
Fowler	Mikulski	Wirth

NAYS—1

Simpson

NOT VOTING—3

Biden Gore Simon

So the amendment (No. 686) was agreed to.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The clerk will please state the pending amendment.

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

The PRESIDING OFFICER. The Chair will state that under the previous unanimous-consent agreement there was no tabling motion to be in order to the Senator's amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, will the Chair please read the unanimous consent? It was not my understanding that we did not have the right to table.

The PRESIDING OFFICER. The Chair will state the unanimous-consent request agreement previously entered into, which was that the vote on the Symms amendment would occur without a motion to table being in order.

Mr. NUNN. I thank the Chair. What about the next amendment, so all Senators will know?

The PRESIDING OFFICER. The next pending amendment, the Chair will state, is the Dodd amendment to which the previous unanimous-consent agreement has been entered into, and a tabling motion would not be in order to the Dodd amendment.

Mr. NUNN. We have two more amendments. Can the Chair state the procedure?

The PRESIDING OFFICER. The Chair will state that the next pending amendment will be the Hatfield-Kennedy amendment to which there is no restriction on the unanimous-consent agreement that a motion to table be in order. And the Chair would further state that as regards the Hatfield-Pryor amendment, there has been no unanimous-consent agreement preventing any motion to table on that amendment.

Mr. EXON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair will please ask the Chamber to be in order so the Chair can hear the question being posed by the Senator from Nebraska. The Chair recognizes the Senator from Nebraska.

The Senate will please be in order so the Senator from Nebraska can be heard.

Mr. EXON. Mr. President, I do not know that I am going to put a point of order in. This is more or less of an inquiry.

This Senator was on the floor managing the opposition to the Hatfield-Kennedy amendment, and at that time I understood—and it was clear—that a tabling motion or an up-or-down vote would be in order. Maybe I understood incorrectly. But I also understood that that was a pattern for all of the other votes that were going to take place.

My inquiry of the Chair is, was there a specific prohibition against the tabling motion on the other amendments that the Chair has just ruled could not be tabled?

The PRESIDING OFFICER. The Senate will please be in order so the Chair can state the pending business.

The Chair will state to the Senator from Nebraska that the Senator from Nebraska is correct with regard to the Hatfield-Kennedy amendment.

Mr. EXON. Can we have order. I cannot hear. I can barely hear the Chair.

The PRESIDING OFFICER. Those Senators who are standing and engaged in conversation will please be seated in order that the Senate may conduct its business. Those Senators desiring to converse will please retire from the Senate.

The Chair will state to the Senator from Nebraska that on the Hatfield-Kennedy amendment that a motion to table that amendment is in order. The Chair would further state that with regard to the other pending amendments, the Hatfield-Pryor amendment, that there has been no unanimous-consent agreement to prevent the motion to table with regard to those amendments, and the Chair will state that with regard to the Symms and the Dodd amendment a unanimous-consent agreement has been entered into to prevent a motion to table those two amendments.

Does the Senator from Nebraska have a further reservation?

Mr. EXON. Mr. President, what would be the procedure to a motion to strike that previous arrangement? Would that require a unanimous consent in the body?

Mr. President, I ask unanimous consent that if it is the will of the body, that we have, and allow, a tabling motion on any and all of the amendments that would come before the body this evening.

The PRESIDING OFFICER. The Senator makes a unanimous-consent request.

Mr. SYMMS. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Idaho reserves the right to object.

Mr. SYMMS. Mr. President, I made it very clear on that unanimous-consent report the purpose so that we would have an up or down vote on the Symms amendment. That is the way the unanimous-consent agreement was entered into. I would object to this.

The PRESIDING OFFICER. Objection is heard to the request of the Senator from Nebraska.

The question now occurs on the Symms amendment.

VOTE ON AMENDMENT NO. 722

The question is on agreeing to the amendment of the Senator from Idaho [Mr. SYMMS]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD. Mr. President, will the Chair state in each instance during the remainder of the back-to-back votes that there is a time limitation of 10 minutes on each rollcall vote, and that regular order will be called for at the end of the time allotted?

The PRESIDING OFFICER. The majority leader is correct.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. BYRD. Regular order, Mr. President.

Mr. BAUCUS. Regular order, Mr. President.

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—70

Adams	Graham	Murkowski
Armstrong	Gramm	Nickles
Baucus	Grassley	Nunn
Bingaman	Harkin	Packwood
Bond	Hatch	Pressler
Boren	Hecht	Pryor
Boschwitz	Heflin	Quayle
Bradley	Heinz	Reid
Breaux	Helms	Rockefeller
Burdick	Hollings	Roth
Byrd	Humphrey	Rudman
Chiles	Johnston	Sasser
Cochran	Karnes	Shelby
Cohen	Kasten	Simpson
Conrad	Kerry	Specter
D'Amato	Lautenberg	Stevens
DeConcini	Leahy	Symms
Dixon	Levin	Thurmond
Dole	McCain	Trible
Domenici	McClure	Wallop
Exon	McConnell	Warner
Ford	Melcher	Wilson
Fowler	Mikulski	
Garn	Mitchell	

NAYS—27

Bentsen	Glenn	Pell
Bumpers	Hatfield	Proxmire
Chafee	Inouye	Riegle
Cranston	Kassebaum	Sanford
Danforth	Kennedy	Sarbanes
Daschle	Lugar	Stafford
Dodd	Matsunaga	Stennis
Durenberger	Metzenbaum	Weicker
Evans	Moynihan	Wirth

NOT VOTING—3

Biden	Gore	Simon

So the amendment (No. 722) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 723

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Connecticut [Mr. DODD], amendment No. 723.

The yeas and nays have been ordered. By unanimous consent the time will be restricted to 10 minutes, at which time regular order will be called for. The clerk will please call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER (Mr. GRAHAM). Regular order has been called for. The clerk will tally the roll.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—97

Adams	Glenn	Murkowski
Armstrong	Graham	Nickles
Baucus	Gramm	Nunn
Bentsen	Grassley	Packwood
Bingaman	Harkin	Pell
Bond	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Hecht	Pryor
Bradley	Heflin	Quayle
Breaux	Heinz	Reid
Bumpers	Helms	Riegle
Burdick	Hollings	Rockefeller
Byrd	Humphrey	Roth
Chafee	Inouye	Rudman
Chiles	Johnston	Sanford
Cochran	Karnes	Sarbanes
Cohen	Kassebaum	Sasser
Conrad	Kasten	Shelby
Cranston	Kennedy	Simpson
D'Amato	Kerry	Specter
Danforth	Lautenberg	Stafford
Daschle	Leahy	Stennis
DeConcini	Levin	Stevens
Dixon	Lugar	Symms
Dodd	Matsunaga	Thurmond
Dole	McCain	Trible
Domenici	McClure	Wallop
Durenberger	McConnell	Warner
Evans	Melcher	Weicker
Exon	Metzenbaum	Wilson
Ford	Mikulski	Wirth
Fowler	Mitchell	
Garn	Moynihan	

NAYS—0

NOT VOTING—3

Biden	Gore	Simon

So the amendment (No. 723) was agreed to.

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

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

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 729

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Hatfield amendment. The vote will occur for no longer than 10 minutes. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] would each vote nay.

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

The result was announced, 61 yeas, 36 nays, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—61

Armstrong	Glenn	Nunn
Bentsen	Graham	Packwood
Bingaman	Gramm	Pressler
Bond	Grassley	Pryor
Boren	Hatch	Quayle
Boschwitz	Hecht	Reid
Bradley	Heflin	Roth
Breaux	Heinz	Rudman
Byrd	Helms	Sasser
Chiles	Hollings	Shelby
Cochran	Humphrey	Simpson
Cohen	Johnston	Stennis
D'Amato	Karnes	Stevens
Dixon	Kassebaum	Symms
Dole	Kasten	Thurmond
Domenici	Lugar	Trible
Durenberger	McCain	Wallop
Evans	McClure	Warner
Exon	McConnell	Wilson
Ford	Murkowski	
Garn	Nickles	

NAYS—36

Adams	Harkin	Mitchell
Baucus	Hatfield	Moynihan
Bumpers	Inouye	Pell
Burdick	Kennedy	Proxmire
Chafee	Kerry	Riegle
Conrad	Lautenberg	Rockefeller
Cranston	Leahy	Sanford
Danforth	Levin	Sarbanes
Daschle	Matsunaga	Specter
DeConcini	Melcher	Stafford
Dodd	Metzenbaum	Weicker
Fowler	Mikulski	Wirth

NOT VOTING—3

Biden	Gore	Simon

So the motion to lay on the table amendment No. 729 was agreed to.

(The following ocurred later:)

Mr. MOYNIHAN. Mr. President, I am a cosponsor of the Hatfield-Kennedy amendment on nuclear testing. Through a misunderstanding, I voted "yea" on a motion to table, intending to vote "nay." It will not change the outcome of the vote. I ask unanimous consent that I may be recorded as voting "nay."

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

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

VOTE ON MOTION TO TABLE AMENDMENT NO. 730

The PRESIDING OFFICER. The Senator from Georgia.

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

The PRESIDING OFFICER. The Senator from Georgia has moved to table the Hatfield-Pryor amendment. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 730. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], would vote nay.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The clerk will tally the votes.

Mr. BYRD. Mr. President, I ask for regular order.

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

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—53

Armstrong	Glenn	Nickles
Bentsen	Graham	Nunn
Bingaman	Gramm	Pressler
Bond	Hatch	Quayle
Boren	Hecht	Rockefeller
Boschwitz	Heflin	Roth
Breaux	Helms	Rudman
Bumpers	Hollings	Shelby
Chiles	Humphrey	Simpson
Cochran	Johnston	Stennis
Cohen	Karnes	Stevens
D'Amato	Kasten	Symms
DeConcini	Lugar	Thurmond
Dixon	McCain	Trible
Dole	McClure	Wallop
Domenici	McConnell	Warner
Exon	Melcher	Wilson
Garn	Murkowski	

NAYS—44

Adams	Grassley	Moynihan
Baucus	Harkin	Packwood
Bradley	Hatfield	Pell
Burdick	Heinz	Proxmire
Byrd	Inouye	Pryor
Chafee	Kassebaum	Reid
Conrad	Kennedy	Riegle
Cranston	Kerry	Sanford
Danforth	Lautenberg	Sarbanes
Daschle	Leahy	Sasser
Dodd	Levin	Specter
Durenberger	Matsunaga	Stafford
Evans	Metzenbaum	Weicker
Ford	Mikulski	Wirth
Fowler	Mitchell	

NOT VOTING—3

Biden	Gore	Simon

So the motion to lay on the table amendment (No. 730) was agreed to.

(The following occurred later:)

Mr. McCLURE. Mr. President, on rollcall No. 268—that is the Nunn motion to table the Hatfield amendment—I was recorded in the negative. I had voted aye. I ask unanimous consent that the RECORD be corrected to reflect my correct vote. It will not change the outcome of that vote.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. McCLURE. I thank the Chair.

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

AMENDMENT NO. 731

The PRESIDING OFFICER. The question now recurs on the Pryor-Hatfield amendment, No. 731. The time remaining for debate is as follows: 37 minutes under the control of the managers, 31 minutes under the control of the proponents.

Mr. NUNN. Will the Senator yield so I can let Senators know what the rest of the evening looks like?

Mr. PRYOR. Mr. President, I ask unanimous consent that none of the time used by the distinguished manager come from the balance remaining on the leader's side.

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

The Senator from Ohio has the floor. The Senator from Ohio has been asked to yield to the Senator from Georgia. Does the Senator from Ohio yield? He yields.

Mr. NUNN. Mr. President, I am trying to see if the majority leader—he is on the floor.

Mr. President, to give the Senator some idea of where we are and where we have got to go, we have disposed of 48 amendments so far on this bill. Yesterday we had 60 amendments pending. We have done 17 amendments today and we now have 55 amendments remaining.

If someone thinks my arithmetic is wrong, there is another explanation. The reason is, the more amendments we get done the more people file, so we are in a situation where there is only one way we can avoid going late tomorrow night. We will go late tonight in any event, if the majority leader sees fit.

The only way we can avoid going late tomorrow night, and I have talked to the minority leader about this and the majority leader, and being in most of the day Saturday, is to get a unanimous-consent agreement tonight or tomorrow that would provide for the rest of the amendments under unanimous consent and provide a time certain for passage, and most importantly, provide there be no more amendments beyond those that are listed when we get the unanimous-consent agreement. But the problem is, I know it is frustrating for Senators to go late. Believe me, the managers of the bill, the Senator from Virginia and I, do not like to go late, but if we do not find a way to close off further amendments, we simply cannot pass this bill even next week.

So that is the situation. If we can all think about whether we are willing to have unanimous-consent agreements along that line, and we can get in view passing this bill perhaps Tuesday afternoon late with a time certain and closing out further amendments, then I think we could avoid a Friday night session and a Saturday session and get away at a reasonable time tomorrow afternoon. That is the only way I know we can do it.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. BYRD. Mr. President, I wonder if the distinguished Republican leader and I and the two managers at some convenient point this evening can meet, and if in the meantime our respective cloakrooms can get word to those Senators whose names are on the lists with amendments and have those Senators visit with us and let us see if we can really thin down the list, at least get some understanding as to the time the Senators who are going to be offering their amendments will agree to, that is the only way we can do it. We are going to have to sit down at some point and take a look at the lists and be with Senators whose names are on the list because I am sure otherwise it is just going to continue as it is going.

Would the distinguished Republican leader and the managers be willing to meet?

Mr. DOLE. Let me indicate to the majority leader and the chairman I certainly share that view. I am not certain, as I indicated to the distinguished manager of the bill with the Byrd amendment, which I am in the process of having analyzed, whether we could get a time agreement with that amendment pending. But I do think we can at least say no other amendments except the following. Otherwise, they draft them faster than you can pass them. You only gained 5 points today.

Mr. NUNN. Five net.

Mr. DOLE. Net of 5. That would be 11 more days. And so it would seem to me we ought to meet tonight and try to agree on that.

Mr. BYRD. Very well. If our respective cloakrooms—if the Republican leader would agree with respect to his cloakroom—could get the word out to Senators whose names are on the lists at the front tables to have them come to my office; shall we gather, say, at 7 o'clock?

Mr. WARNER. Mr. President, to facilitate the process, it seems to me we ought to set a specific time the four of us would meet with the understanding that Senators will try and communicate with the floor manager through staff or otherwise from the respective sides concerning their amendments.

Mr. BYRD. Very well. Seven o'clock, or would the Senator prefer 7:30?

Mr. WARNER. This Senator would prefer 7:30.

Mr. BYRD. Eight or 8:30?

Mr. WARNER. Eight. Why not just set it at 8 o'clock, take a crack at 8 o'clock, Mr. President.

Mr. QUAYLE. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. QUAYLE. Mr. President, what other amendments might be offered in some respect will be dependent on how we finally resolve the Byrd and Weicker amendments, so on that particular issue I do not believe you will be able to get on this bill what amendments may or may not be offered because, depending on how that all works out, there may be a lot of other amendments offered. So that part of the bill and that amendment, I just point out, will be very difficult because like myself, if in fact—and I have not read the Byrd amendment. I will be honest with you; I have not read it—it is pending, once we get to it, assuming that it is going to be acted upon one way or the other, I could not be in a position to tell you tonight or even tomorrow what amendments that I, and I know a lot of others, might offer. So I just have a caveat on that part of the bill. It would be very, very difficult to get a real understanding, I am afraid.

Mr. BYRD. Then if we could meet at 8 o'clock with Senators who do have amendments on the list, we could at least sit down and discuss them. I thank all Senators.

Mr. NUNN. For the benefit of Senators, for the rest of the evening, it would be my recommendation—and I have talked to the Senator from Virginia, so I think it is really a joint recommendation—that we stay in this evening until 11:30 or 12 o'clock, that we start back early in the morning. I see no need as I see it to stay up to 2, 3, 4 o'clock tonight because we are not going to finish the bill. That just makes the day tomorrow less productive. So it would be my recommendation we continue to take amendments until about 11:30 or 12 o'clock this evening. We do have a rollcall coming on the Pryor amendment. We have an amendment from the Senator from North Carolina that will require a rollcall vote later on this evening.

We have Senator BINGAMAN'S amendment that we will be debating. We have a Kennedy amendment we will be debating. I am not certain either one of those will take rollcalls. They may be able to be cleared; a Dixon amendment that will also hopefully be worked out but we have to have a debate on that one; and a Roth NATO study amendment.

So I would inform all Senators that we are in business and we will be in business until about 12 o'clock. I hope we can move as many amendments as possible this evening.

Mr. WARNER. Mr. President, we all want to keep going. The Senator keeps moving from 11 to 11:30 to 12. It seems to me in a spirit of cooperation we should go out around 11 o'clock, with an early start in the morning. There are staffs and others we should think of. Shall we just have that as a target?

Mr. NUNN. I say two targets: One is the spirit of cooperation, the second is around 11 o'clock. If we can have both, that will help.

Mr. WARNER. I say to my good friend, we are proceeding on two tracks on War Powers and a lot of other ways and two tracks is fine with me.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if the floor manager might yield to a question. I appreciate the problems he is undergoing. When was the Byrd amendment originated? When did that appear?

Mr. NUNN. I believe—the Senator from West Virginia can correct me on this. It is an amendment to the Weicker amendment.—everyone has been under notice there would be a Byrd amendment to the Weicker amendment for about 24 hours.

Mr. WARNER. More than that; 48.

Mr. NUNN. Forty eight hours.

Mr. CHAFEE. Is the Weicker amendment still in existence or is this a substitute for it? I am not really clear.

Mr. BYRD. The Weicker amendment is in existence. The Byrd-Nunn, et al., amendment is a perfecting amendment. There are two.

Mr. CHAFEE. I see. But this was not one of the ones that added a problem to your list.

Mr. NUNN. I would say that there are a lot of problems on the list and I would not be honest if I did not say this was one of the obstacles we have to be able to scale before we can complete this legislation.

Mr. CHAFEE. A self-created obstacle in a way, I suppose we could term it.

Mr. NUNN. I tell the Senator from Rhode Island we did not bring this subject up.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. WARNER. Mr. President, this amendment submitted by the majority leader was well known to Senators it was going to come for the last 2 days. Yes, I view it as a problem legislatively. It was not put in there as a problem in terms of our procedure.

Mr. BYRD. May I say to the distinguished Senator, if the distinguished Senator will yield, if Mr. WEICKER wishes to withdraw his amendment, I will withdraw mine. I did not ask for this pleasantry.

Mr. CHAFEE. I do not think anybody on this side feels confident to acknowledge he can persuade Senator WEICKER to withdraw it. I will leave that challenge to the majority leader.

Mr. BYRD. I am not challenging. That is no challenge.

Mr. NUNN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia has yielded the floor. The Senator from Ohio has been recognized.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, if the distinguished Senator from Ohio——

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Arkansas.

Mr. PRYOR. Mr. President, if the distinghished Senator from Ohio will be kind enough to yield for a period of say 2 to 3 minutes, the distinguished Senator from Florida, Senator CHILES, has an amendment that has been cleared on both sides of the aisle. It could be accepted, I understand, by voice vote. Then we could return to the Senator from Ohio, and get on with the debate.

I ask unanimous consent that that occur without losing time against the balance remaining.

Mr. GLENN. Mr. President, so as not to use up my time, I agree with that. The Senator from Florida says it will take a couple of minutes to get this finished.

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

AMENDMENT NO. 733

(Purpose: To provide for the participation of the Department of Defense in a cooperative program of research and development on semiconductor technology with a consortium established by the semiconductor industry.)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) for himself, Mr. BINGAMAN, Mr. WIRTH, Mr. DOMENICI, Mr. DECONCINI, Mr. D'AMATO, Mr. CRANSTON, Mr. PROXMIRE, Mr. MCCAIN, Mr. BENTSEN, Mr. WILSON, Mr. GRAHAM, and Mr. MCCLURE, proposes an amendment numbered 733.

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

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

On page 22, between lines 8 and 9, insert the following new section:

SEC. 229. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) FINDINGS.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) PURPOSES.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) DEFINITIONS.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) AUTHORITY TO MAKE GRANTS.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) ADVISORY COUNCIL.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) EXPORT OF SEMICONDUCTOR MANUFACTURING TECHNOLOGY.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) PROTECTION OF INFORMATION.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Secretary of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) AUTHORIZATION.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

Mr. CHILES. Mr. President, this amendment which I offer on behalf of myself, Senator BINGAMAN, and nine other cosponsors, sets out an administrative frame work for the Department of Defense participation in the SEMATECH research program.

It is fully consistent with the amounts authorized in the underlying bill.

Mr. President, today with the amendment I am offering with Senators BINGAMAN, WIRTH, DOMENICI, DECONCINI, and D'AMATO we are taking an historic first step toward restoring our competitive base while additionally rebuilding bridges between the Congress, the Pentagon, and the industry. Specifically, the amendment will authorize $100 million for an industrial consortium designed to put America first in the area of semiconductor manufacturing technology.

The amendment has the full and enthusiastic support of the Pentagon. In that regard, I would like to recognize the significant assistance rendered by Dr. Bob Costello, the Assistance Secretary of Defense for Acquisition and Logistics as well as Dr. Ronald Kerber, the Deputy Undersecretary of Defense for Research and Technology and his outstanding assistant, Mr. Sonny Maynard. They intend to make SEMATECH a model program which will incorporate the best aspects of government-industry cooperation without needless regulation and micromanagement.

The goal of the SEMATECH consortium is to establish American preeminence in the manfuacture of computer chips. These chips are the very foundation of our electronics industries, including computers, telecommunications, robotics, and consumer electronics. As important, semiconductors are critical to our national defense. We depend on our high-technology advantage to offset the numerical superiority of our enemies.

SEMATECH's research will concentrate on manufacturing technology. Recent studies by the Defense Science Board and the Congressional Budget Office agree that our critical weakness in semiconductors is in the manufacturing area. We do top rate research but we have fallen behind our competitors in turing out high-quality chips at a low price.

SEMATECH's research will strengthen our national defense. As important, it offers the best hope to restore the international competitiveness of the semiconductor industry—and to strengthen our industrial base.

One of my concerns in crafting this legislation was to insure that SEMATECH's research ends up benefiting our commercial enterprises. The last thing we need is for this project to turn into a "black box" project, where the major breakthroughs are subject to military classification—and don't help us compete in commercial markets.

This amendment guarantees that both commercial and defense needs will be served. Along with an advisory board composed of other government and private sector experts, the Defense Department and SEMATECH participants will agree on a business plan to meet our semiconductor manufacturing technology objectives.

Once this plan is agreed to, the Defense Department will support SEMATECH through a grant governed by a memorandum of understanding. The role of DOD will simply be to support the business plan, not to dictate a separate research agenda or to participate as it might typically do under procurement contracts.

This amendment provides an administrative frame work for SEMATECH to succeed in both its civilian and military dimensions. It is fully consistent with the amounts authorized in the underlying bill. It simply gives us vehicle which we think will get us to the bottom line—a world class semiconductor industry.

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

EXPLANATION OF AMENDMENT

INTRODUCTION

Semiconductor technology has become vital to virtually every sector of the U.S. manufacturing and services economy, and plays an increasingly critical role in the national defense. In 1987 the Defense Science Board found that the U.S. international position in semiconductors was rapidly eroding, and that this trend had ominous national security implications. The Board found that the U.S. armed forces are developing a dangerous dependency on foreign components to provide the core technology for advanced weapons systems.

The Defense Science Board concluded that the U.S. commercial semiconductor industry provided the basis for semiconductor technologies with defense applications, and that a principal problem confronting the U.S. commercial semiconductor industry was the erosion of its position in semiconductor manufacturing. It recommended that, in order to reverse this trend, the Defense Department should invest in a consortium of domestic semiconductor producers to conduct research and development on advanced semiconductor manufacturing technology.

SEMATECH is a not-for-profit consortium formed by companies representing the majority of U.S. semiconductor production to conduct research and development in semiconductor manufacturing technology, with the objective of ensuring that the U.S. industry remains internationally competitive in semiconductor manufacturing. SEMATECH will address the concerns identified by the Defense Science Board in a manner consistent with the Board's recommendations—the formation of an R&D consortium in manufacturing technology. The organizers of SEMATECH are seeking participation by the Department of Defense in the consortium.

As the largest single beneficiary of technology developed by SEMATECH, the Defense Department has a strong interest in SEMATECH. The Committee has already approved $100 million for this effort in FY 88 and FY 89 which is contained in the pending bill.

The purpose of this amendment is to provide appropriate terms and conditions for Defense funding that will streamline complicated Defense operating requirements consistent with the innovative character of SEMATECH and make it clear that, while the Department of Defense will benefit from an investment in SEMATECH, the Department of Defense is not contracting with SEMATECH for goods or services and will not control SEMATECH decisions. As such, the amendment makes funding available to SEMATECH via a grant rather than procurement contract; requires, through a memorandum of understanding, matching funds, special consultations and audits, and cooperation with the National Laboratories and universities; and establishes an Advisory Council on Federal Participation in SEMATECH.

CONGRESSIONAL FINDING

The legislation sets forth a Congressional finding that it is in the economic and security interests of the United States for the Defense Department to support SEMATECH. The purpose of such support will be to facilitate research and development on advanced semiconductor manufacturing techniques and to develop techniques to employ manufacturing expertise for the manufacture of semiconductor products.

ADVISORY COUNCIL

The legislation establishes an Advisory Council on Federal Participation in SEMATECH. The purpose of the Council will be to advise SEMATECH and the Defense Department on appropriate technology goals and on a plan to achieve those goals. The plan shall provide for the development of high quality, high yield semiconductor manufacturing technologies that meet the commercial and national security needs of the United States. The Advisory Council will conduct an annual review of SEMATECH's activities to assess its progress in achieving the objectives of the plan, and will submit recommendations to SEMATECH for appropriate modifications of the plan on its technological goals.

The Advisory Council shall consist of twelve members, and shall be chaired by the Deputy Undersecretary of Defense for Research and Development. One other member shall be a representative from the Department of Commerce. Reflecting the fact that the National Laboratories, administered by the Department of Energy, are expected to have an important role in SEMATECH, the Deputy Secretary of Energy and the Chairman of the Federal Laboratory Consortium for Technology Transfer will be members of the Advisory Council. The Director of the National Science Foundation will be a member. In addition, the President will appoint seven members, including four who are eminent individuals in the semiconductor industry and related industries; two who are eminent individuals in the field of technology and defense; and one who represents small businesses.

AUTHORIZATION OF FUNDS

The legislation authorizes $100 million for both FY 1988 and FY 1989 for participation by the Department of Defense in SEMATECH, and these funds may not be expended for any other purpose. These funds will be made available by the Defense Department to SEMATECH in the form of a grant pursuant to Section 6304 of Title 31, United States Code. When the Government seeks to stimulate and support fundamental research, and to allow substantial scope for creativity and the exploration of promising new technological avenues, as is the case with SEMATECH, grants are the preferred form of funding. Use of a contractual mechanism, by contrast, is appropriate when the Government seeks to procure specific property or services, or to conduct a specific piece of research directed at a precisely defined problem, which is not the case here.

MEMORANDUM OF UNDERSTANDING

The legislation provides that the Secretary of Defense shall enter into a memorandum of understanding with SEMATECH, and that such memorandum, together with this amendment, alone shall govern the rights and obligations of the parties. The purpose is to provide an opportunity for the Defense Department to advise and consult with SEMATECH on terms similar to those of other participants. Such participation cannot work effectively, nor can SEMATECH's objectives be achieved, if the Defense Department unilaterally controls SEMATECH and dictates the terms of its operations.

The memorandum of understanding will contain provisions to ensure that the authorized funds are expended in an appropriate fashion consistent with the purpose of SEMATECH and in furtherance of U.S. national security interests. Specifically, the Memorandum of Understanding shall provide as follows:

(1) SEMATECH shall have a charter agreed to by its members, which will set forth the broad purposes and goals of the consortium.

(2) SEMATECH shall have an annual operating plan which is developed by SEMATECH in consultation with the Secretary of Defense and the Advisory Council. This will enable the Defense Department to ensure that SEMATECH's operations remain consistent with its objectives.

(3) The amount of funds made available to SEMATECH by the Department of Defense for research in any fiscal year may not exceed 50 percent of the total cost of such activities. The private participants in SEMATECH will have at least as great a stake as the Defense Department in SEMATECH being efficient and productive.

(4) In conducting research and development in the area of semiconductor manufacturing technology, SEMATECH shall cooperate with and draw on the expertise of the National Laboratories of the Department of Energy, as well as U.S. colleges and universities. SEMATECH will consult with the National Laboratories in developing research and development objectives, and it is anticipated that some research sponsored by SEMATECH will be conducted at the National Laboratories and at U.S. colleges and universities.

(5) The Advisory Council shall review SEMATECH's research activities and submit an annual report, describing the extent to which SEMATECH is achieving its research goals, to the Department of Defense and to the House and Senate Armed Services Committees. This will facilitate a continuing review of SEMATECH's progress by the Defense Department and the Congress. This audit will obviate the need for auditing by the Defense Contracts Auditing Agency.

(6) An independent commercial auditor shall be retained to determine the extent to which the funds made available to SEMATECH by the Defense Department have been expended in a manner consistent with this Section, with the charter of SEMATECH, and the annual operating plan of SEMATECH. On an annual basis the auditor shall submit a report setting forth his findings and determinations to the Defense Department and the Comptroller General.

(7) The Secretary of Defense will be permitted to transfer intellectual property owned and developed by SEMATECH, but only to U.S. defense contractors and only for use in connection with Department of

Defense requirements. A substantial part of the benefit the Defense Department will derive from SEMATECH will be the development of high quality, efficient manufacturing techniques which can be applied in the manufacture of products procured by the Defense Department. In order to derive such benefits, the Department must be able to transfer intellectual property developed by SEMATECH to U.S. defense contractors who, in some cases, may not be members of SEMATECH. In order to prevent such contractors from utilizing such intellectual property to compete against members of SEMATECH in the commercial marketplace, transfer of intellectual property by the Defense Department to U.S. defense contractors shall be only for use in connection with Defense Department requirements, and the Department shall not permit the commercial application of such intellectual property. SEMATECH will retain its rights to ownership and control of any intellectual property in its possession or that it develops or has developed. The term "intellectual property" as used here embraces any technological knowledge derived from participation in SEMATECH, however that knowledge may be embodied—in the form of patents, data rights, materials, apparatus, equipment, software, technical plans or data, designs, or knowledge thereof, or knowledge of processes, techniques, or patterns of work.

The memorandum of understanding, along with the Amendment itself, is designed to ensure that SEMATECH's activities are not distorted, restricted, or unnecessarily encumbered through the application of a variety of complex contract requirements. SEMATECH must be able to act quickly and flexibly to harness an entire industry in what is in large part a commercial effort in research and development. In light of the challenge facing SEMATECH—a consortium involving the U.S. semiconductor industry including hundreds of equipment and materials manufacturers, the National Laboratories, private research groups and colleges and universities—defense contract requirements would be unworkable. Indeed, many of the companies, the majority of whom have had no experience with the defense Department, will likely refrain from working with SEMATECH in the face of Defense contracting procedures.

In order to achieve the necessary flexibility for SEMATECH, the memorandum of understanding will not be treated as a contract for purposes of government procurement. The amendment would make the memorandum of understanding and the accompanying grant exempt from laws and regulations that govern government contracting. This includes the Truth in Negotiations Act, the cost accounting standards of the Defense Production Act, the Federal Acquisition Regulations, the Walsh-Healey Act, the Small Business Act, and the like.

In lieu of government contracting procedures, the memorandum of understanding will make the Defense Department investment subject to a variety of safeguards and protections. SEMATECH's operating plans will be reviewed by the Defense Department and the Advisory Council. The Advisory Council will annually review SEMATECH's operations and report to Congress. Independent commercial auditors will report to the Department of Defense and the Comptroller General. Government funds must be at least matched by private funding of SEMATECH. Taken together, these measures will assure that Defense Department funds for SEMATECH are appropriately and productively utilized.

EXPORT CONTROLS

The legislation clarifies that the export of materials, equipment and technology developed by SEMATECH shall be governed by the Export Administration Act of 1979 and the Export Administration Regulations (EAR) adopted pursuant to that Act, rather than the Arms Control Act of 1976 and the International Traffic in Arms Regulations (ITAR) adopted pursuant to that Act. It is essential to the ultimate success of SEMATECH that the technologies which it develops not be treated as munitions items under ITAR restriction.

SEMATECH is intended to ensure that the United States retains domestic semiconductor manufacturing capability by developing technology which U.S. firms need to remain internationally competitive. SEMATECH cannot substantially enhance U.S. industry competitiveness, however, if the technologies which it develops cannot be employed to commercial advantage because of ITAR restrictions. Those restrictions could preclude the international sale of equipment development by SEMATECH and prevent utilizing SEMATECH technologies in their commercial manufacturing facilities. Indeed, ITAR restrictions may deter many U.S. companies which would otherwise participate from joining SEMATECH at all. Such a result would defeat SEMATECH's basic purpose and largely negate its contribution to the U.S. defense industrial base.

SEMATECH will develop generic commercial manufacturing technology with potential military applications. At present the export of such dual use microelectronics technologies is regulated under the EAR, which enables the U.S. Government to regulate exports of dual use technologies to prevent the acquisition of technology with military applications by unfriendly nations. SEMATECH technology should be treated in the same manner, which will safeguard U.S. national security interests while permitting SEMATECH to make a strong contribution to the defense industrial base.

FREEDOM OF INFORMATION ACT

The legislation provides that any intellectual property transferred by SEMATECH to the U.S. Government shall not be disclosed pursuant to the Freedom of Information Act. SEMATECH cannot function if its technologies are freely disclosed to nonmembers, including foreign competitors, since such disclosure will substantially negate the benefits of membership. This provision removes any discretion on the part of U.S. Government officers or employees to disclose pursuant to the Freedom of Information Act intellectual property transferred by SEMATECH.

Mr. McCAIN. Mr. President, I rise in support of the amendment offered by my colleagues, Senator CHILES and Senator BINGAMAN, which would provide a framework for U.S. Government participation in SEMATECH. I believe that by supporting this research and development consortium, we will be materially contributing to a stronger U.S. defense posture. Let me explain why.

At present virtually all of the weapons systems employed by our Armed Forces depend on semiconductor technology. Semiconductors provide the guidance mechanisms for smart weapons and guided missiles. They provide the base component technology for air defense systems, reconnaissance satellites, command and communications systems, and antisubmarine warfare systems. In any confrontation with the Warsaw Pact, our Armed Forces will rely heavily on these advanced systems to offset the substantial numerical advantage enjoyed by our adversaries. Any deterioration of United States capability in semiconductors, therefore, is a very serious national security matter.

The U.S. semiconductor industry received much of its original impetus from U.S. defense and space research and development programs of the fifties and sixties, which spun off microelectronics technologies with commercial applications. However, in the past 15 years, the commercial semiconductor industry has increasingly driven the pace of technology development, and the Defense Department has sought ways in which to adapt these commercial advances to military uses more quickly and efficiently. In effect, the original flow of technology from the military to the commercial sector has been reversed. The Very High Speed Integrated Circuit Program [VHSIC] was in significant part designed to accelerate the insertion of the latest commercial technologies into military systems.

At present, however, the U.S. commercial semiconductor industry, whose innovativer dynamism has generated many technological breakthroughs with defense applications, is in serious difficulty. U.S. semiconductor companies have suffered massive losses in the mid-1980's and are disinvesting in some key product areas. The problems confronting semiconductor device producers have had an adverse ripple effect on the companies which produce equipment and materials for them; these firms have experienced economic difficulty, and in some key equipment and materials sectors, foreign firms have become dominant. The erosion of the U.S. microelectronics industry has given rise to a growing dependency on foreign sources for semiconductor components, equipment, and materials that are critical to our national defense.

SEMATECH is part of the United States response to that problem. It is designed to ensure that the U.S. semiconductor industry has access to state-of-the-art manufacturing technology, and that U.S. firms can produce the most advanced semiconductors exclusively with U.S.-origin equipment, chemicals, and materials.

SEMATECH will feature four basic types of activities. First, SEMATECH will sponsor R&D on advanced semiconductor manufacturing techniques, tools, and materials. Second, SEMA-

TECH will test and demonstrate production tools and techniques which result from this research on an actual production line. Third, SEMATECH will develop techniques for adapting the processes which are proven on the demonstration line to flexible manufacturing, so that manufacturing techniques developed in producing the technology driver can be applied to the manufacture of a wide variety of other products. Finally, and most importantly, SEMATECH will disseminate the results of these efforts to all of its members and to the Department of Defense. Under this amendment, the Defense Department will be permitted to transfer SEMATECH technologies to its contractors for the limited purpose of producing semiconductors for procurement by the Defense Department.

SEMATECH is structured to eliminate duplicative research by U.S. companies, and to maximize the results which each participant gets for its R&D dollar. SEMATECH will strengthen the U.S. microelectronics infrastructure by providing a basis for closer cooperation between the U.S. semiconductor device makers, on the one hand, and the producers of equipment, materials, and chemicals on the other hand. Such factors will help to ensure that the United States maintains an internationally competitive semiconductor industry—a vital element in the U.S. defense industrial base.

Mr. CHILES. Mr. President, I understand the amendment has been cleared on both sides.

I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to say that I am proud to cosponsor the amendment.

Mr. President, I rise in support of the amendment which my colleague from Florida, Senator CHILES has offered. I am proud to be a cosponsor of the amendment. It has been a pleasure to work with Senator CHILES on this amendment and on its predecessor which was included in the trade bill passed by the Senate earlier this year. As Senator CHILES has already outlined, the purpose of this amendment is to clarify the mechanism whereby Government funding will be provided to the Semiconductor Manufacturing Technology Consortium, or SEMATECH, which is being put together by this Nation's semiconductor industry.

Mr. President, when the Defense Science Board Study on semiconductor dependency appeared earlier this year, I thought that the issues being raised were so important that they should be a focus of the Defense Industry and Technology Subcommittee's hearings on the defense authorization bill this spring. During our hearings in March, we investigated the need for this consortium in some detail with a variety of industry and government witnesses. In the end, we found ourselves in agreement with the Defense Science Board's fundamental conclusion that the semiconductor industry was so central to maintaining our qualitative edge over the Soviet Union in our weapons arsenal, that we could not afford to see that industry migrate abroad. We simply did not see how a strong research capability in this area could exist without being tied to an equally strong manufacturing capability. And we found ourselves in agreement with the Defense Science Board that the area in which our industry was suffering from the greatest disadvantage vis-a-vis the Japanese was manufacturing technology. As a result of those hearings, the committee did include a $100 million for SEMATECH in each of fiscal years 1988 and 1989 in this bill. Let me note that Senator WIRTH, who joined our committee this year, made a major contribution to the committee's deliberations on this issue. Senator WILSON and Senator MCCAIN also gave strong support to this bipartisan effort to get SEMATECH on track.

What was still lacking at the time we marked up this bill in April was an elaboration of the mechanism whereby the Department of Defense and other Federal agencies would interact with the industry consortium. As Senator CHILES has mentioned, he and I attempted to elaborate on that mechanism in an amendment which was included in the trade bill passed by the Senate in July.

That amendment was meant to be a first step in drawing out the industry and the Department of Defense on this matter. Since the project is designed to serve both national security and economic competitiveness goals, the amendment on the trade bill involved not only the Defense Department but other key Federal agencies including the Department of Energy and the National Science Foundation in an inter-agency council chaired by the Secretary of Defense which would be the government interface with SEMATECH.

In the intervening 2 months, Senator CHILES and I have received a great deal of comment both from the Defense Department and from industry on how to improve our amendment and the result is before the Senate today. Let me say that the Department of Defense from Secretary of Defense Weinberger on down has been very supportive of SEMATECH from the start. Assistant Secretary of Defense Robert Costello and Deputy Under Secretary of Defense Ronald Kerber have contributed greatly to coming up with a mechanism that will work both for Department of Defense and for industry.

From their perspective, the main problem with the amendment included in the trade bill was that we were trying to manage the Government interface with SEMATECH via an inter-agency committee. The amendment which we are offering today addresses that concern by putting the Secretary of Defense clearly in charge of the Federal effort. He will be assisted by an advisory council on Federal participation in SEMATECH which will be chaired by the Under Secretary of Defense for Acquisition and include representatives of other key Federal agencies notably the Director of Energy Research at DOE, the director of the National Science Foundation, and the chairman of the Federal Laboratory Consortium for Technology Transfer. In addition, there will be seven members from the private sector appointed by the President to this advisory council.

The Council will review the research activities of SEMATECH annually and report its findings to the Secretary of Defense and the Armed Services Committees of the Congress. By including representatives interested in both goals which SEMATECH is serving, namely advancing our national security and improving our economic competitiveness in this critical industry, the Council will help ensure that the research carried out by SEMATECH is useful to both purposes. The Council will also help coordinate industry, government, and university research efforts. The amendment notes the particular importance of drawing on the expertise of the Department of Energy's national laboratories in this effort. My senior colleague from New Mexico, Senator DOMENICI, is leading the effort to ensure the laboratories are given a mission in this area and the legal authority needed to carry it out.

Mr. President, the current version of the Chiles-Bingaman SEMATECH amendment is also an improvement from the perspective of industry. The industry's main concern was that we clarify the mechanism whereby the Department of Defense would provide funding to SEMATECH. The amendment before us today does precisely that by authorizing the Secretary of Defense to make grants to SEMATECH pursuant to a Memorandum of Understanding outlining certain terms and conditions protecting both parties. For example, one condition will be that the Department of Defense funds may not exceed 50 percent of total SEMATECH funding in any year. This will ensure that industry foots at least 50 percent of the bill for the SEMATECH Manufacturing Technology Research Program. It is my understand-

91-059 O-89-22 (Pt. 18)

ing that this will not be a constraint since industry has already committed a $100 million per year to SEMATECH. For industry, there are clear protections on intellectual property set forth in the amendment that they felt very strongly were required to ensure that there were no "free riders" gaining access to SEMATECH results without contributing to its financial support.

Mr. President, this amendment has the support of both the semiconductor industry and the Department of Defense. It represents an important milestone in putting together this enterprise which I believe is vitally important to this Nation. Let me again express my appreciation to Senator CHILES for having had the courage to be the first to put pen to paper in trying to establish this industry-government relationship and make it as productive as it possibly could be. And let me also express my thanks to those in the Department of Defense and industry who have contributed so heavily over the past several months to improving our original amendment and bringing us to the point today where I have great confidence that, if the Senate passes this amendment and it ultimately becomes law either on this bill, or the trade bill, or the defense appropriations bill, the Defense Department and the semiconductor industry will be able to promptly get on with this important enterprise. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I compliment the distinguished Senator from Florida, and my colleague from New Mexico. I am a cosponsor.

Mr. President, I support this important amendment, offered by my colleague from New Mexico [Mr. BINGAMAN] and my good friend from Florida [Mr. CHILES].

I support this amendment because it authorizes a modest Federal commitment that may save a vital American industry, vital not only to America's national defense.

The amendment specifically authorizes the Defense Department's annual share—$100 million—to the SEMATECH consortium. The SEMATECH program is a cooperative Government/private effort to strengthen our semiconductor technologies.

SEMATECH is a bold initiative, one which could reverse the declining trend in the U.S. semiconductor industry. It is our first step toward saving that industry that, in many ways, is the very heart of the electronics industry, which involves 2,500,000 jobs and contributes some $200 to $300 billion yearly to our gross national product.

Ten years ago, the United States dominated the world semiconductor industry. We stood at the forefront of designing and introducing new, critical types of semiconductors. Ten years ago the U.S. semiconductor industry held 100 percent of the world market in most of the key semiconductors.

What about today? We hold less than 40 percent of the entire business, and less than 10 percent of many of the key types of semiconductors. According to the recent Defense Science Board report, America has lost 19 to 25 key semiconductor products and processes to the Japanese.

After examining this issue in great detail, the Defense Science Board Task Force on Semiconductor Dependency presented in February the answers to three basic questions:

First, how important are semiconductors to U.S. national security? The answer was that they are invaluable to U.S. national security. U.S. military forces rely heavily on technologically superior weapons; without the edge in semiconductors, we could lose that technological advantage.

Second, should the United States rely on foreign countries, such as Japan, for our semiconductors? The answer was emphatically no. As we are now in this information age hostage to whoever controls semiconductors, our defense could become hostages to the same foreign suppliers.

Third, what will happen to the U.S. semiconductor industry without Government participation? Technological advances occur so fast in the semiconductor industry, that if we do nothing to change the current trend, U.S. firms will be driven out of the semiconductor market within a relatively short time. The Japanese will advance so far beyond us that we will not even be able to hold our current ground.

Subsequent to the publication of the Defense Science Board report, I asked for comments from various scientific and technical representatives in New Mexico. I would like to cite some noteworthy comments.

Col. J.P. Amor, commander of the Air Force Weapons Lab, stated:

> The ability to produce technologically superior systems is crucially dependent upon access to the absolute state of the art in electronic component and subsystem development. The decline of our semiconductor industry will directly compromise this access, because the state of the art and understanding its applications will reside outside the U.S.

Dr. Siegfried Hecker, Director, Los Alamos National Laboratory, stated:

> An important feature of Japanese semiconductor development strategy is the elimination of duplication in generic research. This is another area in which the national laboratories can make a valuable contribution. By coordinating efforts closely with each other and with industry, the national laboratories could provide a focal point for applied research to enhance mid- and long-term U.S. competitiveness in the semiconductor industry. Such a role would be complementary to that of the Semiconductor Manufacturing Technology Institute.

These two comments illustrate the enthusiasm and support within the scientific and industrial communities to forge new partnerships, to develop a new cooperation for our national semiconductor strategy. The sense of urgency to accomplish this, permeates all the discussion.

As we continue to discuss what coordination and support is needed, the Japanese Government has in place, a highly integrated system and a long history of facilitating Japan's drive for preeminence in high technology, including semiconductors. From 1962 to 1980, MITI organized four major initiatives involving semiconductor and computer technology.

In 1976, with MITI's blessings, the country's major electronics companies established the VLSI Technology Research Association. MITI provided some loans; the companies supplied the rest. The goals were to stop duplicative research and share findings among participants. By 1980 the Government had spent about $300 million and filed many patents.

Recently, the Japanese have formed a new consortium of 13 firms to develop the synchrotron x-ray fabrication system necessary to develop the 16 megabit and higher density DRAMS.

Nippon Telegraph and Telephone, with its sophisticated Government-owned laboratories, is working on x-ray fabrication techniques, and when the technology is perfected, it will be passed on to Japanese firms.

We must begin to see the world as it is, not what we would like it to be in terms of the competition.

Since the 1970's, virtually every major industrial nation, except the United States, has supported its semiconductor industry with large scale, Government research and development projects. Japan has been able to achieve technological parity with the United States in some fields as a result of such Government/industry consortium projects. Foreign industries seem to understand that if they don't work together, their factories will be forced to close and they won't work at all.

SEMATECH is a new U.S. model for bringing the best and most creative minds of the American semiconductor industry together with the financial resources of Government and industry. The sole purpose is researching better technology to manufacture semiconductors. What makes the concept both brilliant and exciting is that it is so innovative and yet traditionally American at the same time.

The product will be knowledge, which will benefit the entire Nation. Our Government's role is make Amer-

ica smarter, to get a leg up on those who seek to compete with us from around the world, while providing more jobs for the American electronics industry, this Nation's largest single employer.

The health of the U.S. semiconductor industry has some important ramifications for the future of the United States—our ability to provide independently for our national defense needs; the potential loss of our position as a world leader in technology; and our ability to produce other products through the application of flexible manufacturing systems, robotics, and statistical process control.

SEMATECH uses an innovative cost-sharing scheme with companies in the semiconductor service, equipment, and materials industries contributing the majority of the investment. The Semiconductor Industry Association indicated that these industries will provide $150 million a year, more than the Federal contribution of $100 million.

Commercial manufacturing techniques have suffered from a lack of emphasis in semiconductor R&D programs. The SEMATECH initiative will increase spending on this type of R&D in the United States by about one-third, a significant increase.

We must move quickly to select a site for SEMATECH and get on with this program. The site selection is important as a foundation from which SEMATECH can build successful research efforts; there must be strong research and development traditions, a growing industrial semiconductor presence, good sources for scientific and technical personnel, and the appropriate infrastructure for the SEMATECH partners.

I believe that sites in New Mexico meets these requirements. The Sandia National Laboratory near Albuquerque holds unique capabilities that set it apart from the wide field of competitors.

Sandia is building the premiere, state-of-the-art ultraclean room facility designed to support development and pilot production of ultra-large-scale integrated [ULSI] circuits in the 1990's. This facility would be available for SEMATECH's use and applications, giving it a technological advantage not available anywhere else in the world.

Sandia has established an environment that is conducive to cooperative partnerships. Without being exhaustive, let me cite a few examples that are applicable to semiconductors. The radiation-hardened microelectronics technology, developed at Sandia, is currently being transferred to U.S. industry. There are ongoing cooperative programs with Intel, IBM, and others on clean-room technology.

With regard to compound semiconductor technology, Sandia is working closely with Honeywell, Hughes, Texas Instruments, AT&T, Northrup, and Varian. Sandia has initiated cooperative programs in evaluating and characterizing new semiconductor process equipment, as well as joint programs in developing new processes, new equipment, and new materials.

Sandia has a long track record in semiconductor research. It is the only national laboratory producing advanced integrated circuits for national programs. Since the SEMATECH initiative consists of tasks ranging from research on advanced manufacturing techniques to a pilot production demonstration, Sandia has a combination of relevant experience not easily duplicated at other proposed locations.

The University of New Mexico is home of the center for high technology materials which has undertaken a substantial research and development effort in gallium arsenide [Gsas] semiconductor materials and devices. The UNM program in semiconductor diode lasers and arrays and other aspects of optoelectronic device development is unique in universities in this country. The Air Force Office of Scientific Research [AFOSR] awarded a university research initiative grant to the University of New Mexico in 1986, in recognition of their specialized expertise, to develop an optoelectronics research center.

Mr. President, I support this semiconductor amendment for its acknowledgement of the significance that semiconductors have for our national defense. Defense Department officials have likened the loss of a national chip-making capability to depending on foreign governments for guns and fighter jets.

I request that very careful consideration be given to the final decision as to the site selection for SEMATECH, for we must ensure that we take maximum advantage of our incumbent technical capabilities. We need every advantage we can get to move our semiconductor industry back to a position of world leadership.

In Chinese, the same word for "crisis" can also be translated into "dangerous opportunities." I believe that this is where we are now with respect to semiconductors. We have the chance to change this crisis into an opportunity. SEMATECH is a critical component of this new future.

I ask unanimous consent to have printed in the RECORD various letters on the subject.

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

LOS ALAMOS NATIONAL LABORATORY
OF THE UNIVERSITY OF CALIFORNIA,
Los Alamos, NM, April 2, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR PETE: Thank you for your letter of March 5 requesting our thoughts on the semiconductor industry competitiveness problem. We have studied the Defense Science Board report and agree with many of its recommendations.

However, we also agree with your comments that the high technology resources in New Mexico can play a significant role. The attached response discusses some specific initiatives that we offer for your consideration. These include organizing a workshop in New Mexico that would involve the national laboratories, universities, and private industry.

In addition to the specific suggestions made in the enclosure, I also want to mention that this issue of economic competitiveness in the semiconductor industry provides another example of why the charter of DOE should be expanded to include technology development beyond the scope of energy technologies. In my letter to you on November 25, 1986, I suggested that a broadening of the DOE charter would permit the national laboratories to make technological contributions to U.S. economic competitiveness. The semiconductor technology area is an excellent example that has both national security and economic security implications.

The DOE has looked into ways that the laboratories could help meet the challenge outlined in the DSB report. A workshop was held recently at the National Academy of Sciences to examine the roles that national laboratories could play in the semiconductor technology area. A report of that workshop should be released soon. Our response is incorporated in the attached recommendations to you. I wish to emphasize that the semiconductor technology area is only one of many that need attention and should be included in the expanded technology charter of DOE.

I hope that our thoughts are helpful to you as you consider this important topic. Please don't hesitate to call if we can provide additional information.

Sincerely,

S.S. HECKER,
Director.

LOS ALAMOS NATIONAL LABORATORY,
Los Alamos, NM, April 2, 1987.

(Response to Senator Domenici's Request for Comments on the Defense Science Board Report on Defense Semiconductor Dependency.)

We appreciate the opportunity to comment on the Defense Science Board Task Force Report on "Defense Semiconductor Dependency" and to suggest areas in which we think Los Alamos and the other New Mexico technology resources can help stem the erosion of the US semiconductor industry. At Los Alamos we have been concerned about the impact of a weakening semiconductor industry on national security for some time. Recently we participated in a National Research Council Workshop on the Semiconductor Industry and the National Laboratories. This proved to be a good forum for getting firsthand information on the problem from industry leaders.

The Task Force report provides an articulate description of the importance of semiconductor devices in US defense systems. Indeed, nuclear weapon systems, but more particularly conventional weapon systems, rely on sophisticated semiconductor devices for their operation and effectiveness. Advanced semiconductor devices are also essential for the supercomputers that we rely on for nuclear weapons design. If the industrial base for semiconductor device development and fabrication continues to erode at the

present rate, the US defense complex will become more dependent upon foreign parts, and potentially, upon foreign systems. Domestic production capability for state-of-the-art semiconductor electronics is vital to our military strength. This encompasses the broad range of semiconductor devices including high-speed digital information processing components, such as memory and microprocessor chips, specialized signal processing chips, linear circuits, and sensors.

In conventional military hardware, we are striving for technological superiority of our weapon systems to offset a large numerical superiority of the Soviet military forces. This same strategy is applied to smaller conflicts so that we can risk fewer lives by using superior weapons. As indicated in the Task Force report, it is factors of 2-10 in capability that are necessary to make this strategy work. Moreover, it is important to evaluate how long this strategy can continue to remain effective. As seen so clearly with Japan, what once was an enormous lead has diminished to parity or worse in a few years. Even if we can regain the lead in semiconductor device development and fabrication, foreign competitors may be only a small step behind. Either by production or foreign purchase, the Soviet Union could close the gap between the capability of their military electronics and ours.

Soviet military electronics does not need to be superior, it just needs to be good enough to make larger forces superior in total strength. As the report states, the most sophisticated dynamic random access memory made by the Soviets is 64k bits compared with 1M bit in the US and Japan. But 64k-bit RAMs were the state-of-the-art only 4-5 years ago. The design cycle for military systems is generally this long or longer. The point is, technological superiority in military electronics may not continue to be enough to offset a factor of 2-10 in numerical superiority. Maintaining accurate intelligence on the semiconductor devices being produced by or available to our adversaries will be increasingly important to our defense strategy. The technology assessment capabilities of the national laboratories can help fill this need.

A second concern regarding our reliance on sophisticated military electronics is their potential vulnerability. To some degree, the more complex a system is, the more that can go wrong with it. Intrinsically, integrated circuits are extremely reliable, but they are also vulnerable to attack. Energetic radiation can disrupt or damage integrated circuits, intense laser radiation can disable sensors, and microwaves or EMP can destroy electronics. Operation in a nuclear environment is particularly problematic. Coupled with efforts to regain leadership in the design and fabrication of semiconductor devices, there needs to be an expanded effort to reduce the vulnerability of military electronics. The technical resources in New Mexico are well equipped to address this problem. Both Sandia and Los Alamos have programs on radiation-hardened electronics. Our laboratories conduct experiments and compile data on weapons effects. This is a base from which a broader joint effort to reduce vulnerability of military electronics could be launched by Sandia and Los Alamos.

The strengths that Los Alamos and Sandia have in this area could also be of benefit to the New Mexico universities. One of the recommendations of the Task Force report is to establish eight centers of excellence at universities, each emphasizing an aspect of electronics technology. Among these is a center for radiation hardening. It would be very appropriate for this center to be at a New Mexico university where it could take advantage of and complement the programs at our national laboratories.

Beyond the direct impact of a weakening semiconductor industry on our defense systems, there may be an even larger and more immediate impact on our national economic security. In commercial products, the margin needed for success is small. Factors of 10-50% in either cost or capability can mean the difference between capturing a market or losing it completely. As pointed out forcefully in the report, semiconductors are the essence of the computer and telecommunications industries that together form the basis for the information age. If we lose the ability to compete in these technologies for lack of state-of-the-art semiconductor devices, we will lose a large fraction of our future gross national product. Japan is an ally, but a strong economic competitor. What initially may be a small advantage in the cost or capability of their semiconductor devices could result in their domination of the entire information technology base. We could end up importing the bulk of our information handling hardware just as we now import most consumer electronics. As stated in the report, "This is perhaps the most ominous conclusion of the Task Force." Because the national laboratories have a broad interest in national security, we are concerned about losing economic leadership in the semiconductor industry.

As the functionality of semiconductor devices increases, the equipment and processing technology required to produce these devices becomes more expensive and takes longer to develop. Indeed, the cost of development for the next generation of integrated circuits would equal a large fraction of the worth of major semiconductor companies in the US. For example, in order to go from 1μm feature sizes used in current technology to the 0.25μm features required for 16- to 64M-bit DRAMs, a new lithography technology must be developed. The Japanese have committed to synchrotron sources for x-ray lithography with a $700M investment. To match this challenge requires commitment at the highest level. To date, the necessary commitment has not been made.

The national laboratories could fulfill a crucial role by developing critical technologies to a proof-of-effectiveness level. For example, if there are four contending technologies for a 0.25μm lithography, a single-focused project in each area could be pursued under joint government and industry sponsorship. Once proof-of-effectiveness was demonstrated, the high-risk, front-end development costs would be broadly spread and the risk of commercialization would be sharply reduced. The time frame for solving problems with the US manufacturing costs of 256k-bit RAM chips is too short for the national laboratories to make a significant impact, but they could help provide the technological edge for making 64M-bit RAM chips, which are projected to come in the next 10 years.

The national laboratories have particular expertise in accelerator and laser technology. At Los Alamos, we have been evaluating the potential for x-uv lithography using a free electron laser (FEL). Advances in accelerators and undulator design make it feasible to build a free electron laser radiating in the 10- to 100-nm range. Such a system could produce much greater flux than a synchrotron, reducing lithographic exposure times. Potential application of the newly discovered high-temperature superconducting materials could make such systems smaller and cheaper, enhancing their integration into semiconductor fabrication lines. Los Alamos also has particular expertise in excimer laser systems. Advanced sources of this type could be a valuable incremental step in achieving fine line lithography. Advanced laser systems also have application to direct processing of semiconductor devices using photo-deposition and photo-etching processes. Researchers at Bell Laboratories have expressed an interest in the Los Alamos x-uv FEL.

An important feature of Japanese semiconductor development strategy is the elimination of duplication in generic research. This is another area in which the national laboratories can make valuable contribution. By coordinating efforts closely with each other and with industry, the national laboratories could provide a focal point for applied research to enhance mid- and long-term US competitiveness in the semiconductor industry. Such a role would be complementary to that of the Semiconductor Manufacturing Technology Institute, which was announced in early March. Los Alamos has special capabilities in advanced materials, materials analysis, theoretical modeling, and high-speed characterization that could be contributed to the research base. We suggest that a workshop be organized including Los Alamos, Sandia, the major New Mexico universities, and representatives of the New Mexico semiconductor industry to initiate the coordination of effort within New Mexico and to define the areas in which the greatest technological impact can be made.

Another step to enhance the interaction of national laboratories and industry would be an expansion of industrial liaison programs. The specific problems confronting the industry are not widely known within the national laboratories just as the resources of the national laboratories are not widely known in industry. By laboratory personnel working in industry and vice versa, firsthand understanding of the key problems and potential solutions could be exchanged.

In summary, the erosion of the US semiconductor industry can have a profound impact on both the economic and military security of our nation. Because of this impact, the federal government must consider steps to reverse the current trend. The national laboratories have expertise and resources that can assist in accomplishing this goal. We at Los Alamos are anxious to work with the major technological resources in New Mexico to that end.

THE UNIVERSITY OF NEW MEXICO,
Albuquerque, NM, April 1, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you very much for the opportunity to provide you with some of our thoughts on the issue of Defense Semiconductor Dependency.

We believe that this issue is indeed very real and serious; that it extends beyond the very important, but relatively confined, scope of the Defense Science Board report into issues of the future economic competitiveness of our country in an increasingly international marketplace; that foreign inroads in the increasingly important compound semiconductor field that includes optoelectronics and ultra-high speed devices should be included in the definition of the

problem; that there is a role for Universities in general and the University of New Mexico, specifically, in concert with the federal laboratories and industry, in providing research and educational leadership towards resolving the problem of international competitiveness in the semiconductor industry; and that these efforts are a necessary, but not sufficient, condition for reestablishing American technological leadership. Additional creative effort will have to be applied to the problems of short-term industrial horizons, capital formation, and scientific and technological education and popularization.

The Defense Science Board report amply conveys the severity of the Japanese inroads in semiconductor chip manufacturing. The statistics on the changing leadership in the DRAM market are very stark evidence of the rapidity with which technological superiority and market share are being lost. As just one more example, at the recent Solid State Circuits meeting held in February in New York, prototypes of new DRAM configurations were announced by several manufacturers, IBM as well as five Japanese companies announced a prototype 16-Mbit DRAM; Nippon Telephone and Telegraph (NTT) announced an eight times larger 64-Mbit DRAM. Access speed is another critical performance parameter for memory applications—the fastest access speed of 35 nanoseconds (35 billionth of a second) was reported by Hitachi for a 1-Mbit DRAM. While these are prototype results which are in the research and development stage, they do indicate that the Japanese are continuing their active research and development; history suggests that they will aggressively pursue the commercial production of these chips. I have attached a copy of a news report on this meeting which appeared in Science, the magazine of the American Association for the Advancement of Science.

Comparable problems are also evident in the development of advanced processing technology for new generations of semiconductor devices. A recent report issued by the National Academy of Sciences states: "The long-term Japanese commitment to the development of these critical technologies (referring to developing semiconductor technologies including beam-assisted processing, ultra-high resolution lithography, and compound semiconductors, etc.) is being carried out by at least 10 major industrial companies, whereas only a few U.S. companies maintain a comparable effort. The overall competitiveness of the United States in electronics has worsened dramatically relative to Japan in the last 5 years. The Japanese are now developing the science and technology needed for the future. Unless the United States responds to this challenge, this trend is likely to continue." (Advanced Processing of Electronic Materials in the United States and Japan, National Academy Press, 1986)

While the focus of the report is on the impact of the loss of technological leadership in the semiconductor industry on defense preparedness, it is also important to reflect on the impact of this loss in economic terms as well. As the world enters into the "information age", international economic and technological leadership will be increasingly intertwined. Thus, the semiconductor challenge, important as it is to the country's defense posture, is even more important as a measure of this country's future prospects in the international economic arena. We cannot complacently rely on our traditional industries and our natural resources to carry our economy into the information age. We must actively develop our scientific and technological capability for this international economic competition.

The Defense Science Board report deals primarily with silicon integrated circuits which are the most important segment of today's market in semiconductor chips. Compound semiconductors such as Gallium Arsenide (GaAs) are increasing important because of their use for optoelectronic, optical and high-speed (both analog and digital) applications. The Japanese have very effectively pursued the development of GaAs technology, as the report notes by indicating Japanese leadership over the United States in GaAs materials technology and almost all areas of non-silicon device technology. We can add colloquial evidence, we have posters of advanced semiconductor laser structures posted in the corridors of our research center; every one of these devices was designed and fabricated in Japanese research centers.

The Center for High Technology Materials at the University of New Mexico, one of the Centers of Technical Excellence within the Rio Grande Research Corridor, has undertaken a substantial research and development effort in GaAs semiconductor materials and devices. The UNM program in semiconductor diode lasers and arrays and other aspects of optoelectronic device development is unique in universities in this country; there are other efforts at many universities but none with the same focus on semiconductor optoelectronics, breadth of endeavor within the semiconductor and optics fields, and interactive, collaborative emphasis. Over the last several years, we have established a vertically-structured research effort that extends from semiconductor growth, through device fabrication, characterization, and anlaysis, to applications studies. Strongly coupled programs in laser spectroscopy and processing, in laser development, and in thin-film technologies are also included in our program. This effort was recognized last year with the award of a university research initiative grant by the Air Force Office of Scientific Research (AFOSR) for the development of an Optoelectronics Research Center at UNM.

Coupled with the extensive expertise and research strengths of Sandia National Laboratories and of the Air Force Weapons Laboratory in these same areas, this is a truly unique complex of resources, all located within a small geographic area, that can be applied to this nationally important problem. The Center for High Technology Materials already has extensive collaborative research arrangements and joint programs underway with these two government laboratories. For example, the AFOSR grant mentioned above stressed our expanding connections with the Air Force Weapons Laboratory in the areas of semiconductor optoelectronics and nonlinear optics. We are also closely connected with Sandia National Laboratories in these areas with joint faculty appointments, collaborative research projects and frequent technical interactions. This existing network of interconnections provides a very strong and yet diversified complex of research and educational resources in compound semiconductor optoelectronics.

In addition to research, the University has a major hole to play in education and training for the semiconductor industry. The Center for High Technology Materials has initiated a number of courses in semiconductor processing as well as in semiconductor-based optoelectronic devices; we have a large and expanding graduate student population that is being trained in semiconductor material and device technologies.

There is also a major initiative underway in Manufacturing Technology, in collaboration with Riotech and New Mexico State University. This effort could feed into many of the manufacturing technology-application concerns voiced in the report.

While investment in research and education is an important component of the search for an improved competitive position in semiconductor technology, it is important to recognize the need for a long term commitment for these efforts to come to fruition. Additionally, as is pointed out in the report, much of the semiconductor industry problem is due to structural factors such as capital formation, short-term industrial horizons, and industrial organization. These issues must also be addressed or we will carry out the research only to see it applied to commercial products by our overseas competitors.

We look forward to the opportunity to discuss these issues more fully with you and the members of your staff.

Sincerely,

S.R.J. BRUECK,
Director.

WESTERN NEW MEXICO UNIVERSITY,
Silver City, NM, March 24, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for the opportunity of commenting on the report on "Defense Semiconductor Dependency" which was published in February, 1987 by the Department of Defense.

My comments should be understood against a caveat highlighting my non-technological background.

I can understand DOD's concern with its increasing dependency upon Japanese and South Korean leadership in the development and production in semiconductor technology. I believe, however, that such concern should be muted, somewhat, by the fact that both those countries are, and have been for at least four decades, staunch American allies.

Given DOD's analysis of the reasons why Japan has been more successful vis-a-vis the United States in semiconductor technology, I am not certain that the measures proposed by the Department (pp. 11-13) would be adequate to address the dependency problem.

If the measures proposed, i.e. the establishment of centers of excellence for semiconductor science and engineering, etc., keep American semiconductor technology at the "cutting edge" of discovery and innovation, then they may merit support.

If the expectation is, however, that the measures proposed as recommendations on page 11 through 13 are to turn the tide of Japanese leadership in semiconductor technology then I think they will be futile because they are minute palliatives addressing a world-class industry based on a world-leadership class economy.

Once again, I appreciate the opportunity of commenting.

Sincerely yours,

RUDOLPH GOMEZ,
President.

SANDIA NATIONAL LABORATORIES,
Albuquerque, NM, March 30, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for your letter regarding the Defense Science Board report on the U.S. semiconductor industry and its importance to national security. We have been concerned about this issue and have been investigating the question of the role that the national laboratories might play in technology development directed toward this particular industry.

From our perspective, we believe the problems of the U.S. semiconductor industry are of vital importance to the nation's security, and we support the recommendations of the DSB report. The DSB recommendations are part of a national semiconductor strategy, another part of which is Semiconductor Industry/DOE Laboratory interactions which was the subject of a workshop/meeting held at the National Academy of Sciences (NAS) on February 24, 1987, largely at our instigation. In the report of the NAS workshop, there will be a recommendation for a National Laboratory Semiconductor Initiative (NLSI) in which Sandia would have a major role. Sandia's potential role should be completely coherent with the national semiconductor strategy and with the NLSI.

At the NAS meeting, we presented a proposal for what Sandia might do. Enclosed is a copy of some of our vugraphs. In addition, we are holding a technical meeting this spring to explore, in more detail, what we and other DOE national laboratories could contribute.

As you know, Sandia has extensive capabilities in semiconductor technology because of our radiation-hardened microelectronics activity. With the completion of RHIC II, we will have further enhanced our capabilities. We also believe that we could offer the industry a neutral site at which to perform collaborative development of new processing technology and processing automation. Therefore, we have proposed a center for silicon process integration to be part of the NLSI to allow the country to move the technology rapidly toward future generations of integrated circuits. Given the base of activity we already have, we believe we could establish a program in this area quickly if the industry and country decided it was desirable to do so.

Sandia has also done extensive research in compound semiconductors and devices which are the basis for the opto-electronics and optical communications industries. We also have good coupling to the Center for High Technology Materials at the University of New Mexico in this area. While it is clear that the most urgent problems of competition exist in the microelectronics area, the competition in opto-electronics is also fierce and actions are necessary in this area as well. We are completing a new clean room facility dedicated to compound semiconductor materials and device research. Again, Sandia is in a good position to help the nation; we are discussing possible programs with DARPA and other agencies.

In order for the country to move forward to protect this important high technology industry, decisions must be made at the highest level as to what is needed. We believe it is essential to have a national program established that transcends the departmental boundaries of the Executive Branch as the problem involves Commerce, Defense, and other departments. The DOE, through its laboratories, can help. Sandia's capabilities in semiconductor technology are unique among the national laboratories, and we hope to be able to contribute to the solution of this important problem.

Sincerely yours,

I. WELBER,
President, Sandia National Laboratories.

NEW MEXICO INSTITUTE
OF MINING AND TECHNOLOGY,
Socorro, NM, March 11, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR PETE: This is a response to your request for a discussion of the "Report of Defense Science Board Task Force on Defense Semiconductor Dependency". Rather than attempt a long-winded analysis, I will briefly list what I believe are key points, expanding on a few that I feel are particularly pertinent to New Mexico.

1. The report is accurate, not exaggerated, and points out a real and major danger to our military and commercial world position. This danger is due in significant part to our failure to support private enterprise with federal research and development efforts—as we discussed in your Washington office a month ago.

2. The entire field of m .erials research, of which semiconductors are only a part, should be addressed now rather than "solid-state devices" only. The whole field of materials will, in a few years, be in the same weakened position in our country now occupied semiconductors (solid-state devices).

3. The concept, advanced in the report, of a "Semiconductor Manufacturing Institute" is very good and should be supported. Although the report primarily considers the institute to be an industry consortium, it would do well to contain a significant national laboratory and university component (not just on a loaned basis). The suggested concentration of the institute on "advanced manufacturing techniques" is fine but cannot be divorced from the eight university centers of excellence for semiconductor science and engineering. The "forum of government/industry/university" mentioned is useful but the compartmentalization of efforts suggested by these three separate groups (pages 11-13 of the report) is not ideal. I believe the institute should involve national labs, industry, and universities working in intimate conjunction.

Frankly, Pete, we have a tendency in this country to compartmentalize or set up bureaucratic entities. Impermeable borders grow around these entities (empires?) and we lose out on vital interactions. We must change our thinking and correct this basic flaw—as Japan has done and China is doing. The three entities suggested in the report could lose contact with each other unless strong safeguards are included in force close interaction.

4. New Mexico is in a strong position to help. UNM's Center of Technical Excellence in High Technology Materials is in a position to act now and effectively. It has already received $2 million from Air Force Weapons Lab (Kirtland) and has financial and personnel support at a significant level from Sandia National Labs. This is a fine start and must continue and grow. The needed component is industry. Our general lack of a major in-state semiconductor industry is the real problem. Hopefully, we can attract such industry by the UNM effort now underway, otherwise, we will be forced back to the compartmentalized efforts addressed above. New Mexico probably could not now attract a "Semiconductor Manufacturing Technology Institute"—we don't have the manufacturers.

I believe we should try to have university centers with industrial components rather than, or in addition to, the single major industrial institute described in the report. In the end, such grouping will better serve our country's needs than a single national institute separate from eight university centers.

5. New Mexico must concentrate on a total materials program. In addition to the devices covered by the UNM center just cited, Tech's material science work, with its present industrial cooperation, concentrates on military and commercial materials—extremely hard cutting materials, special industrial composites, military armor, etc. The country and New Mexico needs a total materials effort.

6. The competition among states is strong. The University of Arizona just "pirated" M.I.T.'s two top material science professors. Pete, as you know, in the end it is people—the quality of the people—that will decide America's and New Mexico's success or failure. Not just money—reports, studies, meetings—but people. Bill Streiffer who set up UNM's center was marvelous but, through no fault of UNM's, we lost him. In my opinion, Pete, there are right now not enough top-notch people to go around. New Mexico must go all out (note Arizona) to bring in the very best people in materials work, and it will be tough. Failure to do that will doom us to less than outstanding work. Sandia Labs have some fine people and their support for UNM is critical. Tech will seek some help from Sandia also.

In summary, Pete, the report is excellent. The suggestions of an institute for manufacturing, eight university centers, and a forum are fine but follow an unfortunate tendency we have to compartmentalize. I urge you to support consideration of a much more closely knit effort. This problem needs careful thought but is not difficult to solve.

New Mexico can help by a combination of UNM, Sandia, Air Force Weapons Lab in the semiconductor effort and by Tech, industry, and Sandia in industrial materials development. Industrial involvement in the UNM semiconductor effort must be specially sought and developed.

Pete, there are my summary thoughts. I would be more than delighted at any time to expand on them with your staff to develop, as part of a team, a more complete statement.

Warmly,

LAURENCE H. LATTMAN.

DEPARTMENT OF THE AIR FORCE, AIR FORCE WEAPONS LABORATORY (AFSC),
Kirtland Air Force Base, NM, March 30, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: In response to your letter, 6 March 1987, I formed a cadre of key personnel to address you concerns and the findings of the Defense Science Board Task Force Report on Defense Semiconductor Dependency. In general, we are in agreement with the findings and trends identified by the Task Force. We certainly agree that ". . . the existence of a healthy U.S. semiconductor industry is critical to the national defense." I am convinced that the situation as it exists today, if left unabated, will have a serious impact on the ability of DOD to adequately perform its defense role. There is no question that future

DOD systems will become increasingly reliant upon electronics in system architectures. The ability to produce technologically superior systems is crucially dependent upon access to the absolute state of the art in electronic component and subsystem development. The decline of our semiconductor industry will directly compromise this access, because the state of the art and the understanding of its applications will reside outside the United States. It may, as well, have a serious negative impact on the reliability and maintainability of advanced systems. This is clearly an unacceptable situation.

The Air Force Weapons Laboratory is not directly involved in the research and development (R&D) of electronic systems and consequently we do not have extensive contact with the major U.S. semiconductor companies. Therefore, our direct dependence on the commercial products of these companies is relatively low. On the other hand, a significant portion of our activity at AFWL is indirectly dependent upon a strong U.S. semiconductor industry. AFWL is conducting a number of programs involving specific aspects of semiconductor technology. These programs, which are briefly outlined in the first attachment, are presently oriented toward the research, development, and demonstration of advanced semiconductor technology concepts in order to establish their feasibility and payoff for future military systems applications. The work is fully funded by us and does not directly depend upon the development and production of commercial semiconductor products. However, the success of these efforts is critically dependent upon the existence of a high quality infrastructure associated with the semiconductor industry. In order to achieve our R&D objectives in a timely and cost-effective way, we must be able to contract with companies who have the required personnel, equipment, facilities, and experience in state-of-the-art semiconductor technology and manufacturing development. It is clear, therefore, that to the extent that the U.S. semiconductor industry loses its technical leadership and commercial market to other countries, the associated infrastructure will also decline. From our point of view, such a decline will have a devastating effect on our ability to successfully pursue programs relating to the development of advanced systems.

As stated previously, we are in general agreement with the DSB Task Force Report, both in its findings and its recommendations. It is clear that both the DOD, in general, and AFWL, in particular, will face an unacceptable situation in fielding electronic systems (both in R&D and in production) if the current trend is allowed to continue. Specific comments addressing the five recommendations proposed are offered in Attachment 2.

We feel there is an outstanding potential to help curb the increasing dependency through the combined efforts of the Federal Laboratories, universities, and private industry within New Mexico. Although New Mexico is not as broadly based in high-tech semiconductor work as some regions of the country, we do have unique areas of expertise which can contribute to the Task Force's recommendations. First it is clear from an AFWL perspective that we would benefit most from an emphasis on the areas where our current interest and strengths lie—radiation hardened electronics and electro-optics. AFWL is already taking advantage of and augmenting capabilities within New Mexico, notably at some of the Rio Grande Research Corridor institutions. Strategic Defense Initiative (SDI) activities should, as well, be addressed for leveraging our position relative to our competitors.

In the area of radiation hardened electronics, AFWL is working closely with the Department of Energy's Sandia National Laboratories. Sandia has the foremost design and prototype manufacturing facility in the country for advanced semiconductor components for military systems. Where the existing capability is limited, however, is in the production of large quantities of components to meet systems needs. In line with the DSB Task Force's recommendations and with increased industry participation, the existing capabilities could be expanded to provide a comprehensive capability for development and production of highly reliable, radiation hardened military electronics. Similarly, the role of New Mexico's universities could be expanded through strengthening the related education programs and through more extensive participation in the R&D work on semiconductor materials as recommended by the Task Force. The latter area is complementary to the radiation hardened electronics programs and to the broader mission of the AFWL in research on materials for adverse environments, namely nuclear weapon and space environments.

In the electro-optics area, AFWL is providing funding for work at both Sandia National Laboratories and at the Center for High Technology Materials, University of New Mexico. This particular area is one in which we see substantial growth in the future, both for military systems and in commercial applications. With increased support as recommended by the Task Force, the existing activities could be augmented and expanded, establishing New Mexico in the forefront of the national capabilities in this area. The Air Force is presently expending more than $2 million per year in support of industrialization in New Mexico. This base of capability, coupled with the potential growth of DOD investment in electro-optics, both at AFWL and other DOD organizations, would provide the foundation for substantial industry growth within the state as well.

I hope these comments and recommendations will be of ultimate benefit in stabilizing and reversing the adverse trend in simiconductor dependency our country is experiencing. The Air Force Weapons Laboratory stands ready to met with you or members of your staff to further discuss the matter. My primary focal point is the Chief Scientist, Dr Arthur H. Guenther, telephone number (505) 844-9856. Dr Guenther also chairs the New Mexico Science and Technology Commission.

Thank you for the opportunity to express our thoughts.

Sincerely,

J.P. AMOR,
Colonel, USAF Commander.

AFWL PROGRAMS INVOLVING SEMICONDUCTOR TECHNOLOGY

Several AFWL programs are currently under way which are heavily dependent upon advanced semiconductor technology. The three areas in which AFWL research programs are most heavily dependent on the semiconductor industry are advanced systems for the spaced arena, photonics, and high performance supercomputers. In this context, AFWL is dependent upon the research capabilities resulting from the infrastructure of a strong semiconductor manufacturing base and the timely availability of components for the supercomputer vendors.

I. ADVANCED SYSTEMS FOR SPACE

Radiation hardened electronics

Military systems operate in adverse environments and therefore must use specially hardened, high reliability, and easily maintained microelectronics that require unique design, fabrication, assembly, and test methods. These are currently produced through joint programs between the Government and industry.

Signal and data processing electronics

These are needed to meet the high speeds, low power, and weight requirements associated with the surveillance, acquisition, pointing, and tracking requirements of our advanced weapons and the carrier platforms, especially in the space systems arena. These requirements continually push the state of the art in technology and are critical to realization of functional advanced weapons supported by AFWL research activities. They must be long-lived and not suffer unacceptable performance degradation through aging.

Survivable advanced communications electronics

The ability to provide survivable command, control, and communications system depends extensively on the latest technology in semiconductors. Survivability in many of the subsystems is obtanined through development of specialized components for AFWL by industry.

II. PHOTONICS

A category of semiconductors of increasing importance is electrooptics, which is a combination of optical components and electronic circuits. These may be integrated onto a single chip or used as separate but interconnected components. Photonics is an area of sure explosive growth as requirements for higher speed, lighter weight systems evolve. Wafer level union of photonics and semiconductor functions is a key to future expansion and advancement.

Infrared detector arrays

These semiconductor components are a key element on our space surveillance platforms and serve as the eyes of the system. AFWL is working, in joint programs, with the semiconductor industry to make these critical components survivable for applications under the SDI program.

Semiconductor laser diode arrays.

AFWL has recently begun an ambitious program to determine if semiconductor laser diodes can be coupled together coherently. The payoff of this research will be to establish the means to increase the coherent laser power that can be produced from semiconductor laser diodes, allowing the inherent advantages of laser diodes (high efficiency, small size, high reliability) to be applied to a much wider range of military applications. This is the major area of interaction with the Center of High Technology Materials at the University of New Mexico. Laser diodes will be key elements in most future photonic applications as sources/detectors.

III. SUPERCOMPUTERS

Timely availability

The loss of U.S. semiconductor industry leadership would definitely have an adverse effect on U.S. supercomputer vendors and the timeliness of getting supercomputers

into the Laboratory. Many of the projects at the Laboratory require the most powerful computational capability available and projections show this need increasing. The inability of supercomputer vendors to get state-of-the-art components could result in the highest performance machines being built overseas. We then would likely be back in the queue, almost certainly behind foreign companies and universities, and many of our projects would suffer by not having current generation supercomputer systems on line as soon as they are available.

Testimony to the importance of suprcomputers to Air Force programs is the recent Air Force Supercomputer Initiative, which will establish a supercomputer center (centered around a fully configured CRAY 2) located at the Air Force Weapons Laboratory. This resource will be networked with other Air Force R&D computer centers and major contractors and will be available via most forms of communication links. We are also exploring the possibility of being a node on TECHNET, thus making available to Air Force contractors, universities, and Federal laboratories in New Mexico a unique resource currently unavailable.

AFWL COMMENTS DSB TASK FORCE DEFENSE SEMICONDUCTOR DEPENDENCY

Recommendation 1—Establish a Semiconductor Manufacturing Institute. From a DOD perspective, this is intended to help improve the U.S. position relative to foreign competition for the production of electronic components. Because of AFWL's limited involvement with conventional (silicon) electronic components, we don't feel competent to make meaningful comments on the effectiveness of this approach in this case. Clearly, however, AFWL will benefit from increased competitiveness of U.S. industry, since the industry infrastructure so necessary to our specific programs will remain healthy. Finally, we would suggest that some portion of the Institute's activities should be oriented toward the longer-term payoff areas that AFWL is interested in—radiation hard electronics and electro-optics.

Recommendation 2—Establish Centers for Excellence for Semiconductor Science and Engineering at eight universities. We strongly support this recommendation. It has been our experience that such basic research initiatives are essential to (1) identify and investigate the new ideas and concepts which will provide improvements in the state of the art for both military and commercial applications and (2) increase the number of highly-qualified personnel in the field (researchers and students), which is essential to progress and growth within the industry and to the DOD personnel requirements for the development and acquisition of advanced electronic systems. In my opinion, the current DOD efforts and the existing university organizations and capabilities make the University of New Mexico a strong contender for such an initiative.

Recommendation 3—Increasing DOD funding for research and development in semiconductor materials, devices, and manufacturing infrastructure. We endorse this recommendation primarily because we recognize that our ability to conduct many of our research programs is strongly dependent on the related infrastructure. (An implementation plan could come from the forum/advisory group described in Recommendation 5.)

Recommendation 4—Providing a source of discretionary funds of DOD semiconductor suppliers. When commercial interests are inadequate to complement specific military needs, discretionary funds could fill the void. The advance planning, management, and control of the discretionary funds will be the key to their effective use. (The role of the advisory group, under Recommendation 5, can be very important in this regard.)

Recommendation 5—Establishing under the DOD a Government-Industry-University forum for semiconductors. We strongly endorse this recommendation since a strong forum can be an important element in providing the guidance and direction which will be needed to assure that the other recommended actions are wisely enacted. The application of funds, especially on Recommendations 3 and 4, should be dependent on the forum/advisory group formulating "a comprehensive and coherent strategy" as stated in the Task Force report. New Mexico's Rio Grande Research Corridor and Riotech Foundation could become a model for such synergism.

NMSU,
April 15, 1987.

Senator PETE DOMENICI,
SD-434,
Washington, D.C.

DEAR SENATOR DOMENICI: I have reviewed the material attached to your letter of March 6, 1987 in regard to the U.S. Semiconductor industry. In order to get a broader spectrum of input, I asked Dr. Morgan, Dean of Engineering, to have his faculty review the materials and give me their guidance on this topic.

Their responses are as follows:

1. The U.S. must maintain a leadership position in electronics and electronic devices.

2. There is currently an oversupply of electronics production capacity in the U.S. that may be a direct result of foreign firms capturing the marketplace. This competition is good in the long run.

3. Recently several firms that supply strategic specialized military components have installed their own manufacturing. Examples are McDonnell-Douglas, Westinghouse, Sandia, etc. These are specialized advanced military semiconductor producers. For example, Sandia specializes in Radiation Hardened Semiconductors.

4. While Motorola, Texas Instruments, Intel, National and Fairchild have lost market share for commercial semiconductors, we question how this necessarily weakens our defense capabilities. It certainly leaves capacity available. A squeeze on profit margin may or may not afffect research.

5. It could well be that the days of Silicon are almost over and electronics research should be directed toward other basic materials including biochips.

We agree that the U.S. must maintain leadership in electronic devices. We suggest that some of the trends are from a maturation of the semiconductor industry not a total loss of leadership. We support an effort to enhance research into electronic devices, materials and manufacturing methods but suggest that more money into existing centers might not be very productive. One might consider expanding research into universities with untapped talent who are limited by lack of facilities and funding in the electronic materials areas.

Sincerely,

JAMES E. HALLIGAN,
President.

U.S. SENATE,
Washington, DC, August 7, 1987.

Hon. CASPAR WEINBERGER,
Secretary of Defense,
The Pentagon,
Washington, DC.

DEAR MR. SECRETARY: We are writing to ask your support for SEMATECH, an industry-driven R&D consortium designed to restore the United States to a position of international competitiveness and self-sufficiency.

Semiconductors are of critical importance to virtually every U.S. weapons system. You have already expressed your own grave concern over the problem of growing U.S. semiconductor dependency on foreign sources, which was underscored by the Defense Science Board Report. We share that concern.

The most serious problems confronting the U.S. semiconductor industry are in the area of semiconductor manufacturing technology. While the U.S. remains the world leader in semiconductor design, the industry's ability to remain competitive in manufacturing is in jeopardy. SEMATECH is designed to reverse the growing U.S. vulnerability in semiconductor manufacturing. The consortium, which will be limited to U.S. companies, will develop leading edge semiconductor manufacturing technologies, prove and demonstrate these technologies on an actual production line, and disseminate the results to member companies—semiconductor device, equipment and materials firms, and the commercial defense systems user industry. SEMATECH will reduce the costs and risks associated with this type of R&D, and will enhance the competitiveness of the entire U.S. microelectronics industry.

There are several basic reasons why DOD should invest in SEMATECH. First, an investment in SEMATECH is the single best way to address the problem of growing DOD foreign dependence which was identified by the Defense Science Board. SEMATECH'S fundamental objective is to ensure that any advanced component needed by a U.S. user, including DOD and defense systems suppliers, can be manufactured in the United States exclusively with U.S. made equipment, processes, and materials—a capability which does not exist today. Second, SEMATECH will reduce the cost, improve the reliability, and shorten the delivery times of components needed by the U.S. armed forces—and given the importance of semiconductors to military systems performance, a DOD investment in SEMATECH will have a substantial leveraging effect on the overall U.S. defense posture. Finally, SEMATECH will advance all of the basic objectives which DOD has established in its ManTech programs for investments in the manufacturing base, including the need to bridge the gap between R&D (in which the U.S. excels) and actual large-scale production; and the need to provide higher quality weapons systems at lower cost with shorter delivery times.

In short, a DOD investment in SEMATECH will pay for itself in cost savings and ensure a U.S. capability to manufacture the most advanced microelectronic devices for defense systems.

The Defense Science Board recommended that DOD commit $200 million a year to upgrading semiconductor manufacturing technology. The Senate Armed Services Committee has authorized $100 million in FY88 and $100 million in FY89. With industry's commitment to provide fifty percent of the necessary funding, SEMATECH provides

DOD with a cost-effective vehicle in which the government's investment can be leveraged. We strongly support the SEMATECH approach and urge that the Department of Defense invest in SEMATECH and the restoration of U.S. leadership in semiconductor manufacturing technology.

Sincerely,

Jeff Bingaman.
Alfonse D'Amato
Dennis DeConcini
Jim McClure
John McCain
Pete Domenici
Pete Wilson
Harry M. Reid
Lawton Chiles
Tim Wirth
Lloyd Bentsen.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the committee has reviewed the Chiles amendment. If the minority has cleared it, we will accept it.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I want to commend the Senator from Florida, and the Senator from New Mexico. I join with the Senator from New Mexico in supporting the amendment.

Mr. President, I am pleased to speak on behalf of the pending amendment, offered by my friends the distinguished Senator from Florida [Mr. CHILES] and the distinguished Senator from New Mexico [Mr. BINGAMAN]. I have supported from its conception the effort to establish SEMATECH and move it rapidly into a key role in providing support for our national security apparatus, and I welcome this clarification of the role the Department of Defense will play in SEMATECH.

Semiconductor technology is of major strategic importance to our national security. The Defense Science Board has outlined our growing national vulnerability, Mr. President, which is developing as a result of the difficulties confronting the commercial semiconductor industry, and has underscored the need for a coherent national response. Defense Department funding of generic research and development in semiconductor manufacturing by SEMATECH is an important part of that response.

The U.S. commercial semiconductor industry, as well as Defense Department microelectronics R&D programs, have emphasized semiconductor design rather than the manufacturing process itself, Mr. President. While we continue to lead the world in design, we are losing ground in production. Our ability to produce semiconductors at an affordable price has become increasingly problemmatic. SEMATECH addresses this issue. This industry-government consortium will focus on R&D to improve and update manufacturing technology and disseminate the results of its research to all member companies for application in their manufacturing facilities.

Mr. President, the benefits to the Defense Department from this program are obvious. Semiconductors are the building blocks of the high technology systems that our armed services use. The Department of Defense will be able to transfer SEMATECH technology to its contractors for application in the manufacture of products procured by the Services. The high yield, high efficiency manufacturing techniques developed by SEMATECH will translate into direct cost savings and improved performance in those products and the systems of which they are a part. More broadly, this project will enhance the overall manufacturing capabilities of the semiconductor manufacturers and thus will benefit indirectly the entire economy.

Perhaps of greatest long-term importance is the fact that SEMATECH's efforts in these respects will enable our domestic semiconductor industry to survive in the face of the tremendous competition it now faces and will continue to face in the future. That is of critical importance not out of a sense of ethnocentrism or chauvinism, but because we would be foolish, indeed, to permit ourselves to become dependent on foreign suppliers—even from the most dependable and friendly of our allies—for the semiconductors on which our weapons systems and command, control, and communications capabilities rely. During periods of international tension or hostilities, when supplies of semiconductors would be most badly needed, the sources in some nations might dry up. Even with respect to supplies from sturdy allies, supply routes might be interrupted.

Simply stated, we must be able to meet most or all of our need for those components of our critical national security systems—and semiconductors fall increasingly into that category.

There are risks, Mr. President, in Department of Defense participation in this effort. Earlier this week the Washington Post, in an editorial I will submit for the RECORD, worried that the Department of Defense may attempt to skew SEMATECH's research agenda toward specifically military requirements. The Post argues that "it will be important to keep SEMATECH insulated from the immediate interests of Pentagon procurement officials." The pending amendment does that, Mr. President.

The amendment streamlines the Department of Defense's role in SEMATECH and avoids burdening its operations with unnecessary controls and restrictions by funding SEMATECH with a grant rather than a Department of Defense procurement contract and providing that various accounting and procurement regulations normally applied to procurement contracts will not apply here. At the same time the amendment ensures, via a memorandum of understanding between SEMATECH and the Department of Defense, that SEMATECH will expend the grant funds in a manner consistent with specific goals and that the Department of Defense will receive this technology developed by SEMATECH so it can be applied to our national security requirements. This arrangement gives the consortium the flexibility it needs to proceed with its research agenda, while it enables the Department of Defense to ensure that the funds are properly utilized.

The SEMATECH consortium is a new venture, Mr. President, but Department of Defense support for generic manufacturing technology with national security implications is not. For example, the Air Force sponsored research and development with respect to the use of numerically controlled machine tools—the results of which spread throughout the U.S. machine tool industry and triggered one of the biggest surges in U.S. productivity since World War II. The Defense Department's ManTech Program and its predecessors sponsored research and development in the area of computer-aided manufacturing [CAM], an effort which, in the opinion of some experts, boosted significantly America's position in computer science and manufacturing technology. A similar effort is needed today in the area of semiconductor manufacturing.

Mr. President, SEMATECH is an example of how industry and government can and must cooperate in order simultaneously to invigorate our industrial base and protect and enhance our National security. The Washington Post hails SEMATECH as an "influential precedent for cooperation between the Federal Government and private companies." I welcome the Post to this position. SEMATECH is clearly in the national economic and national security interest. I urge my colleagues to support this amendment.

I ask unanimous consent that the editorial from the Post to which I referred in my remarks be printed in the RECORD at this point.

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

[From the Washington Post, Sept. 21, 1987]

WHO PAYS FOR HIGH TECH?

If SEMATECH works, it is likely to become an influential precedent for cooperation between the federal government and private companies in research and development. A consortium of semiconductor producers, Sematech is being established to do something about the industry's weak point—its inadequate manufacturing technology. It is to cost $1.5 billion over the

next six years, half of it public money and half from the companies. The appropriations are now making their way through Congress, which asked its Congressional Budget Office to look into the wisdom of this investment.

The American producers still dominate the world market for semiconductors, but their Japanese competitors, are gaining rapidly. It's a pattern that runs through many industries. The Americans are unbeatable in engineering design, but the Japanese are far ahead in manufacturing. The Japanese firms are now outspending American companies on semiconductor research, CBO says. Normal market economics doesn't work well in the fragmented American industry, because much of this investment pays no special return to the company that makes it. When a concept is developed, word spreads fast. Sematech is being set up to achieve manufacturing processes that can set the world standard in cost and reliability. CBO's description makes it pretty clear that any risks in this public investment are clearly outweighed by the risks of doing nothing.

The federal money would come from the Defense Department, not an entirely ideal arrangement. The Department is already spending several hundred million dollars a year on semiconductor research, but its highly specialized requirements do not reliably contribute to commercial efficiency. It will be important to keep Sematech insulated from the immediate interests of Pentagon procurement officials. The money can be more than justified by Defense's broad interest in a competitive American industry.

The alternative to funding Sematech, as the CBO suggests, is plain old protectionism. The administration's current attempts to protect the semiconductor industry are not working well, and will make more trouble as time passes. Putting money into technology is vastly preferable to imposing import quotas, and in more industries than this one. There should always be three criteria for federal support. The industry has to be a crucial one (sorry, shoemakers). It has to be able to draw up its own agenda for research. And it has to be willing to put up half of the money from its own pockets. Sematech meets all three conditions.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida [Mr. CHILES].

The amendment (No. 733) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 731

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, could we have order in the Senate, please?

The PRESIDING OFFICER. Order in the Senate. Those who have business other than that relative to the amendment currently under consideration please take that conversation off the Senate floor.

Mr. WARNER. Mr. President, could you advise the Chamber that the balance of the time remaining on this amendment so Senators could plan for the purpose of a rollcall vote which my understanding is comes immediately following the debate?

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement which none of the preceding has been counted against the time, there are 37 minutes under the control of the managers, and 31 minutes under the control of the proponent, Senator PRYOR.

Mr. WARNER. I thank the Chair.

Mr. PRYOR. Mr. President, so Members can plan their evenings a little better, I want to put the Senate on notice that I will not use that 30 minutes. I say a maximum of 10 to 12 minutes should be all that is required on this side.

Mr. SHELBY. Mr. President, I am not sure that I will use up the total 37 minutes. I do have two or three people who want to speak. I do not want to limit them. It is an important amendment. We will try to move along.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Thank you.

Mr. President, we are talking about one of the areas in which the United States is probably farther behind the Soviet Union in warmaking capability than any other area, and that is in the area of chemical weapons.

Mr. STENNIS. Mr. President, may we have order? May we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Ohio.

Mr. GLENN. I thank the distinguished chairman.

Mr. President, that is why we are in opposition to this amendment. We have looked at the intelligence reports, we have heard the testimony, and we know what the Soviets are doing in this area. They are doing a great deal. They can conduct chemical warfare if they need to conduct chemical warfare.

We had the binary vote a few moments ago. The amendment was tabled not by as large a margin as I would have preferred. But it expressed the will of this Senate that we would indeed have a chemical capability in the United States, and that the program would go ahead.

If that decision is to be taken seriously, then we must take that chemical capability and say it will not only be applicable to 155-millimeter artillery range, but will also give the capability of extended delivery by developing the Bigeye which is the chemical weapon bomb that can be carried on aircraft?

That is what this vote on the Bigeye is all about.

We have spent some $57 million developing Bigeye to date. It has had a lot of problems. I am not here to defend everything that has happened on Bigeye. The good chairman here from Mississippi has followed this issue through the years and recalls some of the debates we have had on the Armed Services Committee. But this is a range extender for conducting that kind of warfare. It is exactly what this vote is all about.

I rise to strongly oppose the amendment of my colleague, my good friend from Arkansas, that would effectively terminate the Bigeye air-delivered binary chemical weapon. I would tell my colleagues that it is premature to make such a decision to come to any conclusion on the operational capability of the Bigeye weapon.

Currently, the independent operational test organizations of the Navy and Air Force are conducting an extensive operational evaluation of the Bigeye system that will include the delivery of 58 simulated weapons, and from three different types of Air Force and Navy tactical aircraft. To date, 27 of the total 58 weapons have been tested, less than half the planned program.

I understand that two technical problems were identified during the first 10 weapon drops. However, the testing was temporarily halted and the deficiencies corrected. And testing has now resumed on these 58 tests and is expected to be completed by the end of October. That is just about 5 weeks from now.

Mr. President, I would submit that no quantitative or qualitative decision can be made on the operational effectiveness of Bigeye until all of the testing is completed and all the data analyzed. That is why a test program is designed to have so many data points. I would submit that no intelligent decision can be made until at least most of those data points are collected.

We have a GAO report. I am aware that the GAO recently reported to the House Armed Services Committee, a report that was critical of the Bigeye program following the first 10 drops. That is where some problems were identified. We hope those corrections will prove effective in the last part of this testing program that is to be completed in the next 5 weeks. In other words, the criticisms that GAO identified were done when only one-sixth of the testing was completed and conclusions were already being drawn.

I remind my colleagues also that it was Congress that allowed the GAO to participate in an ongoing operational test program. That is a rather unusual arrangement to say the least.

Let me just review for the record the terms of the GAO participation in the Bigeye test program. I will read out of last year's defense authorization bill. And I quote the section that points out GAO's monitoring. It says "GAO Monitoring and Report."

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

This is the important provision:

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

I repeat the first part of that: "After any such testing is completed"—and it has not been completed yet.

My distinguished colleague from Arkansas pointed out some of the GAO comments. The GAO's review identified four areas of concern: unrealistic mission profiles, lack of data analysis plan, test limitations, and proliferation of independent variables.

I do not criticize that GAO report at all. I am a big supporter of GAO, and their work is excellent. But in a letter from Secretary of Defense Weinberger, commenting on those GAO findings, he says in the next to the last paragraph of an unclassified letter sent to us on June 28 of this year:

The Bigeye TEMP and OT-IIB Operational Test Plan were provided to GAO in advance of OSD approval to allow GAO to comment prior to the start of testing. GAO chose not to contribute comments at that time, preferring to reserve their criticisms until after testing was well underway.

That is a disagreement, obviously, between GAO and the Secretary of Defense. I point it out for whatever evaluation Members wish to give.

The main point is that GAO is there now, observing these tests. The tests are to be completed by the end of October, an evaluation will be made, and we will know the tentative results of that shortly after the end of October, with the full report due after the first of the year—by next March, I believe. But we will know the results basically by the end of October or very shortly thereafter.

So I submit and remind my colleagues that the Bigeye test program is one of the programs being evaluated by DOD Operational Test and Evaluation Office; and that organization, established by Congress, has followed this program very closely. They would be the first to agree that no decision can be made on the operational capability of the Bigeye until testing is complete.

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

Mr. GLENN. I ask for 2 more minutes.

Mr. SHELBY. I yield 3 additional minutes to the Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator.

Mr. President, there is one thing I do not want, and that is an unsafe Bigeye bomb being carried on airplanes. If, after these tests are completed, GAO comes back and says, "Yes, we still have problems with this thing," I can tell you that I am going to be one of those on this floor opposing the production. But I say right now, only some 5 or 6 weeks away from the final completion of the tests, when we can make a better, more educated decision on this, now is not the time to make the decision. At that point, I may wish to join the Senator in his efforts to stop production of Bigeye, but not before we have the tests complete.

I urge my colleagues to withhold judgment on the capability of the Bigeye system until we have adequate data to make such a decision. I intend to oppose this amendment, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. I yield 4 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment to prevent the obligation of any funds for Bigeye binary bomb production.

The Congress addressed last year the serious imbalance in chemical warfare capabilities that exists between the Warsaw Pact and NATO. In so doing, the Congress agreed upon a roadmap by which U.S. chemical deterrent modernization would proceed to production. The events of the past year, especially the importance of conventional and chemical warfare imbalances in Europe in the context of INF reductions, underscore the necessity to continue with the binary modernization program.

One aspect of that program, the testing of the Bigeye bomb, has uncovered several minor problems that necessitated the interruption of the test program to make technical changes to improve system reliability.

Let me assure my colleagues that these are not complex technical problems of the sort that we are now addressing with the B-1 ECM. We are talking about two problems: One, the lubrication of an off-the-shelf fan mechanism that provides electrical power to the Bigeye bomb; and two, sealing a mechanism to prevent incursion of moisture.

Testing has now resumed to determine the adequacy of these changes. The President will not make the certification required of Bigeye production facilities if the initial test results from the reworked bombs are not favorable. Let me make clear for all my colleagues that we will not produce Bigeye if it doesn't work.

Mr. President, I, for one, sincerely hope that the corrections do fix the problems revealed in testing. I say this because the Bigeye represents the only near term solution to the most critical deficiency in our chemical deterrent posture and that is the capacity for deep strike attacks with persistent agent. Administration witnesses told the Armed Services Committee that it could take up to 10 years to develop and field an alternative to the Bigeye.

Mr. President, the Armed Services Committee fully understood the testing situation when making its recommendation on the Bigeye. Recognizing that production would be delayed, the committee reduced the request by $20 million of the $25 million requested. It is essential, in my judgment, that the Congress not preclude the option to proceed with production upon completion of satisfactory testing, which is what this amendment would do.

I urge my colleagues to join me in opposing this amendment, as I am certain it is not in the best interests of our country.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. Twenty-four minutes and six seconds.

Mr. SHELBY. I yield myself 3 minutes.

Mr. President, I want to pick up from the debate earlier in the evening, and I believe then the Senator from Arkansas, my distinguished friend, claimed, among other things, that the Bigeye was barely functioning as of last February. I do not believe that is quite correct.

According to the report of the Armed Services Committee, on which I serve, "The committee has been advised, however, that an interruption in the Bigeye operational testing program to correct minor deficiencies in two bomb components"—minor deficiencies. That is what they are talking about there, not a barely functioning situation, but to correct minor deficiencies.

Second, what are some of the minor things that have been fixed? I will share with my colleagues just the last sentence of a letter from the office of the Secretary of Defense, dated September 23, 1987: "To date, there have been no failures attributable to the 'fixed' components, but we are continuing to watch test results closely * * *"

That is what they are doing now, they are testing.

The Senator from Maine said earlier that we need to trust in this situation the Department of Defense. They have an assessment on this program. I believe we are near the end, where we are correcting some deficiencies.

We are not asking for a lot of money here. We are asking to keep it going until the tests are finished and they are certified.

So it is not a turkey here. I think this will help bring the Soviets to the

table. Let us not abandon a program right before it is finished, right before it is functional, right before we know it is safe and it is going to work.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, my remarks will be very short. I know the hour is late. I will basically try to summarize a few of the points in debate raised this afternoon and this evening by the proponents of this production of the Bigeye bomb.

First, it has been said and I think my very close and dear friend, the Senator from Alabama, the member of the Armed Services Committee, has raised the issue that this amemdment would cancel the Bigeye Program.

Mr. President, frankly, personally I would like to cancel the Bigeye Program. I would love to cancel it. It has been looked at and studied since 1962, and the Bigeye bomb still does not work. However, I must admit my amendment does not cancel the Bigeye bomb. My amendment does not stop testing. My amemdment does not stop development. My amendment does not stop research.

My amendment, Mr. President, very simply says we are not going to produce a faulty weapon, we are not going to embark on a $2 billion program to manufacture a weapon that does not work, manufacture a weapon that has recently failed 4 out of 10 tests, to manufacture a weapon that I call the 1987 Divad. It is a repeat performance.

Mr. President, this particular weapon, this particular Bigeye bomb, is one of those typical Defense Department systems that has gathered legs over the years, has built its own constituency.

Mr. President, unless we say we are going to halt this program, temporarily, until the tests are made, until the General Accounting Office has given us a certification that this particular bomb is ready to produce, that it is what this amendment says, Mr. President.

Some have argued that the Soviets are far ahead of us in the area of chemical warfare and in the area to deliver a deep chemical strike.

Mr. President, this issue does not relate to this particular argument, simply because what we are talking about tonight is a flawed system that has failed its test, that is not ready to produce and we are saying let us continue in our research before we commit the millions and millions and ultimatley billions of dollars to produce.

Mr. President, also it has been stated, I think by probably three or four of the proponents and my good friends—I admire and respect all of them; I attribute to them no ulterior motives—but basically the argument has been put forth this afternoon and this evening that we are stopping testing. Others have said we are in the phase of testing, let us go ahead with the testing but let us produce the bomb at this time.

What that argument basically comes down to is very simple. Yes, the tests have not been adequate. Two, the Bigeye bomb has not met the tests that we are requiring for it and, third, and most importantly, let us continue testing of the Bigeye bomb but let us go ahead and fund the production cycle, begin the production of the Bigeye bomb.

My amendment simply would say and I say to my very good friends from Alabama, Maine, Ohio, and South Carolina, my amendment says let us do not do that. That is not a wise thing to do.

My good friend from Ohio was talking just a few moments ago about the Soviets and their capacity to deliver a deep strike capability and I think earlier today about the Soviets knowing that our munitions are deteriorating, and all of these arguments we have heard so many times.

Mr. President, I just ask you a question tonight: Do you think that the Soviets fear a bomb that is failing its tests? I think the Soviets probably would like for us to go ahead and start manufacturing one Bigeye bomb simply because it would give us a false sense of security that we now have a deep strike capability for delivering this type of nerve gas.

What we are talking about, also, tonight, Mr. President, is also very, very essential to this argument. This program in March, not 1967 or 1977, but in March 1987, was decertified. This program was decertified by the U.S. Navy. They said that the test results were such that we could not go forward and produce this bomb at this time.

So what happened? Did they go back to the drawing board? Did they go back and say that these tests have to be more rigorous and more strict? No.

What happened, they met after the decertification which was held, I believe, July 22, the ITV minutes of that particular meeting of the officers in attendance of that meeting. They said this would damage the credibility of this program if there was a long time period where nothing was happening.

Well, the credibility of the program is already damaged, not damaged by the long time period, but damaged by a very simple fact of life. The Bigeye bomb does not work. It needs more research and frankly it does not need to be produced at this time.

August 17, just a month ago, Mr. President, this same group of officers reassembled. I have the minutes of that particular meeting. What they did in paragraph 6 of the next-to-the-last paragraph this group in the Navy and those looking out after the production, in their opinion, hopefully, of the Bigeye bomb, they decided in recommendation 6 that they would grant three waivers, three waivers of testing so that they could go forward and have the full operational testing that would ultimately lead in this authorization bill, I can only assume lead to production of the Bigeye bomb before it was ready to produce.

So, Mr. President, I am not going to take further time of the Senate. I have documents that I wanted to enter into the record. I think that we generally know how we feel. Once again this is an issue not of chemical warfare, not philosophically where we have to go into the production of a new generation of chemical warfare, but whether or not we are going to commit ourselves tonight to billions of dollars of production money which is going to be dedicated to a very, very flawed bomb, the Bigeye bomb.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield 3 minutes to the Senator from Maine.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator is recognized.

Mr. COHEN. Mr. President, first let me make it clear I do not want to produce more jobs in Arkansas. The Senator from Arkansas has indicated this is a jobs issue in his State or district, and I certainly do not want to be causing more employment to be generated in Arkansas as opposed to any other State, but I do want to see our deterrent capability, enhanced, and that really is the only reason that I am taking the floor this evening.

The second point I would make is that the Senator from Arkansas has indicated the Soviets have no fear of a bomb that fails its test. I suppose the same argument could be made against many of our systems. The GAO, for example, has found some alleged flaws in the Phoenix missile, the Sidewinder, and Sparrow. Theoretically, if the argument is followed to the logical conclusion we ought to terminate those systems until such time as we find out what the deficiencies are because the Soviets will have no fear of those particular systems.

The Armed Services Committee has found difficulties in terms of the MX. Better cancel that now before the Soviets dismiss it as being an empty missile.

Another point that is made by the Senator from Arkansas is that the Navy or OTE had decertified the Bigeye and therefore that is some indication it ought to be terminated. The fact is that OTE decertified it so the deficiencies could be fixed before they went on with further testing, and now they are going through the further testing so it is not an argument to cite the decertification process is the

reason to terminate this particular program.

The final point I would make is the tests on this particular system are going to be completed fairly soon. This bill, notwithstanding the hopes and wishes of the Senator from Georgia, might not be completed before they complete the tests on the Bigeye. We might still be here sometime in November, but even if we are able to achieve this nirvana and hopefully complete the bill by next Tuesday, we still have an appropriation process to go through. We will not have a House-Senate conference of the DOD bill before November and even if we do we still have the appropriations process to go through.

What the opponents of this system are arguing is that it belongs on a life-support system and they want the Senate tonight to pull the plug on that system.

Now, we cannot assume that this is being debated in the abstract. The Senator from Arkansas and the Senator from Oregon are very committed in their principles, certainly. They have been opposed to the production facilities from the beginning of the debate going back several years. They have been opposed to facilities. They have been opposed to binaries as a concept. They are opposed to this delivery system and they are saying they only want a safe delivery system.

The fact is the record shows that this is simply another argument to terminate the delivery system, to terminate the binary concept, and ultimately to dismantle the binary production facilities. I think it should be rejected by a wide margin.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I will be very quick on this. This amendment by the Senator from Arkansas is not necessary to ensure the funds are not expended on Bigeye production before we have shown that it works.

In last year's conference report on the fiscal 1987 defense authorization bill, we fenced all the fiscal 1986 and fiscal 1987 funds for Bigeye production until the President certifies that the production of Bigeye is in the security interests of the United States. So the last word is there. We will leave it up to the President on this, because they are doing the testing. If the tests comport, we ought to go forward with it. If the tests do not meet it, the President will not certify it.

Mr. President, I yield back the balance of my time.

Mr. CHAFEE. Mr. President, I wonder if I might ask a question on somebody's time?

The PRESIDING OFFICER. Before the Senator is recognized, does the Senator yield back the balance of his time?

Mr. SHELBY. I withhold the time.

Mr. CHAFEE. I wonder if the Senator would give me a couple of minutes?

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would ask the Senator from Arkansas about this. The suggestions are that if your amendment is sustained, it will be pulling the plug on the program. But as I read this, you are saying that the testing on the Bigeye can continue.

Mr. PRYOR. The Senator from Rhode Island is absolutely correct.

Mr. CHAFEE. I would be glad to hear from the Senator from Alabama if I am missing the beat here. Is there a suggestion that there could be production of this weapon with only the $5 million that is left?

Mr. SHELBY. It is my understanding that the $5 million is a positive step to keep the program going only if the President certifies, as I understand it, that the weapon is working. We deleted $20 million from the DOD request in the Armed Services Committee.

Mr. CHAFEE. I appreciate that. But let us assume that the President certifies to go forward with this. Then what would happen? You could not get far with $5 million, I presume. What would happen?

Mr. SHELBY. We have some money that has been fenced there from last year. We have some money already in the pipeline that has been held up subject to the testing being certified by the President.

Mr. CHAFEE. So then you would go into production?

Mr. SHELBY. Right.

Mr. CHAFEE. Now, let me ask the Senator from Arkansas a question. You would restrict it to the testing and some suggest that this ends the program. What is the alternative? Where do we go? I think we all agree that we have to have this deterrent. Where would we be if your amendment were adopted?

Mr. PRYOR. If I may respond to the distinguished Senator from Rhode Island, first, there is $35 million that we fenced last fiscal year pending the certification by the President that the Bigeye bomb was ready for production. That $35 million, coupled with an additional $5 million in the 1988 fiscal year, would then be a sum total of $40 million to begin the production stage of the Bigeye bomb.

The Senator from Rhode Island may not be aware that earlier this afternoon in the debate the Senator from Arkansas mentioned a classified secret letter from the Department of Defense—which I do have and I would certainly be glad to share this with him—suggesting alternatives should the Bigeye bomb not be the way we plan to deliver a deep-strike capability of the new generation of binary chemicals. So there have been suggestions.

In fact, as you know, and I think most of my colleagues know, I am against chemical warfare, period. My position is simple. I do not want to produce any weapon, whether I agree with it or not, that is faulty. I think that the recommendations by the Secretary of Defense that we do have in this classified document offer constructive alternatives to the Bigeye program.

The PRESIDING OFFICER. The time yielded to the Senator from Rhode Island by the Senator from Alabama has expired.

Mr. COHEN. Will the Senator yield me 1 minute?

Mr. SHELBY. I yield to the Senator from Maine.

Mr. COHEN. Just so I can respond to that issue, what the report the Senator from Arkansas is referring to basically deals with is follow-on systems. But you have to take into account what the report says in terms of when those systems conceivably could come on line.

Now, I do not know, the numbers are actually classified, but we are looking at a substantial period of time. So by, in effect, trying to hold this one back and terminate this, for all practical purposes you are pushing us into the same old argument of "Let's get a better system 5 or 10 years or more down the line."

The question is: Do you want to wait that length of time before going forward with a system that the President has to certify is fully capable of going into production because they have cured the deficiencies that have been identified?

Mr. CHAFEE. But is it fair to say you are killing the program when the Senator from Arkansas' amendment says you can continue the testing and everything; the only thing you cannot do is produce?

Mr. COHEN. Take the converse argument. If that is the case, what is the sense of him offering the $5 million deletion?

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. PRYOR. Mr. President, I hope I can clarify that. I am not deleting $5 million. I am transferring $5 million that might be used in production. I am transferring that to research and testing and development.

The second point I would like to clarify—and I am sorry the Senator from Maine has drawn an inference that the Senator from Arkansas is trying to kill the Bigeye program—I am trying to postpone it until it works. I am trying to postpone it until tests have been made. I am trying to postpone it until the General Accounting Office can say that this weapon is ready to be produced. Thus far we do

not have that assurance from anyone. We are on the eve of producing the Bigeye bomb, one that does not meet its mission.

Mr. SHELBY. Mr. President, the Senator from Arkansas has just argued that he did not want to kill the Bigeye program. He only wanted, I believe these were his words, to postpone it until it worked. That is exactly what we have been talking about.

The President of the United States is going to certify this, one way or the other. If he does not certify that it is working, the money that has been fenced is not going to be extended. We would not move in that direction. But if the President of the United States certifies after these tests have been run—and I predict they will be run positively—then, in that event, we will move forward.

This is not a delay this way. We have the situation covered. We have the money fenced. We just want to go on. In the event the tests are positive and the President certifies, we are all protected.

I yield 2 minutes to the Senator from Ohio.

Mr. GLENN. I thank the distinguished floor manager.

Mr. President, as I read this amendment by the distinguished Senator from Arkansas, it says that none of the funds appropriated in this or any other act may be used for procurement or assembly of the Bigeye binary chemical bomb for the procurement of any component or subcomponent for such bomb, and so on, "until specific legislation has been enacted after the date of the enactment of this act authorizing the obligation and expenditure of funds for production of the Bigeye binary chemical bomb."

That would mean that any option to proceed to production, even after the tests are completed, would have to await further positive action by the Congress.

In other words, say the tests come out perfectly OK. We got a good, clean bill of health on Bigeye. It looks good. It is working fine and correcting its problem area.

At that point, they would not be able to proceed with production unless there was specific legislation authorizing them to go ahead, even though this program was successful.

Mr. PRYOR. There would have to be an authorization for the production to be carried forward.

Mr. GLENN. That is specifically what we object to.

I have a copy of a letter from the Secretary of Defense, dated 19 May 1987, which states:

Bigeye is one of the highest priority systems under consideration by the Department of Defense. Admiral Crowe and the Joint Chiefs have characterized the Bigeye as a key element in reestablishing credible chemical deterrence. Therefore, it is essential that we preserve the option to proceed with its production upon the completion of satisfactory testing. I appreciate your continued support for this vital program, and look forward to working with you to ensure that we produce an effective Bigeye system.

This was a letter to Senator NUNN, chairman of the Armed Forces Committee.

Mr. President, this amendment, in effect, would stop production even if the test program comes out satisfactorily. That is the reason we are opposing this strongly.

Mr. PRYOR. Mr. President, I yield back the remainder of my time.

Mr. SHELBY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

Does the Senator from Alabama seek recognition?

Mr. SHELBY. Mr. President, I move to table the amendment of the Senator from Arkansas and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "nay."

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

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—49

Armstrong	Gramm	Pressler
Bingaman	Hatch	Quayle
Bond	Hecht	Rockefeller
Boren	Heflin	Roth
Boschwitz	Helms	Rudman
Breaux	Hollings	Shelby
Chiles	Humphrey	Simpson
Cochran	Johnston	Stennis
Cohen	Karnes	Stevens
D'Amato	Kasten	Symms
Dixon	Lugar	Thurmond
Dole	McCain	Trible
Domenici	McClure	Wallop
Exon	McConnell	Warner
Garn	Murkowski	Wilson
Glenn	Nickles	
Graham	Nunn	

NAYS—48

Adams	Bumpers	Conrad
Baucus	Burdick	Cranston
Bentsen	Byrd	Danforth
Bradley	Chafee	Daschle
DeConcini	Kennedy	Pell
Dodd	Kerry	Proxmire
Durenberger	Lautenberg	Pryor
Evans	Leahy	Reid
Ford	Levin	Riegle
Fowler	Matsunaga	Sanford
Grassley	Melcher	Sarbanes
Harkin	Metzenbaum	Sasser
Hatfield	Mikulski	Specter
Heinz	Mitchell	Stafford
Inouye	Moynihan	Weicker
Kassebaum	Packwood	Wirth

NOT VOTING—3

Biden	Gore	Simon

So the motion to lay on the table Amendment No. 731 was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the parliamentary situation as this Senator understands it, the Senate now returns to the Weicker amendment subject to recognition of the majority leader at some period thereafter.

The PRESIDING OFFICER. The Senator from Virginia is correct. Debate is in order on the Byrd perfecting amendment to the Weicker amendment.

Mr. BYRD. Mr. President, in the interest of moving ahead with other amendments tonight hopefully, and the meeting which had been earlier discussed will begin shortly in room 207, I ask unanimous consent that the pending Weicker amendment be temporarily set aside so that other amendments may be called up throughout the evening.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. I thank all Senators.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we definitely have another rollcall coming tonight. I know of one and that would be on the Helms amendment. I do not see the Senator from North Carolina on the floor, but we could bring that one up at the appropriate time if he so chooses.

We have other amendments. I do not know how many Senators desire to be recognized.

We have an amendment from the Senator from Louisiana; we have a Bingaman amendment; the Senator from South Carolina has an amendment; the Senator from Iowa has an amendment; we have a Dixon amendment; and we have a Roth amendment. So I think we have seven or eight more amendments we can handle this evening.

Mr. WARNER. Mr. President, the manager of the bill earlier enumerated a Kennedy amendment in his first recitation some 1½ hours ago. Is that a matter that is still——

Mr. NUNN. That is a health amendment relating to the Navy and I believe the staffs have taken a look at that. We have not signed off on it but I believe it is one that will not be controversial.

Mr. WARNER. I thank the Senator from Georgia.

Mr. BYRD. Mr. President, will it be possible for us to nail down some time agreements on these amendments just mentioned?

Mr. NUNN. We have the Johnston amendment. Mr. Leader, most of these amendments have just come to my attention. It might be more expeditious not to try to get a time agreement right now.

AMENDMENT NO. 734

(Purpose: To require a contingency plan to deal with disruptions in Persian Gulf crude oil supply)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself and Mr. MCCLURE, proposes an amendment numbered 734.

Mr. JOHNSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

"SEC. . REPORT OF CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

"(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of U.S. crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

"(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

"(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

"(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply from the producing nations of the Persian Gulf;

"(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

"(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

"(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

"(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.".

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself and the distinguished Senator from Idaho [Mr. MCCLURE].

The purpose of this amendment is to authorize and direct the Secretary of Defense to develop contingency plans to deal with conditions created by significant disruptions in the production and transportation of crude oil from the nations of the Persian Gulf.

I offer this amendment for a number of reasons. First, I believe that the economic well-being of this Nation and the free world is perilously linked to the availability of Persian Gulf oil. Second, I have seen no information that the U.S. Government has taken meaningful steps, other than the threat of military force, to be prepared to deal with conditions created by a major or prolonged disruption in Persian Gulf oil. Third, I am deeply concerned that the U.S. Congress and the American people have become totally complacent about domestic energy supply and about developing options to assure that this Nation and the free world can survive a major and prolonged Persian Gulf crude oil supply disruption. The purpose of my amendment is to develop and refine these options in the context of a careful contingency planning process.

There are also important domestic policy issues at stake as a result of the uncertainty which prevails in the Persian Gulf. If a major disruption in oil supply should occur, the Senate Energy and Natural Resources Committee will be called upon, under crisis conditions, to enact emergency energy legislation dealing with supply, conservation, and the allocation of available energy resources. This is exactly what happened in October 1973 as a result of the Arab oil embargo. It happened again in 1979 in the context of major energy price increases generated by armed conflict in the Middle East.

As chairman of the Senate Energy Committee, I feel a responsibility to do what is necessary and prudent to focus this administration's attention on the risks and the dangers which appear so obvious to me. Administration officials need to be asked now, before we are in a full blown crude oil supply crisis, to prepare contingency plans and to request Congress to enact any additional legal authority or programs which may be required to either avoid an oil supply crisis or to be prepared to effectively manage our way through such a crisis.

For that reason, Mr. President, I have included in section (b)(5) of the amendment language requesting the Secretaries of Defense and Energy to include in the Persian Gulf contingency report to the Congress any policy or legislative recommendations, including energy policy recommendations, they deem appropriate to improve the ability and the effectiveness of our Nation to prepare for and respond to any future crisis in domestic and/or world crude oil supply occasioned by a disruption in the Persian Gulf.

Finally, Mr. President, as chairman of the Senate Energy Committee, I must say that I hope that the report this amendment requires will realistically focus the attention of the public, the Congress and the executive branch on the critical importance of secure sources of energy supply to our national security and our economic well-being. I am appalled at the complacency that prevails in this country concerning what I view as the critical need to avoid undue reliance on insecure sources of imported oil.

As a nation, we are not, in my judgment, doing nearly enough to avoid increasing dependency on foreign oil. And because we have not and are not doing enough, we do not have options other than military force readily available. Further, our failure to create a policy and economic climate to stimulate domestic energy production means that we have not only lost national security options but we are losing independence in the exercise of our foreign policy.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to be added as a cosponsor to that amendment.

The PRESIDING OFFICER. Without objection, the Senator from Alaska will be added as a cosponsor.

Mr. MURKOWSKI. I thank the Chair.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we need a copy of the amendment. We are trying to get a copy. We think this amendment is going to be accepted, but we cannot say that with certainty for the moment. We have a copy of the amendment coming.

Mr. JOHNSTON. Mr. President, while we are waiting for a copy, I ask unanimous consent that Senator BRADLEY, Senator MURKOWSKI, and Senator HECHT be added as coauthors.

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

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, this is a report amendment. As I understand it, Senator MCCLURE is a coauthor.

Mr. MCCLURE. Yes.

Mr. WARNER. Mr. President, we have had an opportunity to examine the amendment. As a matter of fact, I think the amendment would be helpful to advise us all of the contingency plan in the event of a disruption in the Persian Gulf like the U.S. forces pulling out, and it would be helpful to know what it would be. No objection on this side.

Mr. NUNN. Mr. President, we have no objection to the amendment. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 734) was agreed to.

Mr. MCCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to

Mr. EXON. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

AMENDMENT NO. 735

(Purpose: To express the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship or other vessel known to have on board any United States citizen)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 735.

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship or other vessel known to have on board any citizen of the United States of America: *Provided, further,* That this Section shall not in itself be construed as legislative authority for any specific military operation".

Mr. HELMS. Mr. President, I am perfectly willing to enter into a time agreement if the distinguished manager of the bill is agreeable.

Mr. NUNN. Mr. President, could I inquire of the distinguished Senator from North Carolina? Does he intend to have another amendment to this amendment?

Mr. HELMS. No; I combined the two.

Mr. NUNN. This is the amendment that states the opinion of the Senate on the recent episode in the gulf?

Mr. HELMS. The Senator is correct.

Mr. NUNN. Mr. President, what does the Senator from North Carolina propose in the way of a time agreement?

Mr. HELMS. Twenty minutes equally divided.

Mr. NUNN. That would be fine.

Mr. President, I ask unanimous consent that on the amendment pending by Senator HELMS that there be a 20-minute time limit equally divided, with no amendment to the amendment.

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

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina has 10 minutes.

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

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

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I thank the Chair. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HELMS. I thank the Chair. May we have order, Mr. President?

The PRESIDING OFFICER. Senators will cease conversations.

Mr. HELMS. I hope the Chair will not charge time against me.

The PRESIDING OFFICER. The time is not being charged. The Senate will be in order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

Throughout the summer there have been repeated efforts to have the Senate vote to undercut the President on the Persian Gulf matter. I said many times on this floor that had I been charged with being the architect of the plan, there would have been many variations from that which has in fact been implemented. But the last thing that this country needs now is for the President to be undercut on this issue in this region. The Senate has spent countless hours discussing the United States presence in the gulf and the War Powers Act. And I say again, Mr. President, that I am one of three Senators still serving in the Senate who voted against the War Powers Act back in 1973. My distinguished colleague from North Carolina, Senator Sam Ervin, repeatedly said it was patently unconstitutional and also opposed the legislation.

I expect a lot of the rhetoric that we have heard during the summer has been precisely that, not—Mr. President, may we have order? I cannot hear myself.

The PRESIDING OFFICER. The Senator from North Carolina deserves to be heard. The Senators will cease all conversations.

Mr. HELMS. Mr. President, I will move down to a seat closer.

Mr. President, as for the rhetoric we have heard this summer, I have a feeling that most of it had to do not with the Persian Gulf per se, but rather with the political season of 1988. In any case, the pending amendment will tell the country and certainly the fine men and women serving in our Navy exactly how this Senate feels about this Nation's rights under international law to navigate safely the Persian Gulf. Incidentally the amendment will tell exactly how the Senate feels about the President's actions to defend those rights.

According to yesterday's newspaper, Mr. President, the air strike against the Iranian ship was carried out by a special antiterrorist team trained and quartered at Fort Bragg, NC. I am especially proud of this fact.

The amendment just read by the clerk states that it is the sense of the Senate that the U.S. Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship or other vessels known to have on board any citizen of the United States of America.

I have combined two amendments. I had one contemplated to be a second-degree amendment, but I combined it. And the second-degree amendment, which is now a part of the pending amendment, clarifies that this amendment in itself does not provide legislative authority for any specific military operation.

The countless hours the Senate has spent this summer debating efforts to undercut our country's commitment to free navigation in the Persian Gulf has merely sent a signal to the Ayatollah that congressional support for the President's policy in the Persian Gulf is not firm. But I think the Ayatollah ought to get another message tonight, and I hope he will. Certainly I want the people serving in our Armed Forces who performed so decisively and effectively to get a message of support.

The Senate's previous apparent ambivalence may have sent a signal to the Ayatollah which encourages Iran to test our resolve in much the same

way they did a few nights ago when our Armed Forces caught them laying the mines in the gulf. This Senator was proud of the manner in which our forces responded to this clear intentional Iranian provocation.

A poll was published in this morning's New York Times, stating how the American people reacted to the sinking of the Iranian ship in the Persian Gulf. The first question: "Do you approve or disapprove of U.S. Navy ships protecting foreign-owned oil tankers in the Persian Gulf?" Approve, 60 percent; disapprove, 32 percent.

Second question: "What are the chances that sending U.S. Navy ships to the Persian Gulf will get us involved in a war?" Likely, 55 percent; not likely, 36 percent.

"Are your feelings toward Iran generally favorable or generally unfavorable or neutral?" Favorable, minus 2 percent; unfavorable, 78 percent; neutral, 16 percent.

I do not know how you get to a minus 2. But that is the way I feel about the Ayatollah.

"How would you describe the importance of the Persian Gulf to the interests of the United States?" Get this, Mr. President. Very important, 76 percent; not very important, 15 percent.

Mr. President, I do not think I need to take too long.

Mr. President, it's about time we stood up to the Ayatollah. Iran—which is behind a great deal of international terrorism—has been harassing the United States and the rest of the free world for some time now.

While this latest provocation may be just another act in this pattern of harassment, this Senator believes that the Ayatollah is also testing us to see how we would react. Would the United States stand firm—or would we run with our tail between our legs at the first sign of trouble?

And that, Mr. President, is the issue before us with this amendment. Is the United States the kind of nation which fails to stand up for its rights under international law? Is the United States the kind of nation which cuts and runs from its commitments at the first sign of trouble?

It is not essential that each Senator agree with the U.S. commitment to the gulf. What we are talking about is the world's perception of the United States, and the principles for which we stand.

Under international law, American ships have every right to navigate the international waters of the Persian Gulf. This principle has been accepted and understood since the founding of our Nation.

The laying of mines in international waters—as well as any other military action which threatens neutral shipping in these waters—is also violative of international law. And the United States has every right under such law to defend its flag vessels and its citizens from these threats.

So, Mr. President, the question presented by this amendment is, Does the Senate believe the United States should defend its rights under international law or does this body believe we should cut and run or tie the President's hands at the first sign of trouble?

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Does the Senator say he reserves the balance of his time?

Mr. HELMS. Yes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, will the Senator yield for a question because I have some concern about the language of this amendment?

Mr. HELMS. I yield on the Senator's time, of course.

Mr. DIXON. May I say that I have no problem about the first part of the amendment that says "It is the sense of the Senate that the U.S. Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship." That is not the problem. But would the Senator explain the circumstances that compels him to say "or other vessel known to have on board any citizen of the United States of America"?

Mr. HELMS. I do not want to be flippant with my friend, and I certainly shall not be, but I do not know how I can explain it any clearer than the English language of the amendment: "Sinking any Iranian vessel which threatens the safe passage of any American warship or other vessel known to have on board any citizen of the United States of America; provided, further, that this section shall not in itself be construed as legislative authority for any specific military operation."

Mr. DIXON. The Senator reads that in conjunction with the words "or other vessel known to have on board any citizen of the United States." Is that correct?

Mr. HELMS. That is correct.

Mr. DIXON. The Senator reads those two in conjunction?

Mr. HELMS. Yes.

Mr. DIXON. That answers my question.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will the Senator from North Carolina yield for a question?

Mr. HELMS. May I ask the Senator is he in favor of the amendment or opposed to it?

Mr. PRYOR. I merely want to ask a question about the language.

Mr. HELMS. I yield.

Mr. PRYOR. Is there any reason the Senator limits the language to an Iranian vessel? What about a Cuban vessel? What about a Russian vessel? What about a Libyan vessel? Would the Senator from North Carolina be willing to include other countries, or a vessel of any foreign country?

Mr. HELMS. I guarantee the Senator that if any such provocation occurs, this Senator will probably lock arms with the distinguished Senator from Arkansas and offer an amendment similar to this, with respect to any other country that dares to do this sort of thing.

I want to limit it to the incident that is ripe, as the distinguished Senator from Texas has put it, instead of being speculative.

Mr. PRYOR. I wonder, if we exclude these other countries, are we saying that we are not going to feel as badly if they do any attacking, as we do about the Iranians?

Mr. HELMS. The Senator can list any other countries he wishes; but they had better not assume any such thing, because I hope the U.S. Navy will respond exactly as they did in this case, and I think they will.

Mr. PRYOR. I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

The Chair informs the Senate that if no one yields time, the time is taken from both sides.

Mr. DIXON. I say to my friend from North Carolina, without appearing to be facetious about it, that I wonder if we could take a moment to look at this language.

I understand what the Senator means to say and understand that he means it said in conjunction with those two sentences. But the formation of it gives us some pause on this side; because, if you read it in the disjunctive, you say that the U.S. Navy is fully justified in sinking any other vessel known to have on board a citizen of the United States, and you do not mean to say that. You mean to sink any Iranian vessel which threatens the safe passage of any other vessel known to have on board a citizen of the United States.

Does the Senator understand what I am saying?

Mr. HELMS. No, with all respect, I do not.

I don't have any pride of authorship, but it seems to be clear language to me.

Mr. DIXON. I appreciate what the Senator says, but it is not quite that clear.

Mr. HELMS. Mr. President, notwithstanding that the yeas and nays have been ordered on the amendment, I ask unanimous consent that a modification suggested by the Senator from Illinois be in order.

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

Mr. HELMS. I send the modification to the desk, and I thank the Senator.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

"SEC. . It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessels known to have on board any citizen of the United States of America; provided, further, that this Section shall not in itself be construed as legislative authority for any specific military operation".

Mr. HELMS. I thank the Senator from Texas for his drafting suggestion. He has delineated the issues as No. 1 and No. 2. That should clarify any ambiguity.

Is the Senator from Illinois willing to yield back his time?

Mr. DIXON. I am delighted to say to the Senator that I support his amendment.

Mr. HELMS. I thank the Senator.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from New Hampshire [Mr. HUMPHREY] are necessarily absent.

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

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—91

Adams	Dole	Lautenberg
Armstrong	Domenici	Leahy
Baucus	Durenberger	Levin
Bentsen	Exon	Lugar
Bingaman	Ford	Matsunaga
Bond	Fowler	McCain
Boren	Garn	McClure
Boschwitz	Glenn	McConnell
Bradley	Graham	Melcher
Breaux	Gramm	Metzenbaum
Bumpers	Grassley	Mikulski
Burdick	Hatch	Mitchell
Byrd	Hecht	Moynihan
Chiles	Heflin	Murkowski
Cochran	Heinz	Nickles
Cohen	Helms	Nunn
Conrad	Hollings	Packwood
Cranston	Inouye	Pressler
D'Amato	Johnston	Proxmire
Danforth	Karnes	Pryor
Daschle	Kassebaum	Quayle
DeConcini	Kasten	Reid
Dixon	Kennedy	Riegle
Dodd	Kerry	Rockefeller
Roth	Specter	Wallop
Rudman	Stafford	Warner
Sanford	Stennis	Weicker
Sarbanes	Stevens	Wilson
Sasser	Symms	Wirth
Shelby	Thurmond	
Simpson	Trible	

NAYS—4

Chafee	Hatfield
Harkin	Pell

NOT VOTING—5

Biden	Gore	Simon
Evans	Humphrey	

So the amendment (No. 735), as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, how long does the distinguished Senator wish to speak?

Mr. THURMOND. About 10 minutes.

Mr. BYRD. Will the Senator allow me to try to get this unanimous-consent order entered first?

Mr. THURMOND. Yes.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease audible conversation. The Senate will be in order.

Mr. BYRD. Mr. President, in room 207, we have just had a meeting with the Republican leader, the two managers of the bill, several Senators who are authors of the amendments which they will call up, staff, and myself. I am ready now to present a unanimous-consent request covering amendments and time limitations thereto as indicated in room 207.

I shall begin and go down the list alphabetically.

Mr. BINGAMAN, one amendment, verification of funding/energy, 30 minutes equally divided.

I make that request.

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

Mr. BYRD. Mr. BRADLEY, one amendment, SSBN, which would be offered under certain circumstances, 1½ hours equally divided.

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

Mr. BYRD. An amendment by Mr. BOSCHWITZ, nuclear risk reduction, 30 minutes equally divided.

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

Mr. BYRD. An amendment by Mr. BUMPERS, SDI architecture, 30 minutes equally divided. The SDI architecture must ensure equal protection for all States.

Let me go to the next amendment momentarily.

Mr. DOLE. Mr. President, the distinguished manager on this side temporarily left the floor and he knows about these amendments.

Mr. QUAYLE. Mr. President, can there be a little more explanation about what these amendments cover? Have Senator NUNN and Senator WARNER already done that? I was not at the meeting. I apologize for that. I think I know what the Bradley amendment is. I have a rough idea. I have no idea what the Bumpers amendment on SDI architecture is. Knowing my good friend from Arkansas, that can be all sorts of things.

I do not know if Senator WARNER and Senator NUNN have signed off on these, but I have no idea what they are.

Mr. BUMPERS. I will tell you what my amendment will do. It is one that says that the SDI must protect all States. There must be no discrimination between the protection of population centers by States.

Mr. BYRD. The next amendment is by Mr. BUMPERS. It would require a report by the Navy on the feasibility and desirability of developing a successor to the Trident submarine, 15 minutes equally divided.

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

Mr. BYRD. The next amendment on which I have a time limitation is by Mr. BUMPERS, a sense-of-the-Senate on conventional arms control, 30 minutes equally divided.

Mr. QUAYLE. I am for that. I have a lot to say about it, though.

Mr. BUMPERS. Mr. President, as far as I am concerned, 30 minutes equally divided is sufficient on that.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Thirty minutes equally divided on arms control? I object.

Mr. BYRD. An amendment by Conrad-Sasser, 30 minutes equally divided, on burden sharing.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. The two managers were there and so were the two leaders.

Mr. NUNN. If the majority leader will yield, by my last count, we have had over 40 amendments filed today. Anyone who wants to get a certification from the two managers that we know everything in these amendments must realize we have not even seen a lot of these amendments, but we do know the title and have some idea. If you are going to insist on our knowing every word of every amendment

before we get unanimous consent, we will be here the rest of the night trying to do that.

Mr. QUAYLE. The only concern I have on burden sharing is that there are a lot of ways you can discuss burden sharing. The amendment is very provocative. In 30 minutes, it is very difficult to get any kind of debate at all on this issue. Maybe people will not have anything to say.

These are very substantive amendments and we are signing off at 15 or 30 minutes. Nobody knows what the amendments are.

Mr. NUNN. On those that are objected to, perhaps the Senator from Indiana can take a look at those.

Mr. BYRD. We will pass that for the present time.

Mr. D'AMATO, drug interdiction, 30 minutes equally divided.

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

Mr. BYRD. Mr. DANFORTH, the Missouri National Guard, 30 minutes.

Mr. DANFORTH. Mr. President, I think we can take 10 minutes equally divided.

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

Mr. BYRD. Mr. DIXON, drug interdiction.

Mr. DOLE. Is that the same as the D'Amato amendment?

Mr. DIXON. It may be the same. I think 30 minutes equally divided.

Mr. BYRD. Mr. DIXON, special tooling and test equipment.

The PRESIDING OFFICER. Did the majority leader ask unanimous consent on the Dixon amendment, or is that part of the D'Amato amendment?

Mr. DIXON. Make it 30 minutes equally divided.

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

Mr. BYRD. Mr. DIXON, special tooling and test amendment, 5 minutes equally divided.

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

Mr. BYRD. Mr. DOLE has four amendments. I do not have anything as to time on any of them.

Mr. DOLE. I think I have also added a fifth praising the operation in the Persian Gulf, where we were able to dispose of that Iranian vessel. That will not take long. Thirty minutes equally divided. Another would require ratification of SALT before United States adheres to its limits. We would agree to a time limit if others would. Another amendment on oil embargo on Iran. Another regarding Soviet compliance with the SALT limits before United States complies with SALT II sublimits. And then a Persian Gulf amendment.

I do not think it would take an hour. Well, let us make it 40 minutes on each side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ADAMS. Reserving the right to object, I wanted to inquire of the Republican leader on this Persian Gulf amendment. We would like to be able to obtain a time limit on the total Persian Gulf amendments that he wishes to offer.

Mr. DOLE. These and all the others?

Mr. ADAMS. The one on the Persian Gulf. I want to ask if the Republican leader would like to get a total agreement.

Mr. DOLE. The majority leader might be able to work out a trade to drop them all.

I will try to work that out.

Mr. BYRD. Mr. DOMENICI has the National Laboratories amendment, 30 minutes equally divided.

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

Mr. BYRD. Mr. DOMENICI, on superconductor, 30 minutes equally divided.

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

Mr. BYRD. Mr. EVANS would require an independent review at Hanford, WA, DOE safety enhancements with a view of restarting the end reactor. That is 1 hour equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. EVANS, asbestos removal at Fairchild, 10 minutes, equally divided.

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

Mr. BYRD. Evans-Adams, add funds for environmental restoration at Hanford, WA, DOE complex, 20 minutes equally divided.

Mr. DIXON. That might take a little longer than that, Mr. Leader.

Mr. FORD. Mr. Leader, may I inquire of you on this, is this the nuclear depository situation as it relates to Hanford? We are getting out of the nuclear—out of the Department authorization, I think, and into the Energy Committee field here. On the previous amendment, I started to say something about that. I do not want to object if that is what you want to put on the bill. It is going to be vetoed anyhow. But I wonder if you wanted to get into the energy field.

Mr. ADAMS. Would the leader yield so I may respond to that?

Mr. BYRD. Yes.

Mr. ADAMS. I would say to the distinguished Senator from Kentucky: no, this is not to go into that. This is waste cleanup which is part of the defense bill. It has nothing to do with the overall total nuclear waste; it is simply to move forward with the defense authorization.

Mr. FORD. It is still in the jurisdiction of the Department of Energy and it is the Energy Committee and the chairman is not here. I just want to be sure we were protected.

Mr. ADAMS. There is a division between the Department of Defense and the Department of Energy. This is not the overall subject.

Mr. GLENN. Mr. Leader, if I might further ask, does this involve money? Is it specific funds for cleanup or a resolution?

Mr. ADAMS. It is a specific amount and funds for cleanup and it has been discussed previously in the committee and it is, I believe, cleared by members—I will have to rely on my colleague from Washington, my senior colleague.

Mr. BYRD. I think I should withdraw this request until Senator JOHNSTON is here, who is the chairman of the committee, if I may.

Mr. GLENN. Mr. Leader, reserving the right to object further—we put together some plans in the past, of course, to cover the whole weapons production program, going through the whole cycle, wherever it runs. This would not address the whole problem. It would just address a very specific problem at Hanford, is that correct?

Mr. ADAMS. That is correct. This is a waste cleanup.

I see now that the Senator from Louisiana is in the Chamber. This is the Evans amendment which I understand has proceeded through the committee, which is on waste cleanup alone. It is not in the overall subject.

The PRESIDING OFFICER. The Chair would remind the Senators that the majority leader controls the floor and you should ask him to yield prior to the time you speak.

The majority leader.

Mr. BYRD. Mr. President, I renew my request on the Evans-Adams amendment, that there be a time limitation thereon of 20 minutes, equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. On an amendment by Mr. EVANS and Mr. INOUYE, funds for Navy Port Everett, WA, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. On an amendment by Mr. GRAMM, Davis-Bacon, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. Leader, that agreement was on the condition that I could have an up or down vote.

Mr. BYRD. I cannot put that request at this time, Senator. I can only

put the request as to time limitation. If you would like me to withdraw the request, I would.

Mr. GRAMM. On that basis, Mr. Leader, then I would like to withhold.

Mr. BYRD. All right.

On an amendment by Mr. GRAMM, service contract, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Does that have the same conditions?

Mr. GRAMM. The third does not. I could go with a motion on the third one.

Mr. BYRD. An amendment by Mr. GRAMM, stockpile, 1 hour equally divided.

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

Mr. BYRD. All right. Now, Mr. HARKIN, NSC advisory-military officers should not serve in this position, 30 minutes equally divided.

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

Mr. DOLE. Mr. President, I reserve the right.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Is that the one: no military officer can serve as the Chief of the NSC?

Mr. CHILES. A prohibition that any military officer can serve——

Mr. WARNER. I am familiar with the amendment. There should be a rather lively debate and I suggest 30 minutes equally divided is a minimum.

Mr. CHILES. I would object to the time agreement on that.

Mr. BYRD. All right.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. HEINZ, intelligence related, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I withdraw that request.

The PRESIDING OFFICER. Yes.

Mr. BYRD. Mr. HEINZ, two amendments on shipbuilding, 30 minutes equally divided on each.

Mr. WARNER. Mr. President, on those amendments, if the amendments comport with statements made to me by the Senator from Pennsylvania, who spoke of them, I would think that that should take some time. I would suggest we should, perhaps, defer it until I can get a better idea.

Mr. BYRD. All right. I withdraw both of those. I withdraw both of those requests.

Mr. HOLLINGS, drug testing, 20 minutes equally divided, Mr. HOLLINGS.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, I reserve the right to object on that one. I think until we find a little bit more about that and have a chance to discuss it, I object to it.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. All right. Three amendments by Mr. HELMS, one on INF, 30 minutes equally divided?

The PRESIDING OFFICER. Is there an objection?

Mr. METZENBAUM. Reserving the right to object, could we have a little idea what that amendment is?

Mr. HELMS. I will read it to the Senator.

It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missile Treaty of 1972.

Mr. METZENBAUM. I thank the Senator.

Mr. BYRD. Thirty minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, it may be that the majority leader would want to withhold on this because I will agree to almost any time limit, provided I get an up or down vote. I have been here all afternoon waiting to offer an amendment. If I have an up or down vote on it that will be fine, but I will let the majority leader name the time.

Mr. BYRD. I think I should withdraw the request for now and we will have an opportunity for the managers and the distinguished Senator to discuss on it before we put the request.

Mr. HELMS. That is fine. I thank the Senator.

Mr. DOLE. Would the Senator yield? There is a Kasten amendment, sense of the Senate, on Japanese trade with Vietnam. I see he has agreed to 20 minutes equally divided.

Mr. BYRD. Yes. I inadvertently overlooked that one at the beginning. I make that request: Mr. KASTEN, sense of the Senate, Japanese-Vietnam trade. Twenty minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. BYRD. All right.

We go to page 3. Mr. KENNEDY, a study on carriers, 10 minutes equally divided.

I am sorry, I withdraw that request.

Mr. LAUNTENBERG, CHAMPUS payment for charitable hospitals, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, so ordered.

Mr. BYRD. Mr. LAUNTENBERG, religious apparel, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. LEVIN, strategic/reallocation to conventional, 40 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. BYRD. Levin-Dixon, cut SDI, reallocate to conventional, 60 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President. Reserving the right to object, can I have the majority leader restate that amendment?

Mr. BYRD. Perhaps Mr. LEVIN should do it or Mr. DIXON.

Mr. LEVIN. That amendment would reallocate approximately $400 million from SDI to conventional forces, similar to the one that was offered in the committee.

Mr. WILSON. Objection.

Mr. BYRD. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. All right, Mr. LEVIN, authorizing funds for centers of advanced technology, 10 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Mr. DOMENICI. What was that again, Mr. Leader?

Mr. BYRD. Authorizing funds for centers of advanced technology.

Mr. DOMENICI. Whose amendment was that?

Mr. BYRD. Mr. LEVIN's.

Mr. LEVIN. We would expect to work it out. We would only offer it if we work it out.

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

Mr. DOLE. Will the Senator yield?

Mr. BYRD. Yes; I yield.

Mr. DOLE. I thought there were two Levin amendments on reallocation.

Mr. LEVIN. The first one the leader got the time agreement on. We expect on that one there will be a substitute which will be worked out, on the first one.

Mr. BYRD. That would be 40 minutes equally divided. Would you like to revisit that one?

Mr. DOLE. No; that is fine.

Mr. BYRD. All right, Mr. MCCLURE, authorize two new production reactors, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Mr. THURMOND. Mr. President, that could be a very sensitive matter. I do not know just how long it would take.

The PRESIDING OFFICER. The Chair hears no objection to the unanimous-consent request. It is so ordered.

Mr. BYRD. All right; Mr. PROXMIRE, establish a commission on freedom on the Department of Defense press, 20 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Mr. DOLE. Mr. President, I understand that has been modified; a GAO study.

Mr. PROXMIRE. Modified to provide for a GAO study.

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

Mr. BYRD. Mr. QUAYLE, nuclear warhead for ATACKS.

Mr. QUAYLE. I may not offer it. I withhold on that. It may not be necessary to offer it. I have not had a chance to converse with the chairman of the Senate Armed Services Committee on that.

Mr. BYRD. Very well. Mr. QUAYLE, an INF agreement verification procedures, 1 hour equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, so ordered.

Mr. BYRD. Mr. QUAYLE, SDI report, 1 hour equally divided.

Mr. QUAYLE. That is a report that we have already had in there. I would not think that would take more than 10 minutes.

Mr. BYRD. All right, 10 minutes equally divided.

Mr. QUAYLE. I do not think there is any problem with that.

Mr. BYRD. Ten minutes.

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

Mr. BYRD. Mr. QUAYLE, European troops. I do not have any time set for it here.

Mr. QUAYLE. Thirty minutes, or an hour equally divided.

Mr. NUNN. We find ourselves in the same position as the Senator from Indiana a while ago. I do not know what that amendment does.

Mr. QUAYLE. It will reaffirm the U.S. commitment to NATO. There will be some language—I have not finished drafting it—some language on what the troop levels should or should not be. But basically it is a reaffirmation post-INF zero-zero that we are committed to NATO in many ways. I just do not have the finished draft yet. He asked for an amendment. I said I would have an amendment in this area.

Mr. BYRD. Thirty minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. QUAYLE has an amendment on SALT.

Mr. QUAYLE. This will only be if in fact the Bumpers amendment would be adopted.

Mr. BYRD. Pardon me?

Mr. QUAYLE. This would only be if the Bumpers amendment would be adopted. I would probably have more than one SALT amendment, and that is just contingent upon that so I would just say there would be no necessity in offering that at this particular time.

Mr. BYRD. Mr. QUAYLE, an amendment on nuclear weapons programs.

Mr. COHEN. Could I inquire of the Senator from Indiana, if he was not in room 207, how these amendments were proposed?

Mr. QUAYLE. Pardon?

Mr. COHEN. I thought the Senator indicated he was not in room 207. I was wondering where these amendments emanated from.

Mr. QUAYLE. They emanated throughout the day. I talked to people. As they asked me if I had any amendments, I gave them a description of them. I presume that the efficient Republican staff we have indicated that Senator QUAYLE was to offer these amendments.

Mr. COHEN. The amendments were in 207 and the Senator was not.

Mr. QUAYLE. No. The amendments were here with the staff and the staff was over in 207 I think.

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I take it I do not propose any time limitation?

Mr. QUAYLE. That amendment is already incorporated in the INF resolution.

Mr. BYRD. Very well. All right, Mr. ROTH, base closure reform, 10 minutes equally divided.

Mr. WARNER. Mr. President, we are of the opinion that might not be offered but lets just reserve it.

Mr. DOLE. He has modified it to European bidding workload program.

Mr. WARNER. It is a different amendment.

Mr. BYRD. Yes. That has changed. European bidding workload program. All right, I make no request on that.

Mr. SHELBY, prohibition on sale of Toshiba products in military exchanges, 20 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. DOLE. Mr. President, will the majority leader yield? Were there two Roth amendments, North Atlantic Assembly study on NATO, 10 minutes equally divided.

Mr. BYRD. Yes. I had the wrong line marked out. North Atlantic Assembly study on NATO, 10 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. SIMON, sense of the Senate regarding early SDI deployment. I do not have any time marked down for that one. I will go to the next one.

SPECTER-HEINZ-LAUTENBERG-BRADLEY, restore TAO fleet oiler ship, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. WALLOP, create strategic defense force, 2 hours equally divided.

Mr. WALLOP. Mr. Leader, I would say that for reasons still beyond my comprehension that continues to be characterized in that way. It does not create a strategic defense force. It assigns the Secretary of Defense the task of assigning the mission to defend the United States somewhere within the Armed Forces of the United States. It does not create a new force at all.

Mr. BYRD. Very well. Could we do with less time?

Mr. WALLOP. Probably not at the moment. I would try to work that out over the course of time, but at the moment I would prefer to leave it at that.

Mr. BYRD. Very well, 2 hours equally divided.

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

Mr. BYRD. Mr. WARNER, authorize the SDI Institute, 30 minutes equally divided; Mr. WARNER, DOE safety oversight, 30 minutes equally divided; Mr. WARNER, FEMA add-on, 30 minutes equally divided; Mr. WEICKER, special access programs, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection to any of those requests? If not, without objection, it is so ordered.

Mr. COHEN. Mr. President, could I inquire, on the last amendment I was not clear. "Special access" means something different to the Armed Services Committee or to the Intelligence Committee than perhaps to health and education. Could I inquire as to what "special access" means in this context?

Mr. NUNN. I am informed by staff that this does not touch any intelligence activities. It is strictly Department of Defense.

Mr. COHEN. Could I inquire whether the chairman of the Armed Services Committee might entertain a motion that we abolish the Armed Services Committee and have 10 minutes equally divided on that?

Mr. NUNN. I say to the Senator from Maine, I have been talking to the majority leader long and hard about seeking another chairmanship, almost any one.

Mr. BYRD. Is that agreeable, 20 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. WILSON, add funds for P-3's. He scratched that. All right.

Mr. WILSON, regarding M113A3 for Guard Reserves, 20 minutes equally divided.

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

Mr. BYRD. Mr. WILSON, cost effectiveness at the margin, 1 hour equally divided.

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

Mr. BYRD. Mr. WILSON, shipboard IFF, 10 minutes equally divided.

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

Mr. BYRD. Mr. WILSON, space launch recovery, 1 hour equally divided.

Mr. NUNN. Mr. Leader, I have to object to that one at this point in time. It is a very, very large program that is starting. I think there may be merit for it, but I am told it is a $5 billion program that is being requested as an amendment, as a long run. So I think we probably ought to have maybe an hour per billion dollars or something like that.

Mr. FORD. Mr. President, will the distinguished Senator, the majority leader, allow me to ask the chairman of the Armed Services Committee a question? Why are so many amendments from members of the Armed Services Committee? We have 15 or 20 right here tonight. Even the one who objected a while ago had 7 or 8. He was not even in the meetings that developed the amendments and the time agreements.

Mr. NUNN. I say to my friend that I will think about that overnight, and I will try to get an answer tomorrow after consulting with Members.

Mr. FORD. Even other committees, Energy and other committees, are being involved, and are putting them on the DOD authorization bill. I am willing to stay Saturday, and I think those who have been objecting to time agreements ought to be under the impression that Saturday is an all-day, right here. I am willing to start at 8 o'clock Saturday morning.

Mr. NUNN. I have to say, and my impression is based on this list, that we are going to have to stay much later this evening than I had anticipated, all day tomorrow, probably all night tomorrow night, and all day Saturday, and if the leader will consent, Sunday also. I see no other way to do it. We have had 40 new amendments today—40. We have handled 17, and we have gotten 40 new ones. [Laughter.]

Mr. BYRD. Mr. Wilson, Presidio Army Hospital, 1 hour equally divided.

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

Mr. BYRD. Mr. Wilson, military spouses, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. An amendment by Mr. JOHNSTON on bioenvironmental hazards research, 10 minutes equally divided.

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

Mr. DOLE. Mr. President, reserving the right to object, will the distinguished majority leader restate the amendment?

Mr. BYRD. Yes. Johnston amendment on bioenvironmental hazard research, 10 minutes equally divided. Mr. JOHNSTON is here, if he wishes to speak.

The PRESIDING OFFICER. The Chair heard no objection. Is there objection?

Mr. DOLE. I am reserving the right to object.

Mr. CHAFEE. What does that do, briefly?

Mr. JOHNSTON. It allocates within available funds the ability to do research on bioenvironmental hazards which are hazards created by the explosives and that sort of thing. I hope to get it cleared. If I do not get it cleared, I will not bring it up.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, the agreements that have been entered into now will allow tabling motions because tabling motions were not excluded in any of the requests. Several of the requests were withdrawn. There were others which I had no indication because Senators did not attend the meeting, and therefore no indication as to what might be agreeable.

I could go over the remaining list which would lay it in the record.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. BYRD. Mr. INOUYE, Fort Derussy, 10 minutes equally divided. He was there, and both managers were. So I put that request.

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

Mr. DIXON. Mr. Leader, I was managing on the floor, and thus was not at the committee meeting. But I have a small business amendment I am attempting to clear through Senator BUMPERS and Senator WEICKER. If it is not cleared, it might require 20 minutes equally divided. I hope to have it cleared so it is simply accepted.

Mr. BYRD. Mr. President, I ask unanimous consent that second-degree amendments to the amendments that have been agreed to not be in order.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, there was some concern expressed in S-207, at least on some amendments.

Mr. LEVIN. Mr. President, reserving the right to object, does this request apply only to those amendments where time agreements have now been ordered?

Mr. BYRD. Yes.

Mr. LEVIN. One other question, if I could, of the leader: Do I understand the intent tonight is to limit amendments to those which the leaders will enumerate?

Mr. BYRD. Hopefully. Or else there is just no end. This could go on and on and on.

Mr. METZENBAUM. Mr. President, is the distinguished majority leader aware of the fact that I have two amendments that I mentioned?

Mr. BYRD. Yes. I do not know how to proceed on those.

May I clear the other request first?

The PRESIDING OFFICER. Does the Senator from Kansas object to the request of the leader?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. What is the unanimous consent request?

I will have to object to that if that is applicable to my amendment, the three amendments which the Senator has not put in. We may get a time agreement.

Mr. BYRD. The request only pertains to those amendments on which we have already agreed as to time.

Mr. HELMS. I am obliged to object.

Mr. President, I have a total of four. All I am saying is that I regard the time agreement and those second-degree amendments as two separate and distinct matters, and the majority leader will include my three amendments as to the second-degree amendment. That is fine. Then we will work on the time agreement. I have no objection to time agreements.

Mr. NUNN. I say to the majority leader that perhaps we could get every amendment on the whole list, and do that, even those we have not gotten time agreements on. Maybe we could do everything in second-degree amendments through the whole list.

Mr. WARNER. Mr. President, it seems to me fair to announce an intention to do that. But there may be some Senators who are not listening at the moment.

Mr. LEVIN. Mr. President, reserving the right to object, I uderstand one of Senator HELM'S amendments relates to the ABM Treaty, although I am not certain. If it does, I would like to reserve the right to offer a germane second-degree amendment to that. I do not know what is in it. I would like to reserve the right until I can read it.

The PRESIDING OFFICER. The Chair has not heard an objection to the unanimous consent.

Mr. HELMS. Yes. You did. You forgot it.

The PRESIDING OFFICER. Objection is now heard.

Mr. KENNEDY. Mr. President, will the majority leader yeild?

My BYRD. I yield.

Mr. KENNEDY. On the list of the Armed Services Committee there are three amendments which I offered. The one on the PRIMUS, which I believe will be agreed to, 10 minutes ought to be enough.

On the one dealing with the military facility, that can be 10 minutes.

The third deals with the aircraft carrier study, which I have given to the Senator from Virginia. I will be glad to enter into any time limit he would be agreeable to. I hope we can have a 30-minute limit on that one. I want to at least assure that those amendments will be included.

Mr. WARNER. I am confident that we can work our with the Senator from Massachusetts his wishes. He has spoken with this Senator.

Mr. BYRD. Let me see if I heard the Senator correctly. Ten minutes equally divided on the Watertown Army Lab MilCon; 10 minutes equally divided on PRIMUS/NAVCARE clinic funding; 30 minutes equally divided on the carrier study.

Mr. GLENN. Mr. President, reserving the right to object, this involves the carrier study?

Mr. KENNEDY. Yes.

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

Mr. BYRD. That completes the list of amendments on which I have indications as to time limitations.

Mr. METZENBAUM. Mr. President, there are two amendments: one has to do with the M-1A1 tank, 20 minutes equally divided; and one has to do with burdening, also 20 minutes.

Mr. GRAMM. What was the last one?

Mr. METZENBAUM. Burden sharing.

Mr. BYRD. I had a question a moment ago as to what that involved.

Mr. QUAYLE. What is burden sharing?

Mr. METZENBAUM. The amendment two other Members are offering having to do with the Europeans and Japanese picking up a greater share of the burden. I believe their amendment is a substantive amendment. Mine is a sense-of-the-Senate resolution in the same direction.

Mr. QUAYLE. If it is a sense-of-the-Senate resolution, I have no objection.

Mr. BYRD. That is burden sharing.

Mr. METZENBAUM. Burden sharing. The tank one is different.

Mr. BYRD. How much on the burden sharing?

Mr. METZENBAUM. Twenty minutes on each.

Mr. BYRD. Twenty minutes on each.

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

Mr. BYRD. How much on the M-1A tank?

Mr. METZENBAUM. Twenty minutes.

Mr. BYRD. Twenty minutes equally divided.

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

Mr. BYRD. Mr. President, an amendment by Mr. SASSER—this has just been handed to me—on section 801-802 housing program, 10 minutes equally divided.

Mr. WARNER. Mr. President, is the Senator from Tennessee present on the floor?

Mr. DIXON. May we ask what that amendment is?

Mr. BYRD. I temporarily withdraw that request, until we find out more about the amendment.

Mr. KERRY. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I yield.

Mr. KERRY. While I understand that you are only propounding this request as to those amendments on which you have a time agreement at this moment, I inquire what the process will be and how we might proceed to at least get cloture as to the number of amendments, even though we cannot get time agreements on them.

Mr. BYRD. I was going to state the remaining amendments on the list which I have not presented for time agreements and then try to get consent that that is all. There would be no more amendments, other than those have been listed.

We had, I believe, two amendments from Mr. HEINZ and passed those over.

Mr. HEINZ. Mr. President, I only need two of those amendments, one on intelligence activities and one possible amendment regarding a shipbuilding program.

Mr. BYRD. Without Mr. BOREN or Mr. COHEN, I would hestitate to put the request on an amendment that is intelligence related.

On the shipbuilding amendment, Mr. HEINZ indicates 30 minutes equally divided, does he?

Mr. HEINZ has only one shipbuilding amendment, rather than two.

Mr. WALLOP. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. WALLOP. Do I correctly understand that what the leader is attempting to do is to limit the amendments to what will be listed?

Mr. BYRD. To those that are listed.

Mr. WALLOP. There are some of us who have serious reservations about doing that, until we see the outcome of the Bumpers amendment or the outcome of the War Powers amendment.

I would really like to get on with this thing, but there is an honest difference of opinion that might require additional amendments.

Mr. NUNN. I suggest to the Senator from Wyoming that on those big amendments, and they are big and they are important, perhaps we could have a reservation of two amendments on each of them, depending on whether they pass, to be under the auspices of the minority leader, and the amendments would have to have germaneness to that subject. Then we would build in possibly two amendments to each of those, and to somehow close this list out.

Mr. WALLOP. I would like to cooperate on this thing. I am as tired as the majority leader and the chairman of the committee. But I would hate to foreclose options on those two items, were they to succeed.

Mr. NUNN. Even three amendments. I am trying to get some way to close this thing out.

Mr. WALLOP. It is really impossible. I think the Senator from Georgia understands that it is really impossible to know what tactic would be most available and most attractive to pursue. If you just exempt those two on that basis, I would be perfectly willing to try to do that. That would be fine, if we could exempt those two and say that if those two are adopted, there would be no other amendments in relation to that.

Mr. NUNN. In relation to that. I would say that would be real progress.

Mr. WALLOP. If the majority leader will agree to that.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Objection to what?

Mr. BYRD. There has not been any request.

The PRESIDING OFFICER. The Senator will state the unanimous-consent request.

Mr. BYRD. I did not, I say most respectfully to the Chair. I think I was responding to a question from Mr. KERRY.

The PRESIDING OFFICER. The Chair is having some difficulty hearing. The Senate will be in order. Senators will cease audible conversation. It is difficult to hear.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I wonder if it might be possible, while we have the master lists worked on by both sides for 2 or 3 days—and we cannot get time agreements on some—is there some way we could agree that the amendments that the majority leader has listed and some others we skipped over would be the only amendments in order, and then the two exceptions would be any War Powers amendments or any SALT amendments?

Then at least you have some limits so the staff did not wake up in the middle of the night and draft some more amendments because they cannot sleep.

Mr. BYRD. I have had some requests passed to me.

Mr. DOLE. I know we had three right here.

Mr. WARNER. They are about to come.

Mr. BYRD. Mr. President, I like what the Republican leader suggested. I was going to read the request.

Mr. HELMS. It is difficult to hear the distinguished majority leader, as close as I am to him. Could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I thank the Chair.

Mr. BYRD. Mr. President, I thank the Chair and the able Senator from North Carolina.

I intended to read the list of the remaining amendments on which we have not presented any time agreements and see if we could get agreement that that be all, and I like the Republican leader's suggestion.

If other Senators are agreeable with the Republican and Democratic leaders just submit their list.

As a matter of fact, the list is what I have been working from and the remaining amendments on the list will just be all we will entertain, and we are not setting any time limit on them at the moment, but we say that is the complete list of amendments and no more.

Mr. DOLE. That is it.

Mr. McCLURE. Except those two exceptions.

Mr. BYRD. Except those two exceptions. I make that request.

Mr. HOLLINGS. You make a point; you go ahead and make any request.

Mr. BYRD. Yes. Mr. HOLLINGS has an amendment on drug testing, and he would agree to 1 hour equally divided.

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

Mr. KENNEDY. Mr. President, there is what we call the ATACKS amendment which had been on the list, dealing with nuclear tip warheads on artillery shells. If we could have a half-hour on that I think we could probably work that out. That would be listed as my amendment. Others have put it in. But if we could just be sure that is on the list. Hopefully we can work that out.

Mr. BYRD. It is not on the list.

Mr. WARNER. If I could address the leader.

Mr. BYRD. Could I proceed with this request first?

Mr. WARNER. Kennedy's, absolutely.

Mr. KENNEDY. A half-hour—I think we could probably do it in 20 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Mr. President, reserving the right to object, I have earlier said on that ATACKS amendment I was thinking about offering, had indicated I wanted to reserve the option to offer, after conferring with the chairman of the Armed Services Committee I did not think it would be necessary.

Mr. KENNEDY. Hopefully it will not. I think, hopefully, we can work it out.

Mr. QUAYLE. What is your amendment, a prohibition?

Mr. KENNEDY. Against nuclear tip warheads.

Mr. QUAYLE. Even the study?

Mr. KENNEDY. We continue the moratorium we had.

Mr. QUAYLE. The issue is the study of it.

Mr. KENNEDY. It permits studies.

Mr. QUAYLE. It permits the study. I do not think we are going to have a problem on it. I would not object. The Senate Armed Services Committee chairman is talking. It is not precluding the study of dual capability. I have no objection.

The PRESIDING OFFICER (Mr. WIRTH). The Senate will be in order. The unanimous consent is for a half-hour. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished leader.

I ask for three brief amendments on behalf of the Senator from Arizona [Mr. McCAIN] not to exceed 15 minutes, an amendment relating to Indian contracting; on behalf of myself, a contract relating to the morale, welfare and recreational funds not to exceed 30 minutes; and on behalf of Senator GRAMM not to exceed 20 minutes an amendment dealing with the alcoholic beverage sales on military bases.

Mr. FORD. Mr. President, I want to object to the third.

Mr. BYRD. Mr. President, the distinguished ranking manager was listing some amendments. I was distracted. The distinguished manager was distracted. Would he repeat those?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WARNER. I thank the majority leader. I shall be brief.

On behalf of the Senator from Arizona, an amendment not to exceed 15 minutes equally divided on Indian contracting; on behalf of myself not to exceed 30 minutes on the issue of morale, welfare, and recreational funds; on behalf of the Senator from Texas not to exceed 20 minutes an amendment relating to alcoholic beverages on military bases.

Mr. FORD. Mr. President, I have talked with the Senator from Texas about the third one there.

Mr. WARNER. Let us take the first two. Could we note the existence without fixing a time agreement on the third one?

Mr. FORD. Yes, and maybe we can work it out.

The PRESIDING OFFICER. Is there objection on the first two amendments? Without objection, it is so ordered.

The majority leader.

Mr. BYRD. Would the Chair put the request on the first two?

The PRESIDING OFFICER. On the first two there was no objection.

Mr. BYRD. I thank the Chair.

Mr. CHAFEE. Mr. President, I would ask——

Mr. WARNER. That requested third amendment goes on the list.

Mr. BYRD. The third amendment goes on the list. I yield.

Mr. THURMOND. I believe I had the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. We will not have any falling out. Does the Senator want me to yield to him at the moment?

Mr. THURMOND. Yes, I want to get the floor for a few minutes.

Mr. BYRD. Yes. May I finish with the remaining few?

Mr. THURMOND. I thought the Senator was through.

Mr. CHAFEE. I wish to make a request. I have one coming in dealing with the Rhode Island National Guard. I am not sure I am going to submit it, but if I do, I would agree to a 20-minute time limit if the manager will agree to it. If he does not agree to that time limit, that would be all right.

Mr. NUNN. Let us go ahead and get that one.

Mr. BYRD. All right, 20 minutes equally divided.

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

Mr. QUAYLE. I have one dealing with a missile proliferation report.

Mr. BYRD. One dealing with a report on missile proliferation, 5 minutes equally divided.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that those amendments that have been listed constitute the entirety of the amendments that may be called up with the exception of the two exceptions.

Mr. HELMS. Mr. President, reserving the right to object, what happened to the other three amendments?

Mr. BYRD. They are included. They are on the list.

Mr. HELMS. I just want to be careful.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that those amendments which have been listed and on which time agreements have been entered and those amendments on which time agreements have not been entered but which are listed, including technical amendments which the managers may have to offer, with the exception of the two exceptions, constitute the list of the amendments in their entirety which would be offered to this bill.

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

Mr. DOLE. Mr. President, reserving the right to object, and I think this is precisely what we need to do, but this

does not in any way pertain to any war powers amendments or SALT amendments.

Mr. McCLURE. That is correct.

Mr. BYRD. That is right.

The PRESIDING OFFICER. With those two exceptions I believe by the majority leader.

Mr. BYRD. Yes.

Mr. WARNER. The exceptions are war powers and SALT.

The PRESIDING OFFICER. The majority leader propounded the request.

Mr. LEVIN. Reserving the right to object.

Mr. HELMS. The Senator did say three amendments?

Mr. BYRD. Yes, the Senator's three amendments that are on the list.

Mr. HELMS. I cannot hear. The Senator said three, and that is correct.

Mr. BYRD. Yes, three amendments.

Mr. HELMS. I thank the Senator.

Mr. LEVIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. LEVIN. If the majority leader will yield for a question, does this now preclude second-degree amendments to the amendment which had been listed?

Mr. BYRD. Mr. President, this is the list of amendments, period. If those amendments are not on this list they cannot be offered first-degree or second-degree.

Mr. LEVIN. I would like to then reserve an amendment to a Helms amendment on ABM which I understand is one of the three. I have not had an opportunity to read it but I do believe one of the three amendments of my friend from North Carolina relates to the ABM. I would then like to reserve the right to offer a second-degree amendment.

Mr. HELMS. That suits me fine. I would like to reserve the same right as to the second-degree amendment of ABM.

Mr. LEVIN. I do not have one.

Mr. WILSON. Point of parliamentary inquiry.

Mr. LEVIN. I have no objection.

The PRESIDING OFFICER. The majority leader has propounded a unanimous-consent request. Is there objection?

Mr. WILSON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from California reserves the right to object.

Mr. WILSON. Mr. President, let me inquire of the distinguished majority leader, there has been so much discussion frankly I am not clear exactly what is being proposed here. He is now offering an agreement that relates to those amendments on which there has been no time agreement, is that correct?

Mr. BYRD. Yes, they are listed. They may be called up. There is no time agreement on them.

Mr. WILSON. All right. I have a request for one addition.

Mr. BYRD. Will the Senator identify it?

Mr. WILSON. Yes. It would be a Defense Intelligence Agency manpower exemption amendment. I would be agreeable to a time agreement, but I do not believe the other side will.

Mr. BYRD. We will add that to the list.

The PRESIDING OFFICER. Is there objection to the majority leader's unanimous-consent request?

Mr. BYRD. Can we foreclose this? I see notes coming in on both sides.

Mr. LEVIN. I was wondering if I could find out, is the second-degree amendment then on the list to the Helms amendment?

Mr. DOLE. There is no limitation on the Helms amendment.

Mr. BYRD. I said there would be no other amendment.

Mr. LEVIN. I would ask the second-degree amendment to the Helms amendment be added to that list.

Mr. BYRD. Why does not the Senator just add an amendment and not make it a second-degree amendment? Because if you get to asking for second-degree amendments, you unravel the whole thing.

Mr. NUNN. I would suggest to our colleague from Michigan that he simply list an amendment that would be related to ABM.

Mr. LEVIN. I would be happy to do it that way.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio reserves the right to object.

Mr. GLENN. Reserving the right to object, I just want to get more detail on what Senator WILSON talked about on defense manpower. What was the time limit you asked for?

Mr. BYRD. There is no time limit.

Mr. GLENN. OK; fine.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. BYRD. Happy day.

The text of the agreement follows:

Ordered, That during the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 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 years for the Armed Forces, and for other purposes, the following amendments be the only amendments in order, and that where time agreements are listed, the time be equally divided and controlled in the usual form, and that the amendments be first degree amendments and that no amendments be offered in the second degree: Provided, That there be no limitation on the number of amendments that may be offered relating to SALT or to War Powers:

Bingaman—Verificaton funding/energy, 30 minutes.

Bingaman—Kennedy—NSF.

Bradley—U.S. undertake all SSBN overhauls on schedule no funds in this or any other bill shall be used to dismantle any SSBN before 30 years service, 1½ hours.

Bradley—U.S. missile dismantlement.

Boschwitz—Nuclear risk reduction center, 30 minutes.

Bumpers—Establish 6-month sunset provision on reflagging Kuwaiti ships.

Bumpers—Any SDI architecture must ensure equal protection for all states.

Bumpers—Require a report by Navy on feasibility and desirability of developing successor to Trident submarine, 15 minutes.

Bumpers/Leahy—SALT subceiling compliance.

Bumpers—Sense of Senate on convention arms control.

Byrd—3 amendments.

Byrd—Morgantown Air Force Reserve.

Chafee—Rhode Island National Guard, 20 minutes.

Conrad/Sasser—Burdensharing.

D'Amato—Drug interdiction, 30 minutes.

Danforth/Bond—Fort Leonard Wood—silicon add.

Danforth—Funds for Missouri National Guard, 10 minutes.

Dixon/Bumpers—Small business.

Dixon—Drug interdiction, 30 minutes.

Dixon—Special tooling and test equipment, 5 minutes.

Dodd—Terminate economic/military aid to Panama.

Dodd/Weicker—Prohibit any assistance to Contras.

Dole—Persian Gulf, praise of operation.

Dole—Require Senate ratification of SALT before U.S. obliged to adhere to its limits.

Dole—Oil embargo on Iran.

Dole—Require Soviet compliance with all SALT limits before U.S. comply with SALT II limits.

Dole—Persian Gulf.

Domenici—National Laboratories, 30 minutes.

Domenici—Superconductor, 30 minutes.

Evans—Require an independent review at Hanford, WA, DOE safety enhancements with view to restarting the end reactor, 1 hour.

Evans—Asbestos removal at Fairchild, 10 minutes.

Evans/Adams—Add funds for environmental restoration at Hanford, WA, DOE complex, 20 minutes.

Evans/Inouye—Funds for Navy Port, Everett, WA, 30 minutes.

Gramm—Davis/Bacon.

Gramm—Service contract.

Gramm—Stockpile, 1 hour.

Gramm—Alcohol beverage sale on military bases.

Harkin—NSC advisory-military officer should not serve in this position.

Heinz—Intelligence related.

Heinz—Shipbuilding, 30 minutes.

Helms—INF.

Helms—ABM.

Helms—Persian Gulf.

Helms—State Dept. Americanization.

Hollings—Drug testing, 1 hour.

Inuoye—Fort DeRussy, 10 minutes.

Johnston—Secretary of Defense draw up oil supply contingency.

Johnston—Bio-environmental hazard research, 10 minutes.

Kasten—Sense of the Senate, Japanese/Vietnamese trade, 30 minutes.
Kennedy—Carriers study, 30 minutes.
Kennedy—Restore PRIMUS/NAVCARE clinic funding, 10 minutes.
Kennedy—Watertown Army lab milicon, 10 minutes.
Kennedy—ATACKS, 30 minutes.
Lautenberg—CHAMPUS payment for charitable hospitals, 30 minutes.
Lautenberg—Religious apparel, 1 hour.
Levin—Cuts strategic/reallocate to conventional, 40 minutes.
Levin—Authorizing funds for centers of advanced technology, 10 minutes.
Levin—ABM.
Levin—Cuts strategic/reallocate to conventional.
Levin/Dixon—Cut SDI, reallocate to conventional.
Metzenbaum—M1A1 tank, 20 minutes.
Metzenbaum—Burdensharing, sense of Senate, 20 minutes.
McCain—Indian Contacting, 15 minutes.
McClure—Authorize 2 new production reactors, 30 minutes.
Nunn-Warner—Technical amendments.
Nunn—2 MAF amphibious lift requirement.
Proxmire—Sense of Congress on early deployment of SDI.
Proxmire—GAO study, 20 minutes.
Quayle—Nuclear warhead for ATACKS.
Quayle—INF, 1 hour.
Quayle—SDI report, 10 minutes.
Quayle—European troops, 30 minutes.
Quayle—SALT.
Quayle—Missile proliferation, 5 minutes.
Roth—Base closure reform.
Roth—European workload program.
Roth—North Atlantic assembly study on NATO, 10 minutes.
Sasser—801, 802 housing.
Shelby—Prohibition on sale of Toshiba products in military exchanges, 20 minutes.
Simon—Sense of Senate regrading early SDI deployment.
Specter/Heinz/Lautenberg/Bradley—Restore TAO fleet oiler ship, 30 minutes.
Wallop—Assign strategic mission within the armed services, 2 hours.
Warner—Contact on morale/welfare/recreational funds, 30 minutes.
Warner—Authorize SDI institute, 30 minutes.
Warner—DOE safety oversight, 30 minutes.
Warner—FEMA add-on, 30 minutes.
Weicker—Special access programs, 20 minutes.
Weicker—War Powers.
Wilson—Regarding M113A3 for guard/reserves, 20 minutes.
Wilson—Cost effectiveness at the margin, 1 hour.
Wilson—Shipboard IFF, 10 minutes.
Wilson—Space launch recovery.
Wilson—Presidio army hospital, 1 hour.
Wilson—Military spouses, 30 minutes.
Wilson—Strike Levin/Nunn language.
Wilson—Defense intelligence manpower exemption.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

TRIBUTE TO JUDGE EMORY M. SNEEDEN

Mr. THURMOND. Mr. President, I regret to announce that today Judge Emory M. Sneeden passed with cancer at Duke University at Durham, NC.

He was a remarkable man. He was a friend of most of the Senators here and I wish to take about 12 minutes to pay tribute to him.

He was born in Wilmington, NC, and educated at Wake Forest, including a law degree. He had a certificate from the Hague Academy of International Law and was a graduate of the Graduate School of Business at the University of Pittsburgh.

He married Margie Carden of Columbia, SC, and they have two children, a daughter, Sharon Sneeden Clapper, and a son, David Michael Sneeden, and a number of grandchildren.

Mr. President, Judge Sneeden was one of the finest men I have ever known. He served his country well in war. He served it well in peace. He had a remarkable military record.

He entered the U.S. Army as a private in World War II and served in a parachute field artillery battalion in the Pacific. He was a gunner in a parachute field artillery battalion, battery commander, and company commander. Then he returned to private life.

He returned to active duty during the Korean war. He served in Korea and Vietnam during the conflicts in those countries. He transferred from infantry to the Judge Advocate General's Corps, following the war in Korea. He was a defense counsel and prosecutor in the Judge Advocate's Corps.

After graduation from the U.S. Army War College in 1970, he served as personnel chief of the Judge Advocate General's Corps and later as executive to the Judge Advocate General of the Army. He was promoted to brigadier general while serving as senior counsel to the Commander XVIII Airborne Corps, Fort Bragg, NC. He was appointed Chief Judge of the Army and retired from that position in 1975.

A remarkable record.

He was awarded three Legion of Merits, the Air Medal, Senior Parachute Badge, Republic of Vietnam Parachute Badge, and 18 other medals and awards.

Mr. President, in addition to his outstanding military record, he served will in civilian life. Here in Washington, he served as legislative assistant and adminsistrative assistant in my office and performed in a most competent manner.

He has written many legal papers and he was much in demand as a speaker. He spoke at the Harvard Law School and the School of Government there and many other places.

On the Judiciary Committee of the U.S. Senate, he served as minority counsel to the Republicans and as chief counsel to the full committee.

He served as an associate dean and lecturer in law at the University of South Carolina Law School.

He was a partner in the McNair Law Firm and he served as a U.S. Circuit Judge for the Fourth U.S. Circuit.

Mr. President, this was a man for all seasons. He was a man of unquestioned character and integrity. He was a man of great courage—physical courage on the field of battle, moral courage in civilian life; a man of great capacity and ability, and yet a man of tremendous compassion.

He was a fine gentleman, a true patriot, a brave soldier, and a loyal friend.

Most of the Senators here knew him and admired him.

In my opinion, no one has ever served on the staff of a U.S. Senate committee who was more able, more dedicated, more sincere and loved his country more than Judge Sneeden. I was very proud to claim his fine friendship.

He performed nobly in time of war and he performed nobly in time of peace. We all are very proud of him.

I wish to extend my deepest sympathy to his lovely wife, Margie, and his daughter, Sharon Sneeden Clapper, and to his son, David Michael Sneeden, and to his grandchildren.

I ask unanimous consent that a full biography of Judge Sneeden be printed in the RECORD.

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

JUDGE EMORY M. SNEEDEN

Home Address: Columbia, South Carolina.

Office address: The McNair Law Firm, PA, Attorneys and Counselors At Law, Eighteenth Floor, Bankers Trust Tower, Post Office Box 11390, Columbia, South Carolina. Washington office: 1155 Fifteenth Street, NW., Washington, DC.

Personal data: Birth Place: Wilmington, North Carolina. Date of Birth: May 30, 1927. Marital Status: Married to Margie Carden Sneeden. Children: Sharon Sneeden Clapper and David Michael Sneeden and a number of Grandchildren.

Education: Wake Forest University, B.S. degree, 1949. Wake Forest University School of Law, J.D. degree, 1953. Certificate, The Hague Academy of International Law, The Hague, Netherlands, 1961. Graduate, Management Program for Executives, Graduate School of Business, University of Pittsburgh, Pittsburgh, Pennsylvania, 1972.

Experience:

From 1975 until March, 1977, served as Legislative Assistant and Administrative Assistant to U.S. Senator Strom Thurmond. During the same period specialized in Antitrust Legislation and served as Senator Thurmond's counsel on the Antitrust and Monopoly Subcommittee, Committee on the Judiciary, U.S. Senate.

Appointed by Senator Thurmond in March, 1977, on his becoming Ranking Minority Member on the Committee on the Judiciary, to the position of Minority Chief Counsel and Staff Director, Subcommittee on Antitrust and Monopoly and to the position as Chief Minority Counsel to the Full Committee. In 1981, when the Republican Party became the majority party, served as Chief Counsel, Committee on the Judiciary.

August, 1978-April 1982, Associate Dean and Lecturer-in-Law, School of Law, University of South Carolina, Columbia, South Carolina.

On leave 1979-81, served as Chief Minority Counsel and later as Chief Counsel, Committee on the Judiciary, U.S. Senate.

Partner in the Columbia, South Carolina Law Firm of McNair Glenn Konduros Corley Singletary Porter & Dibble, PA, since 1982.

Military service:

Entered the U.S. Army as a private in World War II and served in a parachute field artillery battalion in the Pacific. Returned to active duty during the Korean war. Served in Korea and Vietnam during the conflicts in those countries. Transferred from Infantry to the Judge Advocate General's Corps, following the war in Korea.

Gunner in a parachute field artillery battalion, Battery Commander, Company Commander, Defense Counsel and Prosecutor. After graduation from the U.S. Army War College in 1970, served as personnel chief of the Judge Advocate General's Corps and later as the Executive to the Judge Advocate General of the Army. Promoted to brigadier general while serving as senior counsel to the Commander XVIII Airborne Corps, Fort Bragg, North Carolina. Appointed Chief Judge of the Army and retired from that position in 1975.

Awards: The Legion of Merit (3 times), Air Medal, Senior Parachute Badge, Republic of Vietnam Parachute Badge, 18 others.

Memberships: Member of the bars of the Supreme Court of South Carolina, (1953); United States Court of Military Appeals, (1956); United States Supreme Court, (1959) and the United States Army Court of Military Review, (1971). Member of the Board of Trustees, Fork Union Military Academy, Fork Union, Virginia, since 1976. Member of the Founders of The Strom Thurmond Center, Inc., Clemson University, Clemson, South Carolina, since 1981.

Recent publications: "Standing of Foreign Governments to Bring Antitrust Suits: Congress Responds to Pfizer v. India", 19 Harvard Journal on Legislation, 253-285, 1982 (Co-Author). "Illinois Brick—Do We Look To The Courts or Congress"? XXIV The Antitrust Bulletin, 205-231, (Summer 1979). "Prepared statement" filed with the Committee on Judiciary when appearing as a witness reference the Proposed Amendments to the Clayton Act Hearings on S. 300, The Antitrust Enforcement Act (Illinois Brick), 96th Congress, 1st Session, reprinted in the Congressional Record, S. 3837-S.3838 daily ed., April 2, 1979. "Oil and Coal A Political Football", Guest Column, Swann Oil Energy Digest, Volume 3, Number 22, November 15, 1978.

Recent major speaking engagements:

Member of Panel American Enterprise Institute with David Cortright and the Honorable Melvin Laird, moderator, Mr. Cortright contended that soliders, sailors, marines and uniformed air force personnel should unionize. I took the opposite view. Washington, D.C., 1977.

Dinner speaker, American National Standards Institute 60th Anniversary Evaluation and Forecast. "The Congressional Counsel and a Look Into the Future", Washington, D.C., 1978.

Seminar speaker, The Brookings Institute, Seminar for Business Executives, "The Congressional Counsel", Washington, D.C., 1980, 1981.

Seminar Faculty Member, The World Trade Institute at The World Trade Center, Seminar: Antitrust Compliance For The Multi-national Company, "Current Legislative Developments Concerning Antitrust", New York, New York, 1981.

Guest Lecturer, all General Counsel, member companies, Grocery Manufacturers of America, Arlington, Virginia, 1981.

Seminar speaker together with Judge Stephen Breyer, 1st U.S. Circuit Court of Appeals, Harvard University, School of Law and the Harvard University, School of Government, "The Committee on the Judiciary, U.S. Senate, Past and Future", Cambridge, Massachusetts, 1981.

U.S. Senate staff:

Legislative initiatives, which required major staff work on my part: Labor Law Reform Act; Prohibition to Unionization of the Military; The Hart, Scott, Rodino Antitrust Improvements Act; The Antitrust Enforcement Act of 1978; Horizontal and vertical divestiture proposals addressing the petroleum industry 1977 and 1978; The Criminal Code; The Soft Drink Bottlers Bill; The Antitrust Procedural Improvements Act of 1979 and others.

Commended by letter for legislation, nominations and other staff work by the following U.S. Senators: Strom Thurmond, Max Baucus, David L. Boren, Robert Dole, J. James Exon, Barry Goldwater, Howell Heflin, Patrick J. Leahy, Richard G. Lugar, Charles McC. Mathias, Jr. and Howard M. Metzenbaum.

Commended in 1980 in the Congressional Record for legislative staff work by the following Senators: Strom Thurmond, Birch Bayh and Dennis DeConcini.

Commended for service as Chief Minority Counsel by Resolution unanimously passed by the Committee on the Judiciary United States Senate, 96th Congress, 2d Session, October 4, 1980.

Mr. HOLLINGS. Will the Senator yield?

Mr. THURMOND. Mr. President, I yield to my distinguished colleague, Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I want to join in the sentiments expressed by my senior colleague. The loss of Emory Sneeden is a tragedy and I extend my deepest sympathy to the family.

I have known Emory as an outstanding and distinguished judge, as the highly competent staff director at the Senate Judiciary Committee, and as a fine friend and thoughtful and caring husband and father to his wife and family.

Emory prided himself on his integrity and thoroughness—and the highest quality of work on any job he encountered. Many of my Democratic colleagues on the Judiciary Committee would often comment to me on how fair Emory treated them in every respect—and how he saw no difference in responding to the concerns of the majority and minority alike.

His time on the bench was equally distinguished—a facts that Senate THURMOND and I are especially proud of.

Again, I wish to extend my sympathies to Emory's family and let them know that we have all last a man that was a fine and decent friend.

Mr. President, I intend to have more extensive remarks tomorrow. But I did want to join my colleague tonight in expressing regret for this tragic loss.

I thank the distinguished Senator.

Mr. KENNEDY. Will the Senator yield?

Mr. THURMOND. I now yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Judge Sneeden represented the minority at the time when I was chairman of the Judiciary Committee. But he did not represent just the minority, he represented the finest traditions of the Judiciary Committee. Through his work and others, it made the workings of that committee one of the most constructive and productive committees.

Judge Sneeden was an invaluable help to not only the minority, but I think all of the members of the majority also felt he was an invaluable help to them.

I acknowledge, as the Senator from South Carolina has, his extraordinary service in time of war, in time of peace, as a member of a legislative staff serving the Senate, and also as a very distinguished member of the judiciary.

I, too, join with the distinguished Senator from South Carolina in extending my condolences to the members of the family and to say that this was an extraordinary individual and this institution was better served because of his service.

Mr. THURMOND. I thank the able Senator from Massachusetts. I now yield to the able minority leader.

Mr. DOLE. Mr. President, many of us had the opportunity, at least this Senator did, know Emory Sneeden quite well. I can see him seated next to Senator THURMOND right now in this Chamber.

He was a friend. He was courteous. He was kind. He was a gentleman. He will be missed by all of us. He was never looking for anything but how to serve the Senate and how to serve the distinguished Senator from South Carolina.

I certainly want to join in expressing my sympathy to his wife, Margie, and to his children and grandchildren. I want to express my appreciation for the many, many hours of service that this man has given to this country.

Mr. THURMOND. I thank the able minority leader.

I now yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I thank my freind from South Carolina.

Obviously, I share the sentiments of the sadness eloquently expressed here this evening about Emory. At a later time, I will amplify on these remarks, but at the present time I will simply say that I do share in the sadness

which I know will be expressed later on by all who knew him.

He was a great American. He loved this country faithfully, and he served it faithfully in time of war and peace. He was a role model for a lot of people. He set examples that we all ought to follow. Everything he did from leadership in combat to steady and sound judgment in the Fourth Circuit Court of Appeals was a mark of greatness.

Most of us here knew him best as chief counsel of the Committee on the Judiciary, and particularly his unfailing courtesy and exceptional intellect in dealing with the many difficult and controversial matters that came before that committee.

In short, Mr. President, I am thankful for his life, grateful for the opportunity of having known him, and will sorely miss the warmth of his friendship.

Mr. THURMOND. I thank the distinguished Senator from North Carolina.

Mr. President, I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I wish to associate myself with the remarks of our distinguished colleague from South Carolina. It was my privilege also to know the judge and to work with him.

During the years when I was with the Department of Defense, I came many times to visit my distinguished colleague.

Emory Sneeden was a Southern gentleman in the true meaning of that word.

Mr. THURMOND. I thank the distinguished Senator from Virginia.

Mr. SIMPSON. Mr. President, I want to say a swift word about Judge Emory Sneeden. Others have paid tribute to him. My tribute will be short.

He was a dear man. I met him first when I came to this place. He served Senator THURMOND as his chief of staff and counsel. He was very kind to me and very helpful to me as I took on my duties as chairman of the Subcommittee on Immigration and Refugee Policy.

I heard Senator KENNEDY speak a few moments ago about him. Senator KENNEDY was the ranking member and I was the chairman of the Immigration and Refugee Policy Subcommittee. Emory Sneeden was just as supportive and helpful to one as the other. He was a person I shall never forget. He was very kind to me and very supportive. He was very much a counsel in every respect.

I send my sympathy to his wife and children.

Mr. HATCH. It is with a great deal of sadness that I note the passing of a great friend and patriot Emory Sneeden. Emory was one of the finest people who ever served on the Hill and for our country. He was always a gentleman, a friend, a patriot, a family man, and a moral force for good. I'm so happy I had the privilege of knowing him. His life was a great one. He made a difference. He lived for the benefit of all of us. I can remember many times when he took the time to help this Senator as a member of the Judiciary Committee and as a U.S. Senator.

I express my sincere condolences to his good wife, children and grandchildren.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

Mr. DIXON. Mr. President, I am prepared to send another amendment to the desk but my friend from Rhode Island asks that I yield to him for a brief statement.

Mr. CHAFEE. I thank the distinguished Senator from Illinois.

EXPLANATION OF A VOTE

Mr. CHAFEE. Mr. President, in the last rollcall vote which we had on an amendment by the distinguished Senator from North Carolina, in which it said it was the sense of the Senate that the U.S. Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship, with that portion of the resolution I completely agree. I voted no on the resolution because of the following section. I just want to make it clear publicly that I support what our Nation and our Navy did in the Persian Gulf the other day. My only reason for voting against this resolution was the second part, which I did not feel was appropriate.

I thank the distinguished Senator.

AMENDMENT NO. 736

(Purpose: To provide for the payment of the cost of production special tooling and production special equipment)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. STEVENS, and Mr. GRAMM, proposes an amendment numbered 736.

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

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

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) TREATMENT OF PAYMENT.—Costs incurred by a contractor for the acquisition of production special tooling and production

special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) RIGHT OF UNITED STATES TO SPECIAL TOOLING AND TEST EQUIPMENT.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) EFFECTIVE DATE.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

Mr. DIXON. Mr. President, this is a amendment agreed to by the managers on both sides. It is an amendment sponsored by myself, the distinguished Senator from Alaska [Mr. STEVENS], and the distinguished Senator from Texas [Mr. GRAMM]. Senator GRAMM is the ranking member on the jurisdictional subcommittee of the Armed Services Committee. The distinguished senior Senator from Alaska is the ranking member on the jurisdictional subcommittee of the Appropriations Committee.

I am pleased that Senator STEVENS worked very closely with me on the drafting of this amendment. He has been in the forefront on this issue and his advice has, I feel, made the amendment workable and even-handed.

This amendment clarifies the application of existing law regarding the payment by the Department of Defense to contractors who are required to use special tooling and special test equipment in the performance of defense contracts.

Under the prior, longstanding, policies of the Department of Defense, whenever a contractor was required to purchase tooling and test equipment that was unique to a particular contract, the Department of Defense would reimburse the contractor in full for that equipment. In 1985, however, the Navy experimented with a controversial policy of reimbursing contractors for only a portion of the full cost of acquiring the needed special tooling and special test equipment.

Last year, as part of the Department of Defense Appropriations Act, and as a means of achieving the outlay reduction targets required by the Gramm-Rudman-Hollings law, Congress for the first time addressed this matter legislatively and adopted a modification of the Navy position. Under the law adopted last year, the Secretary of a military department may generally reimburse contractors for only up to 50 percent of the total cost of acquiring that special tooling and test equipment, except in such limited circumstances such as:

When the contractor could not handle the additional financial exposure;

When the equipment is to be used for "final production acceptance test"; or

When the entire purchase of the item is to be made in 1 year.

Unfortunately, even the enactment of this provision was controversial, and confusing. While the bill language purports to provide one policy, the joint explanatory statement of the managers accompanying the bill provides a very different, and in at least two instances, contradictory, explanation of the provision. Understandably, this conflict created enormous difficulty for the Department of Defense in interpreting and implementing the provision. It also caused difficulty for the contracting community in anticipating what the Government's reimbursement policy would be, and in trying to price proposals in response to this limitation.

Mr. President, on May 29, 1987, I wrote to Under Secretary of Defense Godwin asking for his assistance in resolving the conflicting guidance. Finally, on August 3, I received the Secretary's response. He concluded, in essence, that there was nothing that the Department of Defense could do in its regulations to provide any further guidance than what the plain meaning of the law was. That is a novel theory for the Department, since they seem to be ready to interpret any law with a great deal of enthusiasm.

Mr. President, I ask unanimous consent that the text of my letter, and the Secretary's response, be inserted in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. DIXON. I know that the Department of Defense has generally opposed any legislation in this area, including last year's appropriations provisions. In a May 14, 1987, letter to Congressman BILL CHAPPELL, the chairman of the House Defense Appropriations Subcommittee, Under Secretary Godwin commented on selected issues raised in an Appropriations Committee's staff report on the Navy's acquisition policies by stating:

> We agree with the conclusion of the Committee staff report that this effect of (requiring contractor investment in production special tooling and production special test equipment) will be to increase total cost to the Government in then-year dollars because contractors will have to be compensated for the increased risk and additional financing expense created by this approach. In this area, the Department's actions are constrained by the fact that the FY 1987 Defense Appropriations Act requires at least partial contractor funding of PST/PSTEE in most circumstances . . . We believe the House Appropriations Committee should act on the conclusion of its staff report by recommending against such a provision in FY 1988.

I am opposed to the changes in policy, as well. I would not be offering this amendment if I was assured that Congress will not renew the provision in the next appropriations bill and that the Navy—and now DOD-wide—policy would be rescinded and the prior practice restored. Regrettably, Mr. President, at this point I do not have that view. Consequently, I am offering this provision to ensure that an appropriate policy is clearly, and correctly, stated.

The key elements of this amendment have already passed the Senate as part of the technical corrections to the fiscal year 1987 appropriations provisions included in the fiscal year 1987 supplemental appropriations bill. However, these changes were not included in the final version of that supplemental bill that was approved by the Congress.

Basically, the policy spelled out in this amendment follows only a few basic rules and will be implemented under regulations issued by the Under Secretary of Defense for Acquisition:

First, if a contractor is required to have special tooling and special test equipment for "final production acceptance test," the contractor is entitled to be reimbursed for such equipment in full as a direct cost.

Second, if the United States does not intend to purchase future quantities of the item initially required in the contract, then the contractor is entitled to be reimbursed for such equipment in full as a direct cost.

Third, if the United States does not intend to purchase additional quantities of the same item as initially required in the contract, then the contractor is entitled to be reimbursed as a direct cost for at least 50 percent, and possibly up to 100 percent, of full acquisition cost of such tooling or test equipment in the first year, and the balance of the acquisition cost, if any, according to an amortization schedule mutually agreed upon between the Government and the contractor. Exceptions to this proposed funding may be approved in advance, by the Secretaries of the Services, on a case-by-case basis, under criteria established by the Undersecretary of Defense for Acquisition.

Finally, in the event that a contract is terminated for any reason other than the failure of the contractor to perform the contract, or if the program for which the special tooling or test equipment was acquired is canceled for any reason other than the contractor's failure to perform, the contractor is entitled to be reimbursed for any outstanding balance of the cost of such equipment. In each of these circumstances, the Government may take title to that equipment when it has reimbursed the contractor in full for the cost.

Mr. President, this is an acquisition policy issue that falls squarely within

the jurisdiction of the Senate Armed Services Committee. It is a program that we in the Senate Armed Services Committee should take responsibility for, and take action on, if appropriate.

I hope that this amendment will be agreed to.

EXHIBIT 1

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, August 3, 1987.

Hon. ALAN J. DIXON,
U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your recent letter regarding the Department of Defense (DOD) implementation of the special tooling and special test equipment (ST&STE) provision of Section 9105 of the DOD Appropriations Act of 1987 (Public Law 99-500).

The discrepancy mentioned in your letter appears to be between Section 9105 of Public Law 99-500 and the conference report language which accompanied the law. Section 9105 provides "That no contractor may be reimbursed directly under a contract . . . for more than 50 percent of the full acquisition cost of production special tooling and production special test equipment . . ." The conference report provides ". . . that contractors will carry as much of the financing as possible up to 50 percent." The statutory language established a floor which requires contractors to finance at least 50 percent of the cost of ST&STE, whereas the conference report language establishes a ceiling for which contractors should not carry more than 50 percent. In preparing our interim regulation, we followed Section 9105 because conference language is not law. With regard to the portion of ST&STE costs to be borne by the contractor, the statute is quite clear. The statute does not prohibit the DOD from requiring a contractor to finance more than 50 percent. Therefore, DOD's interim regulation is entirely consistent with Section 9105.

The other key point raised in your letter concerns payment for any unamortized balance of ST&STE costs in the event of termination for any reason other than failure of the contractor to perform. The statute states "Provided further, the contract may provide that if such a contract is terminated for any reason that does not reflect failure of the contractor to perform, the contractor shall be entitled to be paid by the United States for the cost of any tooling and test equipment which has not been fully amortized . . ." (underline for emphasis added). The word "may" in the statute is permissive. Accordingly, a contracting officer has the flexibility to decide what arrangements to make for reimbursement of unamortized ST&STE costs.

I appreciate your interest and support in this important matter.

Sincerely,

RICHARD P. GODWIN.

U.S. SENATE,
Washington, DC, May 29, 1987.

Hon. RICHARD P. GODWIN,
Under Secretary of Defense for Acquisition, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: It has been brought to my attention that there is a possible serious discrepancy between the Department of Defense's interim regulations and the 1987 fiscal year Continuing Resolution relative to contractor participation in tooling and testing equipment costs. I understand that your regulations make the contractor liable for paying any percentage of the tooling and testing equipment up to 100 percent and does not guarantee the recovery of costs in the event of termination. Instead, both decisions are left to the discretion of each individual contracting officer.

I think the intent of Congress is clear:

"That no contractor may be reimbursed directly under a contract awarded 90 days after the effective date of this Act, where the purchase of additional quantities of like items is contemplated in subsequent years, for more than 50 percent of the full acquisition cost of special tooling and production test equipment as a direct cost. . . ."

"Provided further, that the contract may provide that if such a contract is terminated for any reason that does not reflect failure of the contractor to perform the contractor shall be entitled to be paid by the United States for the costs of any tooling and test equipment which has not been fully amortized. . . ."

The conferees clearly stated the intent and spirit of the law in the report: "But it is clearly expected that contractors will carry as much of the financing as possible up to 50 percent." And: "Which entitles a contractor to be paid for the unamortized balance of any tooling remaining in the event of termination except for failure of the contractor to perform."

However, it appears upon review of the published regulations, dated January 16, 1987, DoD's policy statement is not so clearly stated. I am informed that least one service is interpreting the law and regulation to mean that a contractor can be required to pay up to 100 per cent of the special tooling and testing equipment.

I believe the intent of Congress and the Armed Services Committee on which I serve is to create a foundation on which Congress, the Department, and Industry can build to seek a single goal: to maintain a viable industrial base on which this country can rely. We all should be cooperating to create the formula which will ensure this goal. If we can solve the problems I point out in this letter we will be taking a step in that direction.

I look forward to your prompt reply.

Respectfully,

ALAN J. DIXON.

Mr. STEVENS. Mr. President, I am delighted to be a cosponsor on this amendment with the senior Senator from Illinois [Mr. DIXON]. This amendment codifies the policy contained in section 9105 of the Defense Appropriations Act adopted last year.

This policy requires contractor financing of up to 50 percent of the cost of production tooling for the manufacturing of defense-related equipment. This is in line with section 9105 to achieve this cost sharing arrangement between the Government and industry for production tooling. Under this procedure, contractors are reimbursed for these costs in accordance with an amortization schedule over the term of the program. This in turn eliminates the need for the Government to assume the enormous up front costs for tooling and thereby defers outlays. Last year, Mr. President, the Appropriations Committee adopted section 9105 as a means to defer better than $500 million in outlays which would have otherwise been incurred in fiscal year 1987.

In addition to the outlay benefits, there are cost saving features in the implementation of this policy. Under this approach, the contractor and the Government must now agree to program tooling requirements. Since the contractors assume a portion of this financial risk, there is now a significant incentive to decrease costs because the contractor seeks to minimize financial exposure. This means test is a fiscal element which did not exist when the Government assumed full cost up front.

Again, this policy has been in effect since last year. Now that the Defense Department has had some experience with administering the policy, the amendment not only codifies section 9105, it also enhances the Government's negotiating position.

The Appropriations Committee was faced with a hard choice when this policy was implemented. In view of the severe outlay constraints contained in the budget resolution, our alternatives were to either significantly decrease programs or alter the manner in which programs are financed. By adopting this tooling policy, we elected to find new financing procedures which seem to have survived the test of time. I am delighted to join my colleague, Senator DIXON, and I commend him for raising this initiative to establish this policy as permanent law.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 736) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. 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. DIXON. Mr. President, may I suggest as the manager of the bill that we are waiting for amendments to be offered. Mr. President, there are about 90 amendments. I wonder whether some Senator who has several in hand might want to come to the floor and offer amendments.

The PRESIDING OFFICER. If the Senator from Illinois would suggest, we can go to third reading of the bill.

Mr. DIXON. The Senator from Illinois would be delighted to suggest that but about 90 Senators would object if I did.

Mr. SIMPSON. Mr. President, I think we better check with the majority leader before we do that. It is an interesting request, when you call for that. I do not choose to call for that.

AMENDMENT NO. 737

(Purpose: To record the sense of the Senate that no treaty on intermediate nuclear forces should be concluded unless verifiable nor signed until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missiles Treaty)

Mr. HELMS. Mr. President, is the bill open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 737.

Add at the end of the bill the following new section.

"SEC. . It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missile Treaty of 1972.".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. HELMS. Mr. President, the pending amendment is, in my judgment, simple and straightforward. It is in the English language and is quite understandable.

Mr. President, my amendment merely requires that any proposed INF treaty is fully and effectively verifiable, and it warns the President not to sign any INF Treaty until the Soviets stop violating the existing ABM Treaty. These purposes are only logical and reasonable.

Perhaps the Senate needs to be reminded of certain basic facts about arms control and its history.

First, on May 9, 1972, the United States in an official statement to Congress announced its intentions on withdrawing from the SALT I ABM Treaty as follows:

The United States [SALT I] Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces . . . If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, United States supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Second, 15 years after the United States made the policy declaration of May 9, 1972, the United States has still not yet achieved the objective of "an agreement providing for more complete strategic offensive arms limitations."

Third, President Reagan reported to Congress on June 3, 1986, that there was a "growing strategic imbalance between the United States and the U.S.S.R." President Reagan added that the Soviet Union now has a "first strike capability" which was "seriously eroding the stability of the strategic balance," and which has resulted in a "loss in the survivability of United States strategic forces."

Fourth, I would point out that article XV of the SALT I ABM Treaty, which was ratified on October 3, 1972, states:

Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests.

Fifth, President Reagan reported further to Congress that the siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM battle management radar "directly violates" three provisions of the SALT I ABM Treaty. Both the Senate and the House of Representatives have now each voted unanimously that the Krasnoyarsk radar is a violation of the SALT I ABM Treaty.

Sixth, President Reagan has also reported further to Congress that it is "highly probable" that the Soviet Union has conducted multiple tests of surface-to-air missile interceptors and radars in a prohibited ABM mode, and has developed a prohibited mobile ABM system. The President has also reported to Congress that "all Soviet large phased array radars * * * have the inherent capability * * * of contributing to ABM battle management, * * * and LPARs have always been considered the long lead time elements of a possible territorial defense." President Reagan added that the Soviet Union "may be developing a nationwide ABM defense" in direct contravention of article I of the ABM Treaty, the most important provision of the treaty.

Mr. President, I believe that the Soviet strategic offensive and defensive buildups have placed the supreme interests of the United States in peril. I believe further that the President should be required to report to the Senate on an urgent basis whether the United States should withdraw from the SALT I ABM Treaty.

Therefore, Mr. President, my amendment provides simply that the United States should not condone or forgive Soviet violations of all existing arms control treaties, particularly the ABM Treaty, by signing a new arms control treaty in the face of an expanding pattern of Soviet violations.

Finally, I would remind the Senate that the following language, which captures the thrust of my amendment, passed the Senate 90 to 2 last January.

This is the language:

The Senate declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been its violations of existing agreements, and calls upon it to take steps to rectify its violations of such agreements and, in particular, to dismantle the newly-constructed radar sited at Krasnoyarsk, U.S.S.R., since it is a clear violation of the terms of the Anti-Ballistic Missile Treaty.

That is the exact language of the action taken by the Senate by 90 to 2 this past January.

So I would emphasize that that language is in all essential ways identical to the language of the pending amendment.

In conclusion, Mr. President, I will inform the Senate of some new administration assessments on Soviet violations of the ABM Treaty. These assessments are unclassified, and I have just received them. They point to the fact that the administration is coming ever closer to concluding that each of the nine Pechora-Krasnoyarsk class radars is an ABM battle management radar, and thus each of the nine radars is itself a separate violation of the ABM Treaty.

NEW ADMINISTRATION UNCLASSIFIED ABM ASSESSMENTS

1. All LPARS (Large Phased Array Radars), such as the Pechora-Krasnoyarsk class radars * * * also have the inherent capability * * * of contributing to the ABM battle management. Taken together, the Pechora-Krasnoyarsk class radars and other Soviet ABM-related activities give us concern that the Soviet Union may be preparing an ABM defense of its national territory.

2. LPARS have always been considered to be the long lead-time elements of a possible territorial defense. A standard role for the Pechora class LPARS is acquisition of attack characterization data that could aid in planning the battle for Soviet defensive forces and deciding timely offensive responses. * * * Thus, LPARS also have the inherent capability of contributing to ABM battle management.

3. The introduction of Soviet mobile ICBM's certainly complicates the dividing line between the allowed Soviet National Command Authority defense, and a prohibited ICBM defense.

4. The Pechora-Krasnoyarsk class radars are the world's most powerful radars.

5. The Pechora-Krasnoyarsk class radars can track large numbers of objects very accurately, and the data from these radars can be used for any number of purposes to include early warning, attack assessments, battle management, and other kinds of ABM-related functions.

6. The redundant, overlapping, internetted coverage that the Pechora-Krasnoyarsk

class radars provide by virtue of their size and phased array nature of the radar is much better than you need for early warning.

7. Even radars in the Moscow area that are acknowledged by the Soviets to be ABM radars are not hardened.

DEFINITION OF ABM TREATY.—As used in my amendment, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems (23 UST 3435; TIAS 7503; signed at Moscow May 26, 1972).

Mr. President, I yield the floor.

Mr. DIXON. Mr. President, I simply want to say to my colleagues, wherever they are, that this is a contentious amendment. My friend has offered it and he has that right. We are in business here. At the appropriate time I will make a motion to table.

Colleagues are inquiring about whether there will be further rollcalls tonight. They are advised that shortly, at the end of this debate, there will be a rollcall vote.

Mr. President, this amendment would express the sense of the Senate on two points relating to the emerging INF Treaty. First, that it should be unquestionably verifiable. I think all of us agree with that objective. Second, the second part of the amendment would hold the INF Treaty hostage to the resolution of the Karasnoyarsk radar violation. On that point I think this side has some problems.

Mr. President, throughout the INF negotiations, the United States has labored mightily to keep the Soviet Union from holding INF hostage to other issues.

The Soviets tried repeatedly to link INF to an agreement on defense in space, but we resisted, and in the end we prevailed. This was a triumph, I think for U.S. diplomacy, and I commend the administration for its perseverence.

Regrettably, Mr. President, now, however, the Senator from North Carolina proposes to establish a new linkage between INF and issues under discussion in the standing consultative commission, as well as the defense-in-space area in Geneva; that is, issues related to Soviet compliance with the ABM Treaty.

I do not think anyone here condones Soviet violations of existing arms control agreements.

I certainly do not condone the Krasnoyarsk violation. In fact, the Senate, by an 89 to 0 vote on September 16, clearly does not countenance this violation either. But that does not mean that INF should arbitrarily be put on the shelf while we continue our efforts to convince the Soviets that they must correct the Krasnoyarsk violation.

Mr. President, I believe there is a very good chance that the Senate will engage in ratification proceedings on the INF Treaty next spring. One of the issues that will be carefully considered is whether the INF Treaty should be ratified given the past record of Soviet noncompliance. But the time to consider that, Mr. President, is in the course of the debate on that treaty, not during debate on this DOD authorization bill.

Now, I want to make two more points, Mr. President, before I move to table. The first is this: My friend from North Carolina and others on that side have been critical over the past several weeks often of people on this side in connection with things that they are doing that those on the other side would suggest are attempts to advise the administration about the course of conduct it ought to follow in connection with foreign policy.

Now, here is my friend from North Carolina, on a treaty that we have not yet considered in the Senate, wanting to set out the parameters of what we ought to do about that great debate long prior to the time it begins. Now, if there are any others on this side who care to be heard—and I see the Senator from Arkansas is rising—at this time, Mr. President, I will yield the floor with the understanding that at the appropriate time I will offer a motion to table.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wonder if the Senator from North Carolina would assure this body that the United States is in compliance with the ABM Treaty?

Mr. HELMS. Well, I will answer the Senator's question by asking him, does he have any information of the United States violating the treaty? Is he making a charge to that effect?

Mr. BUMPERS. I just wonder, first of all, could the Senator answer the question?

Mr. HELMS. You answer my question and maybe you will answer your own with that.

Mr. BUMPERS. You are asking the President not to submit an INF Treaty until he can certify that the Soviet Union has not violated the ABM Treaty, and I just wondered why the Senator did not also say "and that the United States has not violated it."

Mr. HELMS. If the Senator wants to try to modify it, let him proceed.

Mr. BUMPERS. Will the Senator modify his amendment accordingly?

Mr. HELMS. No. But the Senator can attempt to do it by adding an amendment. There is no restriction on it. I would like to have a vote on that.

Mr. BUMPERS. I am sorry, Senator.

Mr. HELMS. Pardon?

Mr. BUMPERS. I am sorry, I did not get your last comment.

Mr. HELMS. This is an amendment that was not covered by the unanimous consent previously in terms of—there has been so much confusion on the floor, so much talking, let me ask the Chair, is it in order on this amendment for there to be a second-degree amendment?

The PRESIDING OFFICER. The Chair would note first the only amendments that can be offered in either the first degree or the second degree are those which were agreed upon that were on the unanimous consent list propounded by the majority leader, so we are constrained to those amendments. The question then becomes, can one of the amendments on that list become offered as an amendment in the second degree to one of the other amendments.

Mr. BUMPERS. Can the Chair repeat that. I did not understand the parliamentary situation.

The PRESIDING OFFICER. The parliamentary inquiry propounded by the Senator from North Carolina is the following: Can the amendments in the second degree be offered to amendments that are on the list? The Chair would say that no, they cannot, unless those amendments in the second degree are on the list that was agreed upon. No further amendments beyond that can be offered.

The thrust of that interpretation comes from the exchange between the Senator from Michigan and the majority leader in which the Senator from Michigan inquired if his amendment could be offered and considered in the second degree to the amendment offered by the Senator from North Carolina. For the purpose of clarification of the situation, the majority leader, as the Chair remembers, responded by saying the only amendments that will be considered are those which are on the list, if the Senator from Michigan will only put his on the list. The Chair would interpret that as the amendment of the Senator from Michigan could be offered to the amendment of the Senator from North Carolina. Only amendments in the second degree could be offered to those on the list. No other amendments could be offered.

Mr. LEAHY. Further parliamentary inquiry, Mr. President. Would those amendments, even if they were on the list—I ask this not so much because of the amendment of the Senator from North Carolina but because this question is apt to recur on other amendments—would it be also in the Chair's ruling that if amendments, even amendments on the list were to be offered, they would have to be germane?

The PRESIDING OFFICER. There was no discussion of germaneness. Only the amendments on the list in the unanimous consent request propounded by the majority leader can be offered.

Mr. McCLURE addressed the Chair.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. McCLURE. Mr. President, parliamentary inquiry. Will the Senator yield for a parliamentary inquiry?

Mr. HELMS. I yield for that purpose.

The PRESIDING OFFICER. The Senator from Idaho will state it.

Mr. McCLURE. Mr. President, I sat and listened very carefully to the exchange that went on here earlier, and it was my understanding it was the intention of the majority leader's request that rather than having the Senator from Michigan offer a second-degree amendment he put his proposed amendment on the list as a first-degree amendment. And there was no objection to that process. I remember the majority leader saying at that time that if we open it to second-degree amendments, this whole thing will come unraveled.

I think very clearly it was the intention of the majority leader in propounding that request and certainly the understanding of a number of Members on this floor that that unanimous consent agreement precluded second-degree amendments to all of those, whether they had a time limitation or were simply on the list.

Before the Chair makes the ruling in regard to this, I wonder if it might not be well to set aside this ruling and reserve it until such time as the majority leader can be heard from as to the intention of his request.

Mr. LEVIN. Will the Senator from Arkansas yield?

Mr. BUMPERS. I do not have the floor.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I will be delighted to yield.

Mr. LEVIN. I would like to second the suggestion that we wait.

Mr. HELMS. Providing I do not lose my right to the floor.

Mr. LEVIN. I would like to second the suggestion that we wait for the majority leader to come back before the Chair makes an interpretation. My understanding was that any amendment on that list could be offered either as a first-degree amendment or as a second-degree amendment, in effect, as I sought the right to offer a second-degree amendment to the amendment of my friend from North Carolina on ABM and I was told, "Well, no, just put it on the list and then you can offer it as a second-degree amendment." Now, that was my interpretation, but I may be wrong and I would suggest that we await the majority leader's comment on it. He is now on the floor. In any event, I do not wish to offer the second-degree amendment on this amendment.

Mr. HELMS. I understand. Mr. President, I will be delighted to yield to the majority leader.

The PRESIDING OFFICER. The Senator from North Carolina has the floor. He yields to the majority leader.

Mr. BYRD. Who has the floor?

Mr. HELMS. I have yielded to the Senator.

Mr. BYRD. Mr. President, I understand that there is a question that has arisen as to whether or not——

Mr. BUMPERS. Mr. President, I cannot hear the majority leader. I do not believe his microphone is on.

Mr. BYRD. Mr. President, I believe that the question has arisen as to whether or not any amendment on the list could be offered as a second-degree amendment to any other amendment on the list. I put the request that only those amendments could be offered that were on the list, period, but that no amendment could be offered as an amendment in the second degree.

As proof of that, I believe my distinguished friend from Michigan, Mr. LEVIN, was talking with respect to offering an amendment in the second degree. I said no, if we start that, the Senator will remember—I said if we start that we are going to have the whole thing unravel. I used the word, and I said why does not the Senator put his amendment on the list and offer it as a first-degree amendment? Mr. NUNN was standing here and not only nodding his approval but said something to the effect that is the way it ought to be done. That was the request.

Mr. HELMS. I am sorry. I cannot hear the Senator. I am not understanding at all what the Senator is saying.

Let me say to my friend, he will recall that I asked for order in the Senate three or four times while this complicated unanimous-consent request was being made. My impression was that my amendment and others in the same category were just being set aside with respect to application of the unanimous-consent request. But if that is the way the Senator is stating it, that is the way it was agreed to, I have no problem with it.

Mr. BYRD. No. That was with respect to time limits on the Senator's amendment.

Mr. HELMS. Yes, I understand but at the time, with the confusion and noise, I did not. I am sorry.

Mr. BYRD. It was not with respect to the second-degree question because that was the understanding Mr. NUNN, myself, and I know Mr. NUNN was here and participated in that colloquy. Mr. McCLURE was sitting here and heard everything that was said because I looked over at him when I used the word "unravel." So if the Chair did not hear it, and the Parliamentarian did not hear it, it was a clear understanding on the part of those of us who were participating here, and on the part of myself. And I was the one who put the request that amendments listed could be only offered as first-degree amendments, and not as second-degree amendments.

Mr. LEVIN. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. LEVIN. If that is the understanding of the body and that is the Chair's understanding, I will yield to it. But my understanding was different. I wanted the opportunity to offer a second-degree amendment to Senator HELMS' amendment and I was told the whole thing might unravel if I put it that way, and that it was better to list it as an amendment on the list with my understanding being I then could offer it as a second-degree amendment.

If I am in error, and the understanding is different, I am more than happy to yield to the body. But I would like the Chair and the Parliamentarian to rule on their understanding of it because my understanding was it would not be precluded as a second-degree amendment to the Helms amendment providing it was on the list.

Mr. BYRD. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, let me just say to the majority leader, I think the majority leader stated it exactly correctly because what we are asking the Senator from Michigan to do is not to put the amendment in the second degree on to the Helms amendment because if the Senator insisted on doing that it was going to undo every other Senator's willingness to refrain from putting it on. So we asked the Senator from Michigan to list the amendment and in his own right so that if the Helms amendment is adopted the Senator then could come back and put on that amendment.

That was the clear understanding that I had and otherwise the purpose for the request to the Senator from Michigan would have been useless.

Mr. HELMS. addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the unanimous consent that what the majority leader has just restated is perfectly acceptable to me. I agree with it. I was simply wondering if the distinguished Senator from Arkansas wished to offer that amendment. I am tempted to say——

Mr. BUMPERS. Will the Senator yield?

Mr. HELMS. I do not yield the floor.

Mr. BUMPERS. I simply want to clarify.

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

91-059 O-89-23 (Pt. 18)

Mr. HELMS. I thank the Chair.

I will be interested to see if the Senator from Arkansas will seriously entertain the idea of offering an amendment charging the United States with violation of the ABM Treaty. I know of no violation. Perhaps he does. Perhaps he wants to make a charge against the United States. That is the point I am making. But it satisfies me completely that there be no second-degree amendment.

Mr. McCLURE. Would the Senator yield for a parliamentary inquiry?

Mr. HELMS. Yes.

Mr. McCLURE. Since there is some confusion about what the unanimous consent meant, I wonder if we could now, after the discussion has been had, have a ruling from the Chair as to the effect of the unanimous-consent agreement.

The PRESIDING OFFICER. The Chair would note that the Chair listened very carefully to the propounding of the unanimous-consent request. It reached the point where the unanimous consent was that there would only be amendments on the list, that there will be none offered in the second degree. There was no specific request that the Chair remembers that none of those amendments in fact could then be offered in the second degree, and the Chair would ask the majority leader if he might like to clarify the unanimous-consent request to take that further step. And we would then have absolute clarification, and we can proceed as expeditiously as possible.

Mr. BYRD. Mr. President, I know precisely what I said. I know what I intended. I know what others contributed as far as the conversation was concerned. I also know there was so much noise going on in the Chamber that the Chair could not hear from this position, I am sure.

I ask unanimous consent, Mr. President, that the amendments on the list be only first-degree amendments, that no amendment be in order as a second-degree amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

I certainly thank the majority leader. I am sorry the noise on the floor created some confusion.

Let me emphasize to both the Senator from Arkansas and the Senator from Illinois who, as I understand it, if I am understanding them now with all of the still on going conversations, that they suggested that I was trying to establish a linkage to an agreement; not so. Nothing could be further from the truth. The linkage that I am talking about is a linkage to the violations by the Soviet Union repeatedly to agreements that they signed and we signed.

It is beyond me why any Senator would vote to table this amendment based on what it truly says and what it truly means. It may be late at night and some Senators will not understand it. But they had better read the amendment lest it come back to haunt them. I am saying that this Government ought not to enter into a treaty unless it is absolutely verifiable, and until and unless the Soviet Union corrects all of the violations, deliberate violations of the previous treaty. That is all the amendment says. I will be mystified if any Senator opposes it.

I yield the floor.

Mr. BUMPERS. Mr. President, I wonder if the Senator from North Carolina could tell us what kind of verification would be acceptable to him.

Mr. HELMS. Has the Senator read the amendment?

Mr. BUMPERS. Yes. It says that a treaty is unquestionably verifiable.

Mr. HELMS. Exactly, "unquestionably."

Mr. BUMPERS. That is sort of like beauty. That is in the eyes of the beholder. Does the Senator want on-site inspection or is he willing to accept the President's word on what is unquestionably verifiable?

Mr. HELMS. Senator, you know what "unquestionable" means. I know what it means. You can haggle over rhetoric all you want to. But I am stating that we had better not go down that primrose path again that we have gone down so many times before. I am saying unquestionably verifiable. That is plain English.

Mr. BUMPERS. Senator, if I can make an observation.

It is that for years we have demanded the Soviets agree to on-site verification and when the Soviets agreed to on-site verification we backed away from it, and said we were only kidding. And we would not agree to it even though we had made such demands on the Soviet Union for many years. And my question to the Senator is simply I cannot imagine President Reagan submitting a treaty to us to ratify unless he felt sure in his own mind that it would be unquestionably verifiable. Would the Senator agree with me on that?

Mr. HELMS. I will agree that it is unique for the Senator to express full confidence in a President he so often and vociferously criticizes.

Mr. BUMPERS. Senator, I am not asking for personal attacks. I am just asking a question.

Mr. HELMS. In that event why does not the Senator make his own comments on the amendment?

Mr. BUMPERS. This is your own amendment, Senator, and I am asking you a question, and I would like for you to give me an honest answer. That is all I am asking. People here have a right to know what is in this amendment so they will know how to vote. I ask you, is on-site verification satisfactory? If the President says we agree to on-site verification, is that satisfactory?

Mr. HELMS. Mr. President, I have tolerated this for some time but the Senator needs to understand that any question should be directed to the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. BUMPERS. Mr. President, if I may address this question to the Senator from North Carolina to answer or not answer: Would on-site verification satisfy the Senator as being a verifiable treaty?

Mr. LEVIN addressed the Chair.

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

Mr. BUMPERS. Mr. President, I am trying to abide by the rule of the Senate. I addressed the Chair and addressed a question to the Senator from North Carolina to which he has not responded.

The PRESIDING OFFICER. If the Senator from Arkansas is asking the Chair for a substantive opinion on the question offered by the Senator from Arkansas, the Chair cannot respond.

Mr. BUMPERS. I take it by the Senator's silence that he does not have any feeling about it.

Let me address a question to the distinguished floor manager. Can he tell us what an optical airborne adjunct device is? Either one of the floor managers.

Mr. QUAYLE. Mr. President, will the Senator yield for an answer?

Mr. BUMPERS. Mr. President, I have addressed the question to either of the floor managers.

Mr. QUAYLE. Mr. President——

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

Mr. BUMPERS. That is fine, if the Senator is a floor manager. Can you tell us what an airborne optical adjunct is?

Mr. QUAYLE. It is an airplane that has radar and sensor components used for command and communications on what it sees. It is very important in any kind of potential defensive capabilities.

Mr. BUMPERS. Is that the only use to which the United States has put one?

Mr. QUAYLE. I think you are getting into an area that you might not want to get into in open discussion. I think that in the unclassified version, that project is still in the research and development and validation area. I do not think I can say much more than that. That is what the plane is for.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment, if it were adopted, would be a signal that we do not want an INF Treaty submitted to the Senate. It is a treaty-killer amendment before the treaty is born.

The President has said Krasnoyarsk is a violation of the ABM Treaty and so have we. By an overwhelming vote, the Senate is on record as saying that Krasnoyarsk is a violation of the ABM Treaty and the President has also said that.

He also told us something else: He is on the verge of a major breakthrough despite that violation, which should be proportionately responded to. He is going to send a treaty, hopefully, to the Senate for ratification. We tell him, if we adopt this amendment, which I hope we will not, "Don't do it. We don't want that treaty." I do not think we ought to tell the President that we do not want him to send an INF Treaty to the Senate. This is a treaty-killer amendment, and I hope it is resoundingly defeated.

Mr. DIXON. Mr. President, I move to table the amendment of the Senator from North Carolina.

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

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

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for not more than 2 minutes.

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

Mr. BYRD. Mr. President, if this amendment is tabled. I think I am correct in saying that this will be the last rollcall vote today.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2907

Mr. BYRD. Mr. President, I ask unanimous consent—and this has been cleared with the distinguished Republican leader, who is here—that on tomorrow, at 8:30 a.m., the Senate will proceed to the consideration of H.R. 2907, an act making appropriations for the Treasury Department; that there be a time limitation thereon of 30 minutes. The order has already been entered that there be no amendments other than committee amendments. I ask unanimous consent that the vote on the appropriations bill begin at 9 o'clock tomorrow, without an intervening quorum call.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONSIDERATION OF SENATE JOINT RESOLUTION 187 TEMPORARILY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that notwithstanding Public Law 99-177, the Senate temporarily postpone consideration of Senate Joint Resolution 187, a joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985, until no later than the close of business on Friday, October 2, 1987; that it be in order to consider the resolution under the statute, notwithstanding section 254(a) of the act.

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

Mr. BYRD. Mr. President, I yield the floor, and I thank all Senators.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of S. 1174.

Mr. BYRD. Mr. President, the first vote will begin at 9 o'clock. It will be a 30-minute rollcall, but the call for the regular order will occur after 30 minutes.

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL], the Senator from Vermont [Mr. STAFFORD], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. TRIBLE] are necessarily absent.

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

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—62

Baucus	Danforth	Heflin
Bentsen	Daschle	Heinz
Bingaman	Dixon	Hollings
Boren	Dodd	Inouye
Bradley	Domenici	Johnston
Breaux	Durenberger	Kassebaum
Bumpers	Evans	Kennedy
Burdick	Exon	Kerry
Byrd	Ford	Lautenberg
Chafee	Fowler	Leahy
Chiles	Glenn	Levin
Cohen	Graham	Lugar
Cranston	Harkin	Matsunaga
D'Amato	Hatfield	Melcher
Metzenbaum	Proxmire	Sanford
Mitchell	Pryor	Sarbanes
Moynihan	Reid	Sasser
Murkowski	Riegle	Specter
Nunn	Rockefeller	Warner
Packwood	Roth	Wirth
Pell	Rudman	

NAYS—28

Armstrong	Hatch	Quayle
Bond	Hecht	Shelby
Boschwitz	Helms	Simpson
Cochran	Humphrey	Symms
Conrad	Karnes	Thurmond
DeConcini	Kasten	Wallop
Dole	McCain	Weicker
Garn	McClure	Wilson
Gramm	Nickles	
Grassley	Pressler	

NOT VOTING—10

Adams	Mikulski	Stevens
Biden	Simon	Trible
Gore	Stafford	
McConnell	Stennis	

So the motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I note the distinguished chairman of the Armed Services Committee is departing from the floor. I again express my appreciation to the majority leader and the distinguished chairman for the progress we have made today on the bill.

Mr. BYRD. Mr. President, my thanks go to the chairman of the committee, the ranking manager, and the Republican leader for their cooperation, and also to all Senators for their cooperation and assistance.

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

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MC CAIN AMENDMENT NO. 686

Mr. SIMPSON. Mr. President, I do very much appreciate the authentic intent behind the amendment offered by my good friend from Arizona, Senator JOHN MCCAIN. Certainly we are all sensitive to the fact that the more simple bipolar world of so many years ago has dramatically changed and that the burden of maintaining global security must be shared among all of our allies. Nevertheless, I did oppose this amendment because I do not believe that this is the proper approach to achieve our objective of having a greater sharing of these immense responsibilities.

The concerns behind this amendment are quite legitimate—the developed world should indeed set global security and economic development as being high on our list of priorities. Our own economic well-being is vitally dependent upon it. I only object to the setting of standards for others when we in the United States fall far short of those same standards. How can we demand that other nations increase their foreign aid budgets when our own foreign aid budget is in a state of disarray? We cannot expect others to

make a commitment to foreign aid if we are not prepared to set the example. Our own foreign aid constraints have forced us to close consulates and allow others to deteriorate, and we have diminished our commitments to our allies in the developing world. Of all of the industrialized nations in the world, the United States has one of the lowest records of foreign aid appropriation as a percentage of GNP. Our foreign aid budget for fiscal year 1988 is expected to be less than $17 billion, or approximately .0017 of our total budget. I do not believe that this is an excessive amount out of a total annual budget of $1 trillion. When we consider that over half of that amount goes to just two countries for which we have longstanding commitments for peace in the Middle East, Israel, and Egypt, there is not much left for all of our other allies around the world.

I also believe that other methods of persuasion might be more appropriate in addressing what I consider to be a very serious problem. We are on close negotiating terms with the Japanese and they are one of our finest allies. I believe that we should treat them as such.

This amendment will undoubtedly be considered as another affront to the Japanese, especially since it follows smack on the heels of some pretty heavy Japan-bashing on the trade bill. Maybe we should face up to our own inadequacies in this area before we start criticizing others.

We should also acknowledge that Japan has indeed increased its foreign assistance over the past several years. I do understand the concerns about tied-aid—I don't like it either—but we should not overlook the basic thrust of their country's efforts. We should not be condeming Japan simply because the aid is not exactly of the form that we would like it to be.

By interfering and telling other nations how they should allocate their own resources, I am fearful that we will only fuel anti-American sentiment. I shudder to think how the U.S. Congress would react if our roles were reversed on this one. We don't need this now.

A-6F

Mr. GLENN. Mr. President, I would like to engage in a colloquy with my distinguished colleague and friend from the Armed Services Committee, Senator JOHN MCCAIN of Arizona, regarding an issue of considerable professional and personal interest to both of us—Navy and Marine Corps air combat capability.

Although on balance I believe that this year's National Defense Authorization Act currently before the Senate is a sound one, there is one provision in the bill concerning our conventional forces that gives me particular concern.

Specifically, the bill contains a provision that would terminate further development and production of the Navy and Marine Corps' new, long range, night/all weather medium attack bomber—the A-6F Intruder II. The A-6F is a follow-on to the A-6E and is the latest version of this combat proven, carrier and land based A-6 series aircraft.

Prior to the committee's termination action, the Navy's plan was to develop and procure 150 A-6F's in the early 1990's to provide increased operational capability for the current medium attack bomber force, and to meet increased total A-6 inventory requirements.

The final part of the plan was to replace the entire A-6 force with the next generation, long range all weather attack aircraft, the advanced tactical aircraft [ATA], beginning some time in the 1990's. Mr. President, I would remind my colleagues that the ATA is a classified program and, its development is being managed similarly to the ATB strategic bomber. Most details of the program such as cost, schedule, and capability are classified.

The committee based its action to the A-6F program on information contained in a center for naval analysis [CNA] study, which expressed concern over the potential combat survivability of the A-6 series aircraft when compared with the ATA, as well as the fact that the A-6F would compete with the ATA for limited development funds. Citing the projected vulnerability of the A-6F, the committee decided that it was not feasible to proceed with both the A-6F and ATA programs, and directed the Navy to terminate further development and procurement of the A-6F. The committee further directed the Navy to proceed expeditiously with development of the ATA.

Mr. President, my concern over the committee's decision to terminate the A-6F program is that it could result in a serious degradation in the Navy and Marine Corps' night all weather combat capability. That concern is shared by the Chief of Naval Operations, Adm. Carl Trost. As detailed in a letter last April to the Armed Services Committee chairman, Senator NUNN, Admiral Trost stated that termination of the A-6F program "raises serious concerns over our medium attack capability to meet the threat of the 1990's." Admiral Trost further continued that "our aging A-6E force is becoming increasingly vulnerable to the threat and our existing A-6 inventory falls short of our requirements."

Mr. President, I ask unanimous consent that the full text of Admiral Trost's letter be made part of the RECORD.

The letter follows:

Hon. SAM NUNN,
Chairman, Committee on Armed Services, Washington, DC

DEAR MR. CHAIRMAN, the recent action of the Conventional Forces and Alliance Defense Subcommittee of the Senate Armed Services Committee, which recommended and approved deletion of A-6F aircraft funding, raises serious concern over our medium attack capability to meet the threat of the 1990's. Our aging A-6E force is becoming increasingly vulnerable to the threat and our existing A-6 inventory falls short of our requirements. Transition to an all ATA force will take 12 to 15 years by our estimates, leaving a gap in our warfighting capability. The A-6F bridges that gap and meets the threat. Additional information is included as an enclosure.

I fully appreciate the Senate's difficult task in making these tough decisions in an austere budget environment. Your consideration and support for A-6F and ATA as you proceed through committee hearings and on to conference would be greatly appreciated.

Sincerely,

C.A.H. TROST,
Admiral, U.S. Navy.

Mr. MCCAIN. Mr. President, I completely agree with my colleague from the Armed Services Committee, Senator GLENN.

The problem basically is this: there is an ever-increasing requirement for all services' that both their fixed wing and rotary wing aircraft be able to fight at night and in bad weather. The night strikes earlier this year against Libya by Navy A-6's and Air Force F-111's are a good example. And just 3 nights ago an Army helicopter once again clearly demonstrated the value of an effective night attack system for rotary wing aircraft.

In my opinion, Mr. President, the Navy's plan to meet the night/all weather attack requirement by bridging the operational and inventory gap between the A-6E and the ATA with the A-6F is a sound approach. Failure to implement that plan could indeed result in the degradation of our Navy and Marine Corps night attack capability below acceptable levels.

What particularly concerns me is what happens to our air combat capability if the introduction of the ATA is delayed by technical or cost difficulties. As you know Mr. President, the ATA along with the Advance Tactical Fighter (the ATF) and the Advanced Technology Bomber (the ATB) will be the foundation for both our conventional and our strategic air combat capability well into the next century.

I know my friend from Ohio would agree with me that these new aircraft are critical to our defense and war fighting needs. However, the development of such revolutionary aircraft is not without technical risks, cost risks, and schedule risks. If, after canceling the A-6F, the ATA, which I understand is in the early stages of development, is delayed for any reason, serious operational problems could result. Even if the ATA program remains on

schedule, Admiral Trost estimates in his letter to Senator NUNN that the transition to an all-ATA force would "take 12 to 15 years."

Mr. President, there is another factor that should be considered when reviewing this important issue—that factor is the status of the A-6F program. Currently the A-6F program is two-thirds of the way through a $735 million firm, fixed-price development contract. The first A-6F full-scale development aircraft was delivered in August, and it has already completed four successful aerodynamic test flights. To date, the Navy has obligated $500 million to the $735 million capped development funds.

So you can see Mr. President, the A-6F program is proceeding on schedule and has already achieved a most important milestone—its first successful test flight. To terminate the A-6F program at this time not only would end what to this point has been a very successful development program, it would cost the Government many millions of dollars in termination costs. Last June, in a letter to my distinguished colleague from New York, Senator D'AMATO, the Secretary of the Navy, James Webb, said that termination costs could not yet be accurately determined but would range "between $150 million and $600 million."

Mr. President, I ask unanimous consent that the full test of Secretary Webb's letter be made part of the RECORD.

In summary I say to my good friend and colleague Senator GLENN, that we must alert our colleagues of this possible degradation of the Navy and Marine Corps' air combat capability. Furthermore, our colleagues need to be fully aware that the Senate proposal to terminate the A-6F program will be a major issue in conference since the House of Representatives has fully authorized the program correctly citing it as the Navy's only all-weather attack aircraft.

Senator GLENN, I believe you put the A-6F requirement clearly in perspective when you stated recently that the A-6F will provide a combat bridge between the A-6E and the ATA in much the same way as the B-1 is providing a bridge between the B-52 and the ATB. I agree with that analogy, and, together with you and the other members of the Armed Services Committee, I intend to follow this issue very closely as we proceed in conference.

The letter follows:

THE SECRETARY OF THE NAVY,
Washington, DC, 29 June 1987.

Hon. ALFONSE M. D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: Thank you for your recent letter concerning the A-6F program. Both the A-6F and the ATA, as presented in the President's budget, have my full support.

The A-6F is being developed to meet the threat of the 1990's and fill a critical shortfall in our existing A-6 inventory. This new A-6F Intruder will be more survivable in combat than the A-6E and will increase the striking power available to our battle group commanders. It will meet the threat and bridge the gap until the ATA is operational throughout the fleet.

The ATA has been accelerated to the maximum extent considered prudent. Further acceleration of the program would involve increased subsystem concurrency, less time for testing, and higher technological risks. Production schedule risks would increase because of the time required to integrate the spectrum of Navy weapons planned for ATA employment and to fully expand the flight envelope.

A-6F program termination costs cannot yet accurately be determined, but we estimate that they would range between $150 million and $600 million. As A-6F engines and avionics are common with other aircraft programs, namely F/A-18 and F-14, unit costs of these common components would likely rise without A-6F procurement.

In summary, we need both the A-6F and the ATA to meet our warfighting requirements. As we transition to ATA, our planned A-6F line will continue to meet inventory needs and reduce the risk of unexpected delays in ATA introduction or unplanned A-6 attrition caused by a national emergency.

Your continued support of Navy programs is appreciated. If you desire, I can arrange a briefing on the ATA program.

Sincerely,

JAMES H. WEBB, Jr.

ORDER TO PLACE SENATE JOINT RESOLUTION 191 ON THE CALENDAR

Mr. BYRD. Mr. President, this request has been cleared on both sides.

Mr. President, I ask unanimous consent that Senate Joint Resolution 191 be placed on the calendar. This is a joint resolution introduced earlier today by Senators CRANSTON and D'AMATO dealing with the temporary extension of FHA lending authority.

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

ORDER TO PLACE HOUSE JOINT RESOLUTION 362 ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 362, the continuing resolution, be placed on the calendar.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, we have not had morning business today. I ask unanimous consent that there be a period for the transaction of morning business and that Senators may speak therein.

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

WILLIAM MILES HODGE, SR., BUSINESSMAN AND CIVIC LEADER

Mr. THURMOND. Mr. President, on Saturday, August 8, 1987, William Miles "Bill" Hodge, Sr., a man described by friends and colleagues as a key figure in Sumter, SC's growth and development over the past 40 years, died at the age of 70. Mr. Hodge was a benefactor of the people of Sumter. He not only was a successful realtor and developer, but was a great public servant who will be remembered with fond memories by his host of friends for years to come.

As president of Hodge-Pike Investment, Inc., president of Hodge Land Co. & Real Estate, and founder of Hodge Real Estate-Insurance Agency, Bill Hodge was an astute and successful businessman of utmost integrity. Bill Hodge played a major role in many of the significant changes Sumter has seen since World War II. He was instrumental in the renovation of the Sumter County Courthouse and construction of major public facilities including an exhibition center, health center, law enforcement center, and municipal building for the community of Sumter.

Bill was widely respected as a public-spirited citizen. He was a true patriot, serving his country in the European theater during World War II and serving his fellow man throughout his life in numerous capacities. His political service included appointment by the Governor to a State highway committee, chairing of the South Carolina Democratic Party and serving as delegate or alternate to four Democratic National Conventions.

Extensive involvement in church, civic, and military affairs characterized his devotion to God, community, and country. Mr. Hodge served on the Sumter County Board of Commissioners for 18 years, seven of them as chairman; he served a 4-year term on the Sumter County Council; and he was mayor of Sumter from 1976-80. He was a man with a vision for the future who possessed the dedication and ability to realize his dreams.

Bill's life will serve as a role model for years to come. We are saddened by the death of Bill Hodge, and Nancy and I join with my colleagues in extending deepest sympathy to his lovely wife, Reona Patricia, and their seven children during this time of bereavement.

Mr. President, I would like to ask unanimous consent that an article and and editorial on Mr. Hodge from the Sumter Daily Item be printed in the RECORD.

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

[From the Sumter Daily Item, Aug. 9, 1987]

W.M. HODGE, CIVIC LEADER, DIES AT AGE 70

William Miles "Bill" Hodge Sr., a man described by friends and colleagues as a key figure in Sumter's growth and development over the past 40 years, died early yesterday at the Tuomey Hospital. He was 70.

A memorial service will be held at 3 p.m. Monday at Grace Baptist Church on Calhoun Street.

As a Realtor, developer and public servant, Mr. Hodge played a role in many of the changes Sumter has seen since World War II. He was president of Hodge-Pile Investment, Inc., and vice president of Hodge Land Co. Inc.

He was founder of Hodge Real Estate-Insurance Agency and president of Hodge Land Co. and Real Estate.

He was on the county board of commissioners for 18 years, seven of them as chairman. He also served a four-year term on Sumter County Council after it was created in 1968. He was mayor of Sumter from 1976 to 1980.

He was instrumental in the renovation of the Sumter County Courthouse and construction of the Sumter County Exhibition Center, the city-county office building, the Santee-Wateree Mental Health Center and city-county law enforcement center.

In addition, he served on The Tuomey Hospital expansion committee, was past president of the Sumter Junior Chamber of Commerce and was a board chairman of American Pioneer Corp., which owns American Pioneer Life Insurance Co.

He helped begin efforts to attract industry to the area through development of the Sumter Industrial Park.

"He's done a lot for Sumter, stuff people don't even know about. He was a big asset," O.D. Harvin, chairman of the board of commissioners when Mr. Hodge was first appointed, said. "I have nothing but the highest respect for that fella. He's one of the finest citizens Sumter County ever produced."

Robert E. Graham was a long-time friend to Mr. Hodge, and both of them served in local government.

"There's so much, it's hard to know where to begin. He was a mighty good friend of mine. We both grew up together," Graham said. "He was on county council when I was the mayor. I think our personal relationship helped the county and city relationship."

Clifton G. Brown, likewise a former mayor of Sumter and a friend to Mr. Hodge for more than 55 years, said the community has lost a unique man.

"Bill Hodge has been a force for good in Sumter and in South Carolina," Brown said. "He was a dependable, loyal and devoted person to the institutions and causes he served and to his many friends and family. He served with distinction, uncommon abilities and the courage of his convictions."

"I served with him," Morris Mazursky, who was on city council when Mr. Hodge was mayor, said. "I feel that he was one of the finest public servants Sumter County has ever produced."

Sen. Strom Thurmond, R-S.C., called Mr. Hodge a "public-spirited citizen" and "a true patriot" who will be missed by all who knew him.

"He was a man of courage, ability and dedication. He served his city, county and state very well," Thurmond said. "In all these capacities, he served with faithfulness and diligence and was highly respected by all who knew him. I feel a deep loss in his passing and extend my deepest sympathies to his family."

Mr. Hodges was born Feb. 12, 1917, in the Concord section of Sumter County, the son of John Thomas and Eva Flake Hodge. He graduated from Edmunds High School and worked as a manager in a chain of shoe stores before joining the Army in January of 1941 as a private.

After attending officers' training, he was commissioned as a captain and served in the European Theater during World War II, where he was wounded in action. After recovering from his wounds, Mr. Hodge was assigned as medical administrative officer for the 26th General Hospital in Italy.

Other professional and civic associations include his service as chairman of the South Carolina Democratic Party and state president of the Young Democrats. He was a delegate or alternate to four Democratic national conventions.

He was also a governor's appointee on a state committee studying the state highway department and was co-chairman of the Sumter Urban Area Transportation Study Committee.

Mr. Hodge was a past commander of the Sumter American Legion Post 15 and was a member and trustee of the Grace Baptist Church, where he served as chairman of the church building committee when it moved its sanctuary from Washington Street to Calhoun Street.

He was a strong supporter and friend of Shaw Air Force Base, serving for many years as a member of the Shaw-Sumter Community Council. He was a member of the Lions Club, a supporter of Morris College and a member of the Sunset Country Club building committee.

He is survived by his wife, Mrs. Reona Patricia Christensen Hodge; three sons, William Miles Hodge, Jr., and Joel Padgett Hodge, both of Sumter, and Lawrence Thomas Hodge of Hilton Head;

Four daughters, Patricia Hodge Croft and Katherine Hodge Bledsoe of Sumter, Joanne Hodge Greer of Macon, Ga., and Eva Marie Hodge Reynolds of Columbia;

Two brothers, James Thomas Hodge of Union and Clifford Padgett Hodge of Sumter.

Two sisters, Leila Hodge Lucas and Amelia Hodge Teal, both of Sumter; and 15 grandchildren.

Memorials may be made to the Grace Baptist Church Building Fund or a charity of one's choice.

The family will receive friends at the home, 765 Mattison Ave.

Elmore-Hill Funeral Home is in charge of arrangements.

[From the Sumter Daily Item, Aug. 10, 1987]

A LEADING CITIZEN

Sumter lost a leading citizen Saturday when W.M. "Bill" Hodge Sr. died, and the term "leading citizen" can be truly applied.

Hodge was a leader in Sumter's city and county government, and he was a leader in its civic life. His work touched nearly every aspect of Sumter's development over the past 40 years.

His credits included the renovation of the Sumter County Courthouse and the construction of the Sumter County Exhibition Center, the city-county office building, the Santee-Wateree Mental Health Center and city-county law enforcement center.

That alone would qualify as a full career for most, but for Hodge, it was only a part.

He was, at various times in his life, a soldier, a businessman, a public officeholder, an industry hunter, a political leader and an elder statesman.

He was on the old county board of commissioners for 18 years, seven as chairman. He was on Sumter County Council after it was created in 1968, and he was mayor from 1976 to 1980.

He was chairman of the South Carolina Democratic Party and was a delegate or alternate to four Democratic national conventions.

Hodge particularly understood the complex relationship between Sumter and Shaw Air Force Base, and he was devoted to nurturing that relationship.

"We've spent a lot of time and effort convincing the people of Sumter that Sumter would be in a bad condition from an economic standpoint if it hadn't been for Shaw," Hodge said during an interview recently.

His efforts didn't go unnoticed. Hodge is one of only three Sumter residents who have received an Air Force scroll of appreciation—the highest honor the Air Force can give a civilian.

Those who knew him best held him in highest regard. He could be a tiger for the right cause, but he was also a gentle and caring man.

His friends and admirers were legion. Philip R. Ballinger, the executive vice president of the Greater Sumter Chamber of Commerce, was one of them. "He was the best example I ever knew of the idea that man's love of God is best reflected in his love for his fellow man," Ballinger said.

In earlier days we erected statues to our leaders. If that were the custom today, Hodge would stand in the first rank.

BICENTENNIAL MINUTE

SEPTEMBER 24, 1963: FIRST OFFICIAL SENATE PHOTOGRAPH

Mr. DOLE. Mr. President, 24 years ago today, on September 24, 1963, the Senate sat for its first official photograph. I say "official" because although there had long been a rule against photographs in the Senate Chamber, from time to time enterprising photographers had taken some elicit shots. But in 1963, when the Capitol Historical Society first prepared for publication of its guidebook, "We The People," it convinced the Senate to pass a special resolution permitting it to take an official photo of the Senate.

Not everyone liked the idea. "Vanity, vanity, all is vanity," said Senator Richard Russell, who worried that the photo session was setting an unhealthy precedent. Republican Leader Everett Dirksen warned that the photographer would like to have Senators in their seats, not walking around. Senator Russell added that if that were the case they should add a footnote to the photograph that "This is the only time in the session of 1963 that every Senator was in his own seat."

The photographic session was scheduled for September 24, at the same time that the Senate was to vote on

the Nuclear Test Ban Treaty. I suppose it is debatable whether the leadership arranged to take the picture then because so many Senators would be in the Chamber for this important vote, or if they scheduled the photograph to insure that Senators would be there.

The photograph appears on pages 108 and 109 of the 1963 edition of "We The People," which is still being published. One can compare the 1963 picture to those the Senate has sat for in recent years. Back then, Members did not turn to face the camera. Many appear to be writing at the desks. Senator Jacob Javits had a copy of the New York Times tossed on the floor beside his desk. A weary looking Mike Mansfield, then the Democratic leader, is rubbing his eyes. All in all, it is a marvelous historical document.

NEW SPEED LIMIT WORKING IN MISSISSIPPI

Mr. COCHRAN. Mr. President, when Congress approved the highway bill earlier this year, it permitted individual States to raise the speed limit on rural segments of interstate highways to 65 miles per hour.

There was concern expressed by some that this would make highway travel more dangerous and result in an inevitable increase in automobile accidents and deaths.

The Senate has a responsibility to monitor this situation and learn as much as we can about how the change is working and whether or not the predictions of critics were correct.

A recent report from the Mississippi Highway Safety Patrol in my State contains same very good news on this subject. The chief of our highway patrol says:

"The change to 65 mph on rural interstates this spring has not been a problem for our State."

Traffic-related highway fatalities in Mississippi are down 6 percent thus far this year from 1986.

Mr. President, I ask that an editorial in the Meridian Star that discusses these findings be printed in the RECORD.

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

[From the Meridian Star, Sept. 14, 1987]

NEW SPEED LIMIT WORKS IN STATE; FATALITIES DOWN

Fatality statistics and comments from state Highway Patrol officials indicate that raising the speed limit to 65 miles per hour on rural interstates in Mississippi has been both successful and safe.

Especially encouraging is the decrease in traffic-related fatalities compared to the same time last year. At this time a year ago, 543 traffic-related deaths had been recorded in the state. That compares to 509, or a 6 percent drop this far in 1987.

"The change to 65 mph on rural interstates this spring has not been a problem for our state," said D.D. Cvitanovich, Highway Patrol chief.

Three factors made large contributions to the success of the change in the speed limit: the heavy advertising campaign that accompanied the change, the patrol's visibility on our highways and the cooperation of the public.

The awareness campaign was conducted by the state Highway Department and the Highway Patrol to alert motorists of areas where higher speeds would be permitted. Fewer motorists appear willing to exceed the new limit on rural interstates than were going over the old limit.

"Most everyone in the country was running 65 mph anyway" and the only difference is that now "they are running legal," one officer said. Whatever the reason, the public is cooperating.

Chief Cvitanovich said troopers had faced an uphill battle in attempting to enforce the 55-mph limit during the period Congress debated the issue, noting that "it's hard to write a violation for exceeding 55 mph one day and 65 the next."

The patrol also found the tactic of stationing its cars over a wide area to increase visibility works better than heavy concentration in individual areas.

Mississippians have obviously adjusted well to the change.

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 68

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 7104(e) of Title 5, United States Code, I hereby transmit the Eighth Annual Report of the Federal Labor Relations Authority, which covers Fiscal Year 1986.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

ANNUAL REPORT ON ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT—MESSAGE FROM THE PRESIDENT—PM 69

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596; 29 U.S.C. 675), I transmit herewith the 1986 annual reports on activities under that law of the Department of Labor, of the Department of Health and Human Services, and of the Occupational Safety and Health Review Commission.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

REPORT ON WORLD FOOD NEEDS AND PRODUCTION AND AGRICULTURAL TRADE—MESSAGE FROM THE PRESIDENT—PM 70

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

I hereby transmit the report on World Food Needs and Production and Agricultural Trade prepared by my Special Assistant for Agricultural Trade and Food Assistance pursuant to the requirements of Section 1113 of the Food Security Act of 1985 (Public Law 99-198 of December 23, 1985).

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

ANNUAL REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the Fifteenth Annual Report on the Administration of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) as required by the Act. This report was prepared in accordance with Section 211 of the Act and covers calendar year 1985.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

ANNUAL REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of Public Law 91-230, as amended (20 U.S.C. 1209(d)), I herewith transmit

the 1986 annual report of the National Advisory Council on Adult Education.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 1:21 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker pro tempore [Mr. FOLEY] has signed the following enrolled bill and joint resolution:

S. 1532. An Act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate; and

H.J. Res. 324. Joint resolution increasing the statutory limit on the public debt.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. STENNIS).

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 234. Joint resolution to designate the month of November in 1987 and 1988 as "National Hospice Month".

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 57. A concurrent resolution expressing the sense of the Congress respecting the designation of jazz as a rare and valuable national treasure; and

H. Con. Res. 191. A concurrent resolution welcoming His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States.

At 3:24 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill and joint resolution, in which is requests the concurrence of the Senate:

H.R. 2783. An Act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; and

H.J. Res. 355. Joint resolution designating September 27, 1987, as "Gold Star Mothers Day".

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2783. An Act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

H.J. Res. 234. Joint resolution to designate the month of November in 1987 and 1988 as "National Hospice Month"; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 57. A concurrent resolution expressing the sense of the Congress respecting the designation of jazz as a rare and valuable national treasure; to the Committee on the Judiciary.

H. Con. Res. 191. A concurrent resolution welcoming His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, he had presented to the President of the United States the following enrolled bill:

S. 1532. An act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 322: A bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia (Rept. No. 100-168).

S. Res. 192: An original resolution relative to expenditures by the Select Committee on Intelligence (Rept. No. 100-169).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment and an amendment to the title:

H.R. 60: A bill to authorize the Architect of the Capitol to accept gifts and bequests of personal property and money for the benefit of the Capitol Buildings Art Collection (Rept. No. 100-170).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

H.R. 2249: A bill to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police (Rept. No. 100-171).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment and with a preamble:

H.J. Res. 309: A joint resolution to establish the Speaker's Civic Achievement Awards Program to be administered under the Librarian of Congress to recognize achievement in civic literacy by students, classes, and schools throughout the Nation in grades 5 through 8, and for other purposes (Rept. No. 100-172).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

S. 1085: A bill to create an independent oversight board to ensure the safety of U.S. Government nuclear facilities, to apply the provisions of OSHA to certain Department of Energy nuclear facilities, to clarify the jurisdiction and powers of Government agencies dealing with nuclear wastes, to ensure independent research on the effects of radiation on human beings, and for other purposes (Rept. No. 100-173).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 285: A resolution to pay a gratuity to Nola Frederick.

S. Res. 286: A resolution to pay a gratuity to Jerline Parks.

S. Res. 287: A resolution to pay a gratuity to Robinnia Grace Elaine Richardson.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Alan Greenspan, of New York to be United States Alternate Governor of the International Monetary Fund for a term of five years;

John S. Herrington, of California, to be the Representative of the United States to the Thirty-first Session of the General Conference of the International Atomic Energy Agency;

James H. Michel, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James H. Michel.

Post: Ambassador to Guatemala.

Contributions, amount, date, and donee.

1. Self: None.

2. Spouse: $15, October 16, 1983, Dollars for Democrats; $20, June 8, 1984, Dollars for Democrats; $25, October 6, 1984, Democratic Campaign Fund; $25, March 22, 1985, Dollars for Democrats.

3. Children and spouses: Mark, Kurt, Linda, and Paul, none.

4. Parents: Paul J. Michel, Margaret K. Michel, none.

5. Grandparents: Oscar and Wilhemina Scheitlin, deceased. Peter and Hanna Michel, deceased.

6. Brothers and spouses: None.

7. Sisters and spouses: Margene Jerrolds, $25, March 1986, Citizens for Pete Fields. Larry Jerrolds, none.

Stephen J. Ledogar, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during the tenure of his service as United States Representative to the European Conventional Arms Negotiations and the Representative of the United States of America for Mutual and Balanced Force Reductions Negotiations.

Nominee: Stephen J. Ledogar.

Post: U.S. Representative to the European Conventional Arms Negotiations and the Representative of the United States of America for Mutual and Balanced Force Reductions Negotiations.

Contributions, amount, date, donee.

1. Self: None.

2. Spouse: None.

3. Children and spouses: Lucy (age 17); Charles (age 15); Wife: Marcia H. Ledogar (nee Marcia Baldwin Hubert), none.

4. Parents: Mrs. Margaret C. Ledogar; Edward J. Ledogar (deceased 1966), none.

5. Grandparents: Mr. & Mrs. Joseph Ledogar; Mr. & Mrs. James J. Meany, (all grandparents deceased more than 20 years ago), none.

6. Brothers and spouses: Robert J. Ledogar/Eleanor Price, none. Edward J. Ledogar (divorced). Approximately $300. Approximately $75 per year. Sustaining member of the Republican National Committee.

7. Sisters and spouses: Anne M. Leyden (nee Ledogar)/John Leyden, none.

Leonard Rochwarger, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kiribati.

Nominee: Leonard Rochwarger.

Post Ambassador to Fiji, Tonga, Tuvalu and Kiribati.

Contributions, amount, date, donee.

1. Self—Leonard Rochwarger POLITICAL CONTRIBUTIONS TO FEDERAL CAMPAIGNS—January 1982, to December 1986:

March 24, 1982, Friends of Henry Nowak, $100.

October 18, 1982, Committee to re-elect John LaFalce, $100.

October 28, 1982, Citizens for Jack Kemp, $1,000.

September 19, 1983, John Glenn Presidential Committee Inc. (Cocktail Reception), $250.

February 6, 1984, Friends of Henry Nowak, $100.

June 20, 1984, Citizens for Jack Kemp, $1,000.

August 17, 1984, Victory, 1984, New York State Reagan/Bush Campaign, $5,000.

October 9, 1984, Friends of Rudolph Boschwitz, $1,000.

October 11, 1984, Friends of Al D'Amato, $1,000.

March 21, 1985, Citizens for Jack Kemp, $1,000.

April 1986, Friends of Al D'Amato, $1,000.

August 7, 1986, Citizens for Jack Kemp, $1,000.

October 16, 1986, Campaign for Prosperity (PAC), $5,000.

2. Spouse—Arlene Joan Rochwarger, political contributions to Federal campaigns, January 1982 to December 1986: May 1986, Al D'Amato for Senator, $885.

3. Children and spouses: Jeffrey Alan Rochwarger, son, political contributions to Federal campaigns, January 1982 to December 1986:

June 1984, Citizens for Jack Kemp, $1,000.

June 1985, Citizens for Jack Kemp, $1,000.

June 1986, Citizens for Jack Kemp, $1,000.

October 1986, Committee to re-elect John LaFalce, $1,000. Spouse: Dawn Rochwarger, none. Michelle Rochwarger, daughter, none.

4. Parents: Max Rochwarger and Sarah Rochwarger, deceased.

5. Grandparents: Leonard and Ida Rochwarger, deceased. Bernard and Ida Wallace, deceased.

6. Brothers and spouses: none.

7. Sisters and spouses: Rosalyn (Rochwarger) Kershanbaum, none. Spouse: Albert Kershanbaum, none.

Max L. Friedersdorf, of Florida, for the rank of Ambassador in his capacity as United States Representative to the Conference on Disarmament.

Nominee: Max L. Friedersdorf.

Post: Rank of Ambassador.

Contributions, amount, date, donee.

1. Self: $100, October 1984, Reagan-Bush.

2. Spouse: None.

3. Children and spouses: Kristine Wilkes, Fritz Friedersdorf, (James C. Wilkes III). None.

4. Parents: Lola Friedersdorf, father deceased, none.

5. Grandparents: Deceased, none.

6. Brothers and spouses: John Friedersdorf, Jr. (Marjorie), Frank Friedersdorf (Patricia), none.

7. Sisters and spouses: Betty Winslow (Fred), Barbara Hamilton, divorced, none.

Peter R. Sommer, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Nominee: Peter R. Sommer.

Post: U.S. Ambassador to Malta.

Contributions, amount, date, donee.

1. Self: None.

2. Spouse: Not available.

3. Children and spouses: Sacha, age 15, Noelle, age 14, none.

4. Parents: Stanley Sommer.

To the best of my knowledge, from 1982 until now, my father, Stanley L. Sommer, made the following contributions to Congressional political campaigns: Senator Hollings, $500. Senator Inouye, $250. Senator Laxalt, $300. Senator Thurmond, $400. Cong. Vic Fazio, $200. Congressman Melvin Price, $300. Congressman Dan Daniels, $200. Congressman Nick Mavroules, $500. Congressman Richard Ray, $400. Congressman William Dickinson, $300. Congressman Bob Badham, $200. Congressman Tim Hartnett, $200. Congressman Joe Addabbo, $500. Congressman Norm Dicks, $400.

5. Grandparents: N/A, none.

6. Brothers and spouses: Michael Sommer, Connie Sommer, none.

7. Sisters and spouses, N/A, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was received by the Senate on July 27, 1987, and appeared in its entirety in the CONGRESSIONAL RECORD of July 28, 1987, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that these nominations lie at the Secretary's desk for the information of Senators.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON:

S. 1715. A bill to amend the Internal Revenue Code of 1986 to provide that certain transfers of a commodity pledged as collateral for Commodity Credit Corporation loans not be taken into account in computing Federal income tax liability; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 1716. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1717. A bill to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. D'AMATO):

S.J. Res. 191. A joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 285. A resolution to pay gratuity to Nola Frederick; placed on the calendar.

S. Res. 286. A resolution to pay a gratuity to Jerline Parks; placed on the calendar.

S. Res. 287. A resolution to pay a gratuity to Robinnia Grace Elaine Richardson; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON:

S. 1715. A bill to amend the Internal Revenue Code of 1986 to provide that certain transfers of a commodity pledged as collateral for Commodity Credit Corporation loans not be taken into account in computing Federal income tax liability; to the Committee on Finance.

TAX TREATMENT OF CERTAIN COMMODITY TRANSFERS

Mr. DIXON. Mr. President, I rise today to introduce vital legislation which will clarify income tax liabilities for the thousands of farmers actively participating in the Pik and Roll Program.

Pik and Roll is a Government marketing program. It was implemented in order to boost the farm economy while at the same time, allowing the Government to reduce its own large surplus of grain. The program enhances the movement of grain out of Government's inventory and farmers' bins, and places that grain where it can do the most good—in the marketplace.

For the past year, farmers, tax advisers, and county and State agricultural stabilization and conservation service [ASCS] offices have been actively involved in the Pik and Roll procedure. As we all understood the process, a farmer secured a loan, and pledged his grain as collateral. The farmer then used his commodity certificates to pay off his loan. By eliminating the outstanding obligation, the grain utilized to secure the loan would be reverted back to its rightful owner—the farmer.

However, a recent regulation issued by the U.S. Department of Agriculture [USDA] has wreaked havoc in the Pik and Roll Program. In essence, this USDA ruling creates a "fictional sale" within the Pik and Roll procedure. In all fairness, this fictional sale, when applied to farmers who have grain held in the 3-year reserve program, provides a great benefit. It allows these farmers to avoid a penalty for early redemption of their grain and reduces Government's surplus inventory. However, when applied to the majority of farmers—farmers participating in the 9-month loan program—it creates a devastating tax consequence.

The USDA regulation states that a farmer cannot redeem his loan with commodity certificates. He must first sell the grain under loan, that is, grain pledged as security for the loan, to the Commodity Credit Corporation. With the proceeds of this sale, the farmer then pays off the loan. Commodity certificates can only be used to purchase commodities, hence, the farmer can only repurchase his grain with the commodity certificates.

The whole process is nothing more than a paper shuffle. However, the IRS has ruled that based on the USDA's fictitious sale, a taxable event has taken place. Based on this IRS ruling, farmers who follow the Pik and Roll procedure run the risk of having the value of the redeemed corn—essentially equivalent to the loan amount—count as income against the current tax year. This could foster a situation where many farmers could face having to pay double taxes on the sale of a single crop in one calendar year.

In my conversations with the USDA and the Treasury Department's Internal Revenue Service, there is unanimous agreement that what is taking place is merely a paper transaction. The problem has been recognized and discussions have freely taken place. Reaching an accord, however, has proven to be more elusive.

Mr. President, it is my hope that a timely resolution of this problem can be achieved. However, if the USDA and Treasury cannot act with resolve, we in Congress must. To that end, Mr. President, I am introducing legislation today which will address this problem in a straight forward fashion.

This legislation directs the IRS to treat the paper shuffle of grain, pledged as collateral, as neither a sale nor a taxable event. For Federal income tax purposes, these transfers do not result in a sale of the commodity.

This legislation applies only to loan redemptions occurring after December 31, 1985. Additionally, for those taxpayers who have computed their Federal tax liability on the basis of such transactions occurring in 1986, a provision is provided which allows them to elect to continue their tax plan on that basis.

Mr. President, the Pik and Roll Program has been a significant factor in reducing our vast grain surpluses and stimulating farm prices. It is imperative that we take action today by passing this legislation to rectify this untenable tax situation. In so doing, we provide farmers with the assurance they need to continue to participate in the program.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF TRANSFERS OF COMMODITIES USED TO SECURE COMMODITY CREDIT CORPORATION LOANS.

(a) IN GENERAL.—Section 77 of the Internal Revenue Code of 1986 (relating to commodity credit loans) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF TRANSFERS OF COMMODITIES SECURING COMMODITY CREDIT CORPORATION LOANS.—

"(1) IN GENERAL.—In the case of any transaction to which paragraph (2) applies, any transfer described in paragraph (2)(B) shall not be considered a sale of the commodity in computing the Federal income tax liability of the taxpayer under this chapter.

"(2) TRANSACTIONS TO WHICH SUBSECTION APPLIES.—A transaction is described in this paragraph if it involves—

"(A) a loan between the taxpayer and the Commodity Credit Corporation which is secured by a commodity of the taxpayer,

"(B) a transfer of such commodity to the Commodity Credit Corporation with the proceeds of such transfer used to repay the loan described in subparagraph (A), and

"(C) the repurchase of such commodity by the taxpayer with a commodity certificate."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to loan redemptions occurring after December 31, 1985, in taxable years ending after such date.

(2) ELECTION BY TAXPAYER.—In the case of a taxpayer who took any transfer occurring during 1986 into account in computing his Federal tax liability, such taxpayer may elect not to have the amendment made by this section apply to such transfer.

By Mr. GRASSLEY (for himself, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1717. A bill to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes; to the Committee on Armed Services.

UNIFORM REGULATORY JURISDICTION ACT

Mr. GRASSLEY. Mr. President, today, I am introducing a bill entitled "The Uniform Regulatory Jurisdiction Act of 1987." This bill provides that the end-user transportation services offered by any gas distribution company are solely within the regulatory jurisdiction of the State commission in which the gas is consumed. Presently, a problem exists when transportation service is offered by a distribution company whose main lines, simply because of geographic location, cross State boundaries. By crossing State lines, the company enters into interstate commerce, and therefore comes under the Federal Energy Regulatory Commission's jurisdiction. Because these companies' activities are primarily local, they should be under State, not Federal jurisdiction.

As we are all aware, the natural gas industry has been undergoing major structural changes in recent years as a result of the gradual deregulation of the natural gas marketplace. Many of those changes have been dictated by the current oversupply situation in which this country currently finds itself and the concurrent dramatic decline in both gas and oil prices. As part of those industry changes, some of the functions that have been performed historically by the interstate pipeline industry are now being undertaken not only by distribution companies but by end-users themselves. While this is a natural outgrowth of increased competition, certain unforeseen consequences in the exercise of regulatory oversight have occurred.

In particular, local transportation of customer-owned gas is a significant new service being offered by gas distribution companies. Such transportation by distribution companies is truly a local matter and there is no question in the vast majority of cases that it falls within the jurisdiction of the State commission in which the gas is ultimately consumed.

The problem arises when the same type of transportation is offered by a distribution company whose service area, by geographic happenstance, crosses State lines. Typically, these types of companies are located in metropolitan areas which have expanded into contiguous States. The distribution companies serving those areas have merely followed the growth.

Logically, the transportation offered by these companies would also be sub-

ject to State commission jurisdiction. After all, the terms and conditions of that end-user transportation, like that of the other wholly intrastate distribution companies, would have some impact upon the distribution company's retail consumers in that particular State.

However, the simple act of crossing State lines has caused that end-user transportation by certain distribution companies to be subject to FERC jurisdiction because, technically, they are transporting gas in interstate commerce. So, we now have FERC regulating certain activities of distribution companies, not because it is necessary to preserve regulatory oversight, but simply because of geographic accident. I am sure that FERC would prefer not to be in the business of regulating distribution companies. FERC has more than enough work regulating the true interstate pipeline activities.

We have here a situation which truly was not, and could not have been, contemplated by the drafters of the Natural Gas Act in 1938. After all, it was never thought that retail consumers would actually undertake the functions that have historically been provided by the interstate pipelines and the distribution companies that serve them.

Mr. President, another issue involved in this conflict regard the protection of States' rights. The regulation of these distribution companies' rates and services is under the exclusive domain of the State commission in which the companies operate. End-user transportation should be no exception. And it isn't in most States—except where facilities cross State lines. I believe that this legislation will aid in the preservation of State's rights by putting regulatory jurisdiction under the authority of the States where it belongs.

Both the Iowa State Commission and the Iowa Office of Consumer Advocacy strongly support this bill. The commissions in Maryland, Virginia, the District of Columbia, and West Virginia also endorsed this bill. Indeed, the National Association of Regulatory Utility Commissioners just recently passed by unanimous vote a resolution endorsing this legislation and urging Congress to pass it.

Therefore, Mr. President, I urge my colleagues to join me in protecting consumers and preserving States' rights by supporting this legislation.

By Mr. CRANSTON (for himself and Mr. D'AMATO):

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes; ordered placed on the calendar by unanimous consent.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. CRANSTON. Mr. President, this joint resolution is needed to avoid an interruption of FHA's authority to insure home mortgages on October 1.

This legislation would provide a short-term extension of FHA authority through November 1, 1987 and make it clear to everyone who cares about affordable home ownership that Congress is determined to prevent any further shutdown of FHA insurance authority. Last year, FHA was forced to shut down six times for a total of 51 days.

That was simply inexcusable. It caused needless harm to the housing industry and to hundreds of thousands of homebuyers.

The Housing and Community Development Act of 1987, which overwhelmingly passed the Senate and House earlier this year, would provide permanent FHA insurance authority so that we will never have a recurrence of the shameful failure that we saw in the last Congress.

Conference negotiations are well underway on that bill. They are proceeding in a positive spirit of bipartisan cooperation. I am confident that we will shortly have a conference agreement that the President should promptly sign into law.

However, the October 1 deadline is approaching fast, and we should make it very clear that Congres has no intention of letting anyone "play chicken" with FHA insurance.

The House is ready to pass this legislation as soon as the Senate sends it over.

I urge my colleagues to pass this measure without delay.

ADDITIONAL COSPONSORS

S. 1332

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1332, a bill to establish a remedial education treatment program as an alternative to criminal incarceration for first-time juvenile offenders who are determined to be learning disabled as a means of reducing recidivism rates among such offenders.

S. 1365

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1365, a bill to amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

S. 1367

At the request of Mr. CHILES, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1367, a bill authorizing the Secretary of the Interior to preserve certain wetlands and historic sites in the St. Johns River Valley, FL, and for other purposes.

S. 1393

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1436

At the request of Mr. DANFORTH, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1436, a bill to amend the Hazardous Materials Transportation Act regarding the transportation by rail of certain materials, and for other purposes.

S. 1464

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1469

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1469, a bill to amend title VII of the Social Security Act to restrict the use of "Social Security" or "Social Security Administration" on goods not connected with such Administration.

S. 1484

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 1484, a bill to provide permanent authorization for White House Conferences on Rural Development and the Family Farm.

S. 1600

At the request of Mr. FORD, the names of the Senator from Connecticut [Mr. DODD], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1631

At the request of Mrs. KASSEBAUM, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1631, a bill to assure additional protection in connection with the

transportation of radioactive materials.

SENATE JOINT RESOLUTION 41

At the request of Mr. GLENN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution to designate the period commencing on November 22, 1987, and ending on November 29, 1987, as "National Family Caregivers Week".

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November, 1988, as "National Hospice Month."

SENATE JOINT RESODUTION 144

At the request of Mr. WIRTH, the names of the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. HATCH], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Idaho [Mr. SYMMS], the Senator from Connecticut [Mr. DODD], the Senator from Utah [Mr. GARN], the Senator from Nebraska [Mr. EXON], the Senator from North Dakota [Mr. BURDICK], the Senator from Nevada [Mr. REID], the Senator from Vermont [Mr. STAFFORD], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 144, a joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

SENATE RESOLUTION 219

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. DIXON], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 219, a resolution expressing the sense of the Senate with respect to the use of ethanol, methanol, and other oxygenated fuels as an accepted air pollution control strategy in nonattainment areas designed by the Environmental Protection Agency.

SENATE RESOLUTION 271

At the request of Mr. KASTEN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], and the Senator from Nebraska [Mr. KARNES] were added as cosponsors of Senate Resolution 271, a resolution expressing the sense of the Senate with respect to Japanese trade with the Socialist Republic of Vietnam.

AMENDMENT NO. 686

At the request of Mr. MCCAIN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Amendment No. 686 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 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 years for the Armed Forces, and for other purposes.

AMENDMENT NO. 715

At the request of Mr. MURKOWSKI, the names of the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Amendment No. 715 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 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 years for the Armed Forces, and for other purposes.

SENATE RESOLUTION 285—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO NOLA E. FREDERICK

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 285

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Nola E. Frederick, widow of George E. Frederick, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 286—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO JERLINE PARKS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 286

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jerline Parks, widow of Billy J. Parks, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 287—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO ROBINNIA GRACE ELAINE RICHARDSON

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 287

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Robinnia Grace Elaine Richardson, widow of Thomas R. Richardson, an employee of the Architect of the Capitol assigned to duty on the Senate side at the time of his death, a sum to equal six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

DIXON (AND OTHERS) AMENDMENT NO. 717

Mr. DIXON (for himself, Mr. BINGAMAN, and Mr. GLENN) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 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 years for the Armed Forces, and for other purposes; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . RIGHTS IN TECHNICAL DATA.

(a) IN GENERAL.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the respective rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense."

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of technical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release of disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release of disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

DASCHLE (AND OTHERS) AMENDMENT NO. 718

Mr. DASCHLE (for himself, Mr. MCCAIN, Mr. NUNN, Mr. HATFIELD, Mr. WILSON, and Mr. HEFLIN) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 81, between lines 6 and 7, insert the following:

SEC. 645. RETIRED GRADE OF CERTAIN RESERVE ENLISHED MEMBERS

(a) ARMY. (1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members.".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members.".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

NUNN (AND QUAYLE) AMENDMENT NO. 719

Mr. NUNN (for himself and Mr. QUAYLE) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . NATO COOPERATIVE PROJECT AGREEMENTS.

Clause (C) of section 27(b)(I) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

NUNN (AND OTHERS) AMENDMENT NO. 720

Mr. NUNN (for himself, Mr. WARNER, Mr. GLENN, and Mr. WILSON) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new sections:

SEC. 812. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than 2 years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) MODIFICATION OF DEFINITION OF JOINT DUTY ASSIGNMENT.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion officers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than one year after the date of the enactment of this Act.

SEC. 813. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) TEMPORARY INCREASE IN LEVEL IV POSITIONS.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 814. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 815. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

WILSON (AND OTHERS) AMENDMENT NO. 721

Mr. WILSON (for himself, Mr. CHILES, Mr. SYMMS, and Mr. MCCLURE) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 8, between lines 9 and 10, insert the following new subsection:

(c) LEASE OR CHARTER OF NEW TANKERS.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for militarily useful tanker vessels constructed in the United States.

SYMMS AMENDMENT NO. 722

Mr. SYMMS proposed an amendment to the bill (S. 1174) supra; as follows:

(a) FINDINGS.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) NEW AGREEMENT WITH SOVIET UNION.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) EMBASSY AGREEMENTS.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

DODD (AND OTHERS) AMENDMENT NO. 723

Mr. DODD (for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. DURENBERGER, Mr. D'AMATO, and Mr. KERRY) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. POLICY TOWARD PANAMA.

(a) FINDINGS.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) POLICY.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to reallocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

McCAIN AMENDMENT NO. 724

Mr. McCAIN proposed an amendment to the bill (S. 1174) supra; as follows:

At an appropriate place in the bill, insert the following new section:

"SEC. . (a) Effective 30 days after the date of enactment of this Act, no citizen or national of a country described in subsection (b) shall be permitted to lawfully enter the United States, either temporarily or permanently, unless prior to such entry such citizen or national has presented satisfactory evidence that such citizen or national has, within 12 months before such entry, been tested for the Human Immunodeficiency Virus (AIDS Virus) and such person does not carry that virus.

(b) A country referred to in subsection (a) is one that has as a requirement for entry into such country by a citizen or national of the United States that such United States citizen or national present evidence or certification that such United States citizen or national has been tested for or does not carry the Human Immunodeficiency Virus (AIDS Virus).".

MURKOWSKI (AND STEVENS) AMENDMENT NO. 725

Mr. MURKOWSKI (for himself and Mr. STEVENS) proposed an amendment to the bill S. 1174, supra; as follows:

On page 192, between lines 11 and 12, insert the following:

SEC. . DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or

kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

GLENN (AND McCAIN) AMENDMENT NO. 726

Mr. GLENN (for himself and Mr. MCCAIN) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 65, between lines 15 and 16, insert the following new section:

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

WILSON AMENDMENT NO. 727

Mr. WILSON proposed an amendment to the bill (S. 1174) supra; as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (an improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal discription of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) REPORT.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be entered by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

DECONCINI (AND OTHERS) AMENDMENT NO. 728

Mr. DECONCINI (for himself, Mr. NUNN, Mr. WARNER Mr. SYMMS, and Mr. MCCLURE) proposed an amendment to the bill (S. 1174) supra; as follows:

At the appropriate point in the bill, insert the following provision:

(□) STINGER ELECTRONIC SECURITY SYSTEM.—Of the funds appropriated pursuant to Section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

HATFIELD (AND OTHERS) AMENDMENT NO. 729

Mr. HATFIELD (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. WIRTH, Mr. DECONCINI, Mr. PELL, Mr. STAFFORD, Mr. DANFORTH, Mr. SPECTER, Mr. MATSUNAGA, Mr. LEAHY, Mr. PROXMIRE, Mr. DASCHLE, Mr. KERRY, Mr. MITCHELL, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. CONRAD, Mr. BAUCUS, Mr. BURDICK, Mr. RIEGLE, Mr. LEVIN, Mr. MELCHER, Mr. METZENBAUM, Mr. SARBANES, Mr. SANFORD, Mr. LAUTENBERG, Mr. WEICKER, Mr. FOWLER, Mr. BUMPERS, Mr. INOUYE, Mr. ADAMS, and Mr. MOYNIHAN) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. UNDERGROUND NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The national interest of the United States would be served by the achievement of mutual, verifiable nuclear arms reductions with the Soviet Union and by mutual, verifiable limits on the number and yield of future underground nuclear explosions conducted by both nations.

(2) A 2-year, mutual moratorium by the United States and the Soviet Union on virtually all underground nuclear explosions above a verifiable low-yield threshold would be a crucial first step by both nations toward achieving the goals described in paragraph (1).

(3) A 2-year, mutual moratorium on underground nuclear explosions above a verifiable low-yield threshold would constitute a good faith step toward fulfilling the obligations of the United States and the Soviet Union under article VI of the Nonproliferation Treaty to pursue "effective measures relating to the cessation of the nuclear arms race at an early date" and under article I of the Limited Test Ban Treaty to seek "the permanent banning of all nuclear test explosions, including all such explosions underground."

(4) A level of weapon reliability sufficient to deter the use of nuclear stockpiles can be maintained at a greatly reduced rate and yield for underground nuclear test explosions.

(5) The task of monitoring the yields of explosions for compliance with a low-threshold moratorium can be made considerably easier by limiting test explosions to one small test area composed of strong-coupling rock, thereby allowing detection-identification of any off-site nuclear explosion, regardless of yield, to serve as sufficient evidence of violation of the moratorium.

(6) A 2-year moratorium on any underground nuclear test which has an explosive power greater than one kiloton could be verified with a high degree of confidence if the current external seismic monitoring network were supplemented by three in-country networks, each composed of four stations, deployed in the vicinity of each nation's primary test site and in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits.

(7) A joint research project between the United States and the Soviet Union to determine the number, type, and locations of additional in-country seismic monitoring stations necessary to verify long-term compliance with the limitations of a low-threshold test ban treaty would contribute significantly to the prospect of concluding such a treaty in the future.

(b) LIMITATIONS ON NUCLEAR TESTING.—(1) Subject to paragraph (2), during the 2-year period beginning 270 days after the date of the enactment of this Act, funds may not be obligated or expended by any department or agency to conduct an underground nuclear explosion—

(A) with a yield greater than one kiloton, except for two designated test explosions, each with a yield not exceeding 15 kilotons;

(B) in weak-coupling geologic media;

(C) at a location that is not part of a single designated test area; and

(D) unless a public announcement of a proposed explosion has been made at least 30 days before the date of the explosion.

(2) The restriction in paragraph (1) shall cease to apply if—

(A) after the restriction has become effective, the President certifies to Congress that the Soviet Union—

(i) has conducted an underground nuclear explosion having a joint seismic yield estimate which indicates a yield greater than one kiloton, except for two designated explosions with a joint seismic yield estimate indicating a yield not greater than 15 kilotons;

(ii) has conducted an underground nuclear explosion in weak-coupling geologic media; or

(iii) has conducted an underground nuclear explosion at a location that is not part of a single designated test area; or

(B)(i) the President certifies to Congress that the Soviet Union has refused, after the restriction has become effective, to implement reciprocal, in-country monitoring arrangements; and

(ii) Congress has enacted a joint resolution approving such certification.

(c) TERMINATION FOR CERTAIN NEW AGREEMENTS.—The restrictions on testing contained in subsection (b) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union which makes reductions in the number or yield of underground nuclear explosions permitted under treaties between the United States and the Soviet Union signed before January 1, 1987.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "designated test area" means an area not exceeding 100 square kilometers within the Soviet Union or the United States, as the case may be, which—

(A) is located within the boundaries of a single existing nuclear weapons testing site in each country;

(B) incorporates competent or water-saturated strong-coupling rock that does not contain closely spaced underground tunnels or a cavity with a radius greater than 20 meters; and

(C) has been the site, before the effective date of the testing restrictions specified in this Act, of five nuclear calibration explosions having a range of independently determined yields, conducted for the primary purpose of improving the accuracy of seismic monitoring techniques, without the use of diagnostic equipment, except equipment for a Continuous Reflectometry for Radius versus Time Experiment (CORRTEX), or any other method of ascertaining the yield of explosions which is mutually agreeable to the United States and the Soviet Union.

(2) The term "joint seismic yield estimate" means a composite estimate at a high confidence level which—

(A) is based on the concurrent employment of several independent methods for calculating yields of explosions at designated test sites using different seismic waves from an underground nuclear explosion; and

(B) has been the subject of a technical report, provided in both classified and unclassified form to the Committees on Armed Services and on Foreign Affairs of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Armed Services and on Foreign Relations of the Senate, and the Select Committee on Intelligence of the Senate, conducted by a scientific review panel convened under the auspices of the National Academy of Sciences and comprised of ten highly qualified seismologists designated as follows:

(i) one by the Chairman of the Select Committee on Intelligence of the Senate;

(ii) one by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives;

(iii) one by the head of the Air Force Technical Applications Center;

(iv) one by the Director of the Defense Intelligence Agency;

(v) one by the Director of Central Intelligence;

(vi) one by the head of the Defense Advanced Research Projects Agency;

(vii) one jointly by the directors of the national weapons laboratories;

(viii) one by the Director of the Geological Survey;

(ix) one by the Director of the Office of Technology Assessment; and

(x) one by the President of the National Academy of Sciences.

(3) The term "reciprocal, in-country monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through—

(A) the conduct by either country of up to six on-site inspections on the national territory of the other, each of which shall be allowed to commence within 10 days after the day on which either nation has presented to the other a formal request demonstrating the need for additional information to identify a specific ambiguous event or activity related to apparent violations of the restrictions specified in subsection (b)(1);

(B) designation by each country, not later than 30 days after the date of enactment of this Act, of a candidate designated test area, followed by an independent inspection by the monitoring country, beginning not later than 60 days after the date of enactment of this Act and ending not later than 180 days after such date, of—

(i) the geologic and material properties within each candidate designated test area, including the presence and disposition of any underground tunnels and cavities; and

(ii) complete drill cores and logs from five calibration test holes of appropriate depth within each candidate designated test area, the drilling of which has been observed and the locations of which have been selected by the side monitoring that area;

(C) the provision of at least 30 days advance notice of—

(i) the scheduled date, time, depth, and coordinates for each nuclear test explosion of one kiloton or less;

(ii) the scheduled date, time, depth, and coordinates for not more than two explosions, each with a planned yield in excess of one kiloton, but not exceeding 15 kilotons; and

(iii) the coordinates, dates, times, and yields of industrial explosions larger than 20 tons of high explosive to be conducted within the nuclear test-capable areas defined in clause (D);

(D) the emplacement by each country, on the national territory of the other, of twelve high performance seismic stations (four bore-hole instrument packages sited within 1,500 kilometers of each designated test area and eight additional seismic stations in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits) such that the combined internal and external seismic monitoring network of each nation will be capable of detecting and identifying all nuclear explosions with yields exceeding one kiloton—

(i) at known nuclear weapons tests sites of the other country; and

(ii) at sites in the other country having a current capability to accommodate a decoupled nuclear explosion with a yield exceeding one kiloton; and

(E) the conduct of a joint verification study by experts on nuclear test verification techniques from both the United States and the Soviet Union for the purpose of determining the number and locations in both countries of additional in-country seismic monitoring stations needed to monitor long-term compliance with the terms of a low-yield threshold test ban treaty.

(e) SPECIAL PROCEDURES FOR CONSIDERING LEGISLATION APPROVING PRESIDENTIAL CERTIFICATION.—(1) For the purpose of expediting the consideration of a joint resolution referred to in subsection (b)(2)(B)(ii), the procedures specified in paragraph (2) of this subsection shall apply.

(2)(A) For the purposes of subsection (b)(2)(B)(ii), "joint resolution" means only a joint resolution introduced after the date on which a certification by the President under such subsection is received by Congress the matter after the resolving clause of which is as follows: "That Congress approves the certification made by the President, dated _____, with respect to the refusal of the Soviet Union to implement reciprocal, in-country monitoring arrangements in connection with underground nuclear testing.", the blank space therein being filled with the appropriate date.

(B) A resolution described in subparagraph (A) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subparagraph (A) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(C) If the committee to which is referred a resolution described in subparagraph (A) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(D)(i) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under subparagraph (C)) from further consideration of, a resolution described in subparagraph (A), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(ii) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(iii) Immediately following the conclusion of the debate on a resolution described in subparagraph (A), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(iv) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subparagraph (A) shall be decided without debate.

(v) If, before the passage by one House of a resolution of that House described in subparagraph (A), that House receives from the other House a resolution described in subparagraph (A), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee.

(ii) With respect to a resolution described in subparagraph (A) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(vi) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subparagraph (A), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

HATFIELD (AND OTHERS) AMENDMENT NO. 730

Mr. HATFIELD (for himself, Mr. PRYOR, Mr. DANFORTH, Mr. LEAHY, Mr. CRANSTON, Mr. WEICKER, Mr. METZENBAUM, and Mr. DASCHLE) proposed and amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS FOR PRODUCTION OF LETHAL BINARY CHEMICAL MUNITIONS.

(a) EXPRESSION OF CONGRESSIONAL POLICY REGARDING CHEMICAL WEAPONS.—It is the sense of Congress—

(1) that extraordinary progress has been made in recent months at the Chemical Weapons Disarmament Conference in Geneva by the United States, the Soviet Union, and 38 other nations in the negotiation of a treaty banning the production and stockpiling of chemical weapons;

(2) that any treaty banning the production and stockpiling of chemical weapons to which the United States becames a party must include requirements for enforcement, for the on-site inspection on demand of all storage, production, and destruction facilities, and for the accounting of chemical weapons which may be developed in the future;

(3) that it is essential to the continued progress of negotiations on a verifiable treaty banning the production and stockpiling of chemical weapons that the Soviet Union demonstrate a good faith effort to address the requirements described in clause (2); and

(4) that a one-year dalay on the final assembly of lethal binary chemical munitions by the United States could enhance chances for the successful negotiation of a multilateral and verifiable treaty banning the production and stockpiling of chemical weapons and would indicate to the Soviet Union and other negotiating nations the good faith commitment of the United States to conclude such a treaty.

(b) TEMPORARY PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act to or for the use of any department or agency of the Government may be obligated or expended for the final assembly of lethal binary chemical munitions before October 1, 1988.

(c) DEFINITION.—As used in subsections (a) and (b), the term "lethal binary chemical munitions" has the same meaning given such term in section 818(b) of the Department of Defense Appropriations Authorization Act, 1976 (Public Law 94-106; 50 U.S.C. 1519).

PRYOR (AND OTHERS) AMENDMENT NO. 731

Mr. PRYOR (for himself, Mr. HATFIELD, Mr. DASCHLE, Mr. INOUYE, Mr. METZENBAUM, and Mr. HARKIN) proposed an amendment to the bill S. 1174, supra; as follows:

On page 3, line 22, strike out "$4,967,627,000" and insert in lieu thereof "$4,965,578,000".

On page 4, line 16, strike out "$8,210,782,000" and insert in lieu thereof "$8,207,823,000".

On page 15, line 7, strike out "$8,706,452,000" and insert in lieu thereof "$8,711,452,000".

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. RESTRICTIONS ON THE BIGEYE BOMB PROGRAM

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated pursuant to an authorization contained in this or any other Act may be used for procurement or assembly of the BIGEYE binary chemical bomb for the procurement of any component or subcomponent for such bomb or for the procurement of any construction facilities or equipment associated with the production of such bomb until specific legislation has been enacted after the date of the enactment of this Act authorizing the obligation and expenditure of funds for production of the BIGEYE binary chemcial bomb.

(b) EXCEPTION FOR RESEARCH, DEVELOPMENT, TESTING, AND EVALAUTION.—The requirements of this section shall not apply to funds obligated solely for the purpose of carrying out research, development, testing, and evaluation in connection with the BIGEYE binary chemical bomb program.

(c) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Except as provided in subsection (b), the funds appropriated to carry out the BIGEYE binary chemical bomb program in fiscal year 1987, and which remain unexpended on the date of the enactment of this Act, may not be used to carry out such program in fiscal year 1988.

BYRD (AND OTHERS) AMENDMENT NO. 732

Mr. BYRD (for himself, Mr. NUNN, Mr. BUMPERS, Mr. ADAMS, and Mr. SASSER) proposed an amendment to amendment No. 712 proposed by Mr. WEICKER to the bill S. 1174, supra; as follows:

Strike all after subsection (a) of the amendment and insert in lieu thereof, the following:

(b) Congress expresses its support for:

(1) a continued US presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf;

(2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and

(3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a ceasefire as called for by United Nations Security Council Resolution 598, and take early

action toward imposing sanctions on any party which refuses to accept a cease-fire.

(c)(1) The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in Section 4 (a) (1) of the War Powers Resolution.

(2) Within thirty days after the date of enactment of this Act, the President shall submit a report to the Congress, in classified and unclassified form. The report shall provide a complete review of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the flag of the United States. This report shall also include a discussion of the following—

(A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(B) the anticipated duration of the operation;

(C) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(D) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(3) Within sixty days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and reregistration.

(e)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c)(3).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution which authorizes escorting of reregistered vessels in the Persian Gulf or the reregistration of those vessels under United States law, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c)(2) is received by Congress.

(C) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate is in order and not debatable. Amendments to the joint resolution are in order under a two-hour time limitation for each amendment. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(f) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

CHILES (AND OTHERS) AMENDMENT NO. 733

Mr. CHILES (for himself, Mr. BINGAMAN, Mr. WIRTH, Mr. DOMENICI, Mr. DECONCINI, Mr. D'AMATO, Mr. CRANSTON, Mr. PROXMIRE, Mr. MCCAIN, Mr. BENTSEN, Mr. WILSON, Mr. GRAHAM, and Mr. MCCLURE) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 22, between lines 8 and 9, insert the following new section:

SEC. 229. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) FINDINGS.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) PURPOSES.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) DEFINITIONS.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) AUTHORITY TO MAKE GRANTS.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) ADVISORY COUNCIL.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) EXPORT OF SEMICONDUCTOR MANUFACTURING TECHNOLOGY.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) PROTECTION OF INFORMATION.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Secretary of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) AUTHORIZATION.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

JOHNSTON (AND OTHERS) AMENDMENT NO. 734

Mr. JOHNSTON (for himself, Mr. MCCLURE, Mr. MURKOWSKI, Mr. BRADLEY, and Mr. HECHT) proposed an amendment to the bill (S. 1174) supra; as follows:

At the end of Title VII, add a new section as follows:

SEC. . REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

"(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of U.S. crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

"(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

"(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

"(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply

from the producing nations of the Persian Gulf;

"(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

"(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

"(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

"(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.".

HELMS AMENDMENT NO. 735

Mr. HELMS proposed an amendment, which was subsequently modified, to the bill (S. 1174) supra; as follows:

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessel known to have on board any citizen of the United States of America; provided, further, that this Section shall not in itself be construed as legislative authority for any specific military operation".

DIXON (AND OTHERS) AMENDMENT NO. 736

Mr. DIXON (for himself, Mr. STEVENS, and Mr. GRAMM) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) TREATMENT OF PAYMENT.—Costs incurred by a contractor for the acquisition of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) RIGHT OF UNITED STATES TO SPECIAL TOOLING AND TEST EQUIPMENT.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) EFFECTIVE DATE.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

HELMS AMENDMENT NO. 737

Mr. HELMS proposed an amendment to the bill (S. 1174), supra; as follows:

Add at the end of the bill the following new section.

"SEC. . It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anit-Ballistic Missile Treaty of 1972.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 24, 1987 at 11 a.m., to hold a hearing on the Treaty on Fisheries Between Governments of Certain Pacific Island States and the United States, Treaty Doc. 100-5; and the International Wheat Agreement, Treaty Doc. 100-1.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SASSER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet briefly in the Capitol during the session of the Senate on Thursday, September 24, 1987, immediately following the first vote on the floor, to consider and vote on pending non-controversial business items.

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

ADDITIONAL STATEMENTS

STATE-LOCAL FISCAL NOTE ACT CLEARS CONGRESS

● Mr. SASSER. Mr. President, yesterday afternoon this body passed the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

I am pleased to note that section 204 of this important legislation incorporates in expanded form S. 1530, which I introduced on July 23 of this year, to extend the authorization for the State and Local Government Cost Estimate Act of 1981. Indeed, I note with satisfaction that the Senate has voted to extend the authorization for this fiscal note act on a permanent basis.

S. 1530 had been polled unanimously out of the Subcommittee on Government Efficiency, Federalism, and the District of Columbia on September 15. I'd like to express my appreciation to my distinguished colleague, Senator CHILES, and his staff on the Budget Committee for their assistance in in-

corporating this important legislation into the deficit control measure.

The State and Local Government Cost Estimate Act of 1981 contained a 5-year authorization, due to expire this September 30, for the Congressional Budget Office to prepare estimates of the impact of Federal legislation on State and local governments. The CBO previously had been preparing such fiscal notes to calculate the cost impact of bills on the Federal Government, under the Congressional Budget Act of 1974. Too often, however, national legislation imposed significant costs as well on State and local governments. Without the relevant data, it was impossible for the Congress to take appropriate account of these costs in legislating national policy.

For that reason, I along with Senators ROTH, NUNN, and DANFORTH introduced legislation in 1980 to extend the fiscal note process to evaluate the cost of Federal legislation to State and local government. Hearings were held on this legislation late in the 96th Congress before the Subcommittee on Intergovernmental Relations, which I then chaired.

The following year, together with Senator DURENBERGER and several cosponsors, I reintroduced that legislation as S. 43. The bill was reported favorably by the Committee on Governmental Affairs and the Senate Budget Committee. Then, owing to time constraints late in the session when S. 43 was brought on for consideration, we passed the virtually identical companion House bill, H.R. 1465, introduced by Representative ZEFERETTI. The State and Local Government Cost Estimate Act was signed into law by President Reagan on December 23, 1981.

Following my introduction of S. 1530 this past June, the Subcommittee on Government Efficiency, Federalism and the District of Columbia held a hearing on July 30 to receive testimony about the operation of the State and local fiscal note process. The testimony and statements we received from the CBO, the General Accounting Office and others were most encouraging.

For instance, the act had only required the CBO to prepare fiscal notes on legislation, other than tax and appropriations measures, which posed an estimated State and local impact in excess of $200 million. The CBO, however, has found it feasible to estimate the State and local impact of all affected legislation, rather than just those which trigger the $200 million threshold. The subcommittee was told of examples, such as last year's immigration reform bill, in which State and local fiscal notes were critical to the adoption by Congress of provisions designed to eliminate or to minimize the cost of Federal mandate legislation to local governments.

We also heard the outlines of some suggestions to improve the State and local fiscal note process. For example, some suggested that it might be advisable to extend it now to tax measures and other legislation not previously affected. Others also suggested that the data in these fiscal notes could and should be used even more effectively, both by Members of Congress and by public interest organizations representing States and localities. The subcommittee plans to hold additional hearings, hopefully in the near future, to explore these and other ways in which the present act could be further improved.

But to reiterate, on this day I am appreciative that the Senate has indicated its support for the present State and local fiscal note program. We are all only too aware that this is a time of budget constraints at all levels of government. It is, therefore, doubly important to reaffirm to States and localities our commitment to work as partners, not adversaries, in reducing the cost of government to the American taxpayer. The fiscal note program we have just permanently authorized is a step in the right direction.●

NATIONAL SAFETY BELT USAGE DAY

● Mr. D'AMATO. Mr. President, I support Senate Joint Resolution 184, legislation to designate October 15, 1987 as "National Safety Belt Usage Day." This resolution will serve to promote valuable safety devices—seatbelts and child car seats.

Over the last decade, 470,000 Americans have died on our highways. Each year, 22,000 Americans die in the front seats of passenger cars, while 300,000 Americans are injured seriously enough to require hospital treatment. These statistics simply cannot be ignored.

Because of these figures, 29 States and the District of Columbia have enacted mandatory seatbelt laws since 1984. In 3 short years, it has become apparent that deaths and injuries from traffic accidents have declined due to seatbelt use. Department of Transportation studies show that safety belts saved 1,760 lives in these States in 1986. Thousands of injuries have also been averted due to the increase in safety belt use.

While most Americans recognize that seatbelts reduce the risk of death or critical injury in the event of a traffic accident, less than one-half of all Americans use their safety belts. However, through enforcement of State laws and an increase in public awareness and acceptance of seatbelt use, we can expect continued and increased usage in the years to come.

Mr. President, my home State of New York enacted a mandatory seatbelt law effective January, 1985. Since that time, nearly 500 New Yorkers are alive who might not have been had this law not been passed. It is also estimated that 45,000 New Yorkers have escaped serious injury because of this law. It is my hope that through increased use and awareness of seatbelts and child car seats we will be able to save even more lives. I am pleased to lend my support to Senate Joint Resolution 184 and I urge my colleagues in the Senate to join me in cosponsoring this legislation.●

OREGON SAT SCORES RANK SECOND IN NATION

● Mr. PACKWOOD. Mr. President, this week the college board announced scholastic aptitude test [SAT] scores for 1987. I am elated to report that Oregon, for the third straight year, ranked second nationwide among those States where at least 20 percent of high school seniors participated in the test.

The SAT is our Nation's most widely used college entrance exam and was taken last year by almost 1.1 million students, about 38 percent of the Nation's high school graduates. Today, for the first time in nearly 20 years, SAT scores have begun to rise, and the high school graduation rate has increased in 39 States. While it is important to take certain precautions in interpreting the test scores and not accord undue emphasis to statistical comparisons, the scholastic aptitude test does serve a valuable purpose as our principle gauge of performance levels among students, individual schools, districts, and the States.

More important than the test scores themselves, however, is the fact that, this year, more Oregon students than ever before took the college entrance exam. According to the college board, 14,189 members of the State's graduating high school class tackled the SAT in the spring of this year, compared to 13,143 last year. This speaks well for the State and for Oregon educators who are putting an increased emphasis on the importance of higher education and, as a consequence, are stimulating greater participation in the tests.

Oregon's showing on the test scores is particularly impressive given the large numbers of students who took the SAT. Usually, the more students taking the test, the lower the average score. For example, Mississippi scored extremely high, beating out Oregon, but only 3 percent of the graduating class took the exam—the brightest students—compared to 49 percent of Oregon's graduating class who took the test. The increasing numbers of students taking the SAT is an encouraging sign. It indicates that a great many

more students are actually considering pursuing a college education. A highly educated population, as we all know, is the key to a strong economy. I congratulate Oregon educators for their role in strengthening the State's educational system and for fostering in the schools and throughout the communities a higher regard for learning.●

THE BORK NOMINATION

● Mr. DANFORTH. Mr. President, I have followed the hearings on the Bork nomination with great interest. I believe there is a strong chance that Judge Bork will not be confirmed. This would be an outrage. The hearings by the Judiciary Committee have established that Judge Bork is a person of great intellect and that his views are in the mainstream of thinking about the proper role of the Court.

I was deeply impressed by his intelligence and the precision of his answers. He spent 5 days in the witness chair—a marathon. He handled line drives, fast grounders, slow rollers, bunts, pop flies, and foul balls with the skill of Ozzie Smith. If the Bork nomination is rejected, it will not be the result of the hearings.

Judge Bork's problem is that he is the target of an amazing lobbying campaign by liberal interest groups. I have never seen such intensity and total commitment. Intensity and commitment are what win close fights in the Senate. The stop-Bork drive is a Who's Who of liberal activism: the National Abortion Rights Action League, People for the American Way, the American Civil Liberties Union, the Alliance for Justice, the Leadership Conference on Civil Rights, the national AFL-CIO leadership, Common Cause, Public Citizens Litigation Group, and others. On this nomination, these groups have intensity and commitment to burn.

In this context, I take note of an article in the September 21 edition of Legal Times entitled "Working the Bork Hearings—In Fund Raising and Spin Control, Liberals Outflank Their Foes." I ask that the article in Legal Times be inserted in the RECORD, at the end of my remarks. Judge Bork's opponents have a clear view of what they are fighting for. They are fighting for power, in the form of control over appointments to the Supreme Court. They are intense and committed. In order to confirm Robert Bork, the Senate will have to walk across hot coals.

The stop-Bork groups want an activist Court that takes power away from Congress and State legislatures and places it in the hands of judges. Stop-Bork groups favor most of the judge-made law of recent years. They favor powerful judges and weak legislatures. Robert Bork is an advocate of judicial restraint, not judicial activism. He is a champion of democratic values, as against judicial elitism. Therefore, he must be stopped.

The question isn't Robert Bork's intellect or his credentials or his character or his judicial philosophy. Robert Bork is brilliant. His integrity is beyond question. His philosophy of judicial restraint is in the mainstream of American jurisprudence.

I support Judge Bork because he believes in judicial restraint, as do I. He believes the duty of judges is to interpret the law, not to make the law.

He would be a superb Justice. We may get him, but we may not. If we do not, it will be because political activists in Washington approached the nomination as a raw struggle for power, pulled out every stop, and lobbied a brilliant jurist and a wonderful human being into rejection by the Senate.

The material follows:

[From the Legal Times, Sept. 21, 1987]

WORKING THE BORK HEARINGS—IN FUND RAISING AND SPIN CONTROL, LIBERALS OUTFLANK THEIR FOES

(By Anne Kornhauser)

When Sens. Edward Kennedy (D-Mass.) and Patrick Leahy (D-Vt.) needed some information about a free-speech case on the second day of Judge Robert Bork's confirmation hearings last week, they got the word out to the American Civil Liberties Union. The next day, hundreds of copies of a memorandum explaining the case and Bork's position on it appeared in the hearing room.

And when it seemed as though Bork was contradicting himself on such issues as free speech and sex discrimination, three different position papers comparing "the new Bork" and "the old Bork" were quickly prepared and distributed at the hearings. They had been compiled overnight by the ACLU, the National Abortion Rights Action League (NARAL), and the Leadership Conference on Civil Rights.

The anti-Bork activists were clearly out in force, with lobbyists for the various anti-Bork coalitions making up the plurality of the often surprisingly sparse audience in the historic Russell Senate Office Building Caucus Room. They appeared en masse during the breaks to caucus with senators, their staffers, and each other, and to answer the ceaseless flow of questions from the more than 150 journalists covering the most contentious judicial nomination in 18 years. With ample financial resources, some of it the result of a highly successful direct-mail effort, the anti-Bork forces have also been conducting an intense media campaign.

Almost invisible, however, were the pro-Bork lobbying groups.

Smaller in number and with fewer resources because of a far-less successful fundraising effort—and with some proponents feeling confident enough to stay away—the leaders of the various pro-Bork groups opted for the most part to watch the hearings on television and to field press inquiries from their offices.

"We have limited resources," explains Patrick McGuigan, legal affairs analyst for the conservative Coalitions for America, "so there's not a lot of interaction with people on the Hill." Adds McGuigan: "I trust them [the White House] to do their job."

In the hearing room to grant interviews were such representatives from the White House as counsel A.B. Culvahouse, lobbyist Thomas Korologos, and former Bork clerk Peter Keisler, who now works for Culvahouse.

But there was far less interplay among the senators on the committee, their staffs, and the conservatives at the hearings. By contrast, the squads of anti-Bork activists were constantly feeding the panel and the press with proposed questions and fresh materials relating to Bork's most recent statements at the hearings.

Some pro-Bork lobbyists just did not think to show up. "I guess I probably should be there," acknowledges Daniel Casey, executive director of the American Conservative Union.

Among the legions of anti-Bork lobbyists attending the hearings, many of whom are members of a large anti-Bork coalition, were longtime civil-rights advocate and attorney Joseph Rauh; Democratic Party consultant Ann Lewis; Morton Halperin, Leslie Harris, and Jerry Berman of the Washington ACLU office; Nan Aron, executive director of the Alliance for Justice; Ralph Neas, executive director of the Leadership Conference on Civil Rights: Kate Michelman, executive director of NARAL; and representatives from the AFL-CIO, Planned Parenthood, the National Association for the Advancement of Colored People, Common Cause, People for the American Way, the Federation of Women Lawyers, the Urban League, and Public Citizen Litigation Group.

ANTI-BORK WING'S IMPACT STRONG

The impact of both sets of ideological pressure groups on the questions and debate was immediately apparent, although far more striking in the case of the anti-Bork wing.

In his opening remarks on Tuesday, for example, Sen. Robert Byrd (D-W. Va.) paraphrased the Public Citizen Litigation Group report on Bork when he cited an apparent pattern in Bork's opinions that gave victories to business and the executive branch.

On the other side, remarks by Sen. Orrin Hatch (R-Utah) about how Bork's opponents were emphasizing only selected parts of his record echoed McGuigan's press releases. McGuigan acknowledges that he communicated with Hatch the week before the hearings to underscore the selectivity issue.

Anti-Bork lobbyists seemed particularly adept at picking up concerns voiced by the undecided senators. When Sen. Arlen Specter (R-Pa.) first expressed confusion over Bork's conflicting statements and changed positions, the liberals jumped in with yet more position papers highlighting the differences in past and present statements by Bork and heaped them on Specter and the other senators.

By last Friday, after carefully observing the questioning by the swing senators and after talking privately with Senate staffers, Bork's opponents were feeling quite optimistic about getting the votes of both DeConcini and Specter. They remained unsure about Heflin.

The anti-Bork lobbying campaign included: regular 8 a.m. meetings of leaders of the various anti-Bork groups at the ACLU office across the street from the hearing room; daily satellite-made transcripts of the proceedings; and access to "legal experts" who

were produced within hours to answer reporters' questions.

Some lobbyists fed questions for Bork to friendly senators during the breaks. Rauh, for example, was seen conferring with Sen. Howard Metzenbaum (D-Ohio). Rauh refused to divulge the content of their conversation but did acknowledge that "Howard and I are old friends."

LOOKING BEYOND JUDICIARY

The anti-Bork lobbyists are already looking beyond the Judiciary Committee hearings. At the beginning of last week, the ACLU twice held briefings for about 40 Hill staffers of non-judiciary committee senators in preparation for the impending floor fight. It is expected that even if Bork is denied committee approval, his nomination will still go to the floor. According to the ACLU's Harris, the purpose of the briefings was "to give context so they understand, for example, the arcane debates on the 14th Amendment."

The pro-Bork activists spent much of last week struggling to release material defending the consistency of Bork's testimony and praising his candor. This material did not arrive at the hearings until last Friday, the fourth day of the hearings. McGuigan lamented that he only had access by last Thursday to a partial transcript of the first day of the hearings.

The biggest indication that the conservatives were short on resources was the absence of a pro-Bork media campaign. Bork's opponents have hit the airwaves and newspapers with a flurry of paid ads.

Last week, People for the American Way ran full-page ads in dozens of papers across the country. On radio and in television, the group aired sports prepared by Washington consultant Joseph Rothstein. The group's director, Arthur Kropp, had said at the outset of the Bork battle in June that his organization would not air television ads, but Kropp told reporters last week that "an outpouring of support" received from a direct-mail campaign had made it possible to do a $2 million media buy.

By contrast, the conservatives have done smaller mailings that have generated little income. Although recent media reports have maintained that millions of dollars are pouring in from both sides of the Bork fight, top direct-mail consultants and conservative activists paint a different picture.

Republican direct-mail consultant Bruce Eberle says he has mailed out about one million letters for pro-Bork groups, which have netted about $300,000 for the cause.

MONEY-RAISING NOT EASY

Some conservative consultants say Bork's confirmation is a hard issue on which to raise money, because their regular donors are optimistic about his confirmation. Sandra McPherson of the National Conservative Political Action Committee says her group has only done one mailing to 450,000 people.

"We're not doing any further mailings on it," she says, "primarily because the signs are showing up that Bork will be successful. We feel pretty confident."

Eberle agrees. "Bork has become a better issue for the left than for the right," Eberle says, because conservatives have minimized the Bork opposition.

Conservative activist Casey adds that his organization's fund-raising results have been "about average" on Bork. "In a sense, it's not one of our issues," Casey says. He contends that the most successful fund-raising issues for conservatives are in the areas of foreign policy and economics. "On civil-rights issues, we can't compare," he observes.

But Richard Viguerie, the right's pre-eminent direct-mail fund-raiser, says his Bork mailings "are doing 50 percent better than average" and that conservatives are simply not doing enough of it. "The conservatives really didn't get their act together on lobbying on Bork as the liberals did," Viguerie says.

"The battle is not being fought properly," Viguerie complains. "Most people feel it's not going well for Bork because he's followed liberal advice. He's tried to position himself as more moderate and I think that's hurt him," says Viguerie.

But if the conservative direct mail is not generating vast amounts of money, it is generating a lot of mail on the Hill. Undecided senators have been the biggest recipients. Heflin reports his above-normal volume of mail is about fifty-fifty on Bork; DeConcini's is about three-to-two in Bork's favor.

In an effort to capitalize on their momentum, the anti-Bork activists will spend much of this week preparing for testimony and developing questions for friendly witnesses, according to the ACLU's Berman.

Witness lists were still not released by Biden's office by the end of last week, leaving both camps unsettled. About 200 groups thus far have filed requests with Biden to have their representatives testify. And with Bork on the defensive much of the first week of the hearings, conservative activists who did bother to request to testify may soon have regrets.

One is McGuigan, who says he did not ask to be included on the witness list because he feared "the attention might get drawn to things other than substance—like partisanship."●

CENTENNIAL OF THE MICHELSON-MORLEY EXPERIMENT

●Mr. GLENN. Mr. President, although most people probably wouldn't recognize his name, Albert Abraham Michelson was one of this country's most formidable scientists. His work in optical physics has profoundly affected our understanding of the world. This year, Ohioans take special pride in celebrating the one hundredth anniversary of what is arguably Michelson's greatest experiment, a critical examination of the so-called luminiferous ether, performed in collaboration with chemist Edward Morley at the Case School of Applied Science (now Case Western Reserve University) in Cleveland, OH. Their conclusion, that the ether does not exist (and therefore does not serve as the medium through which light is conducted), forced a rethinking of the composition of space—a rethinking that may have produced the space-time notions of the physical universe embodied in Einstein's theory of special relativity.

Before the Michelson-Morley experiment, the entirety of space was believed to be filled by the ether, an indescribable medium through which the earth, planets, and even light were supposed to move. For centuries, the world's brightest scientific minds had wrestled with the ether's exact composition and the precise method by which it conducted the energy and objects it surrounded. The idea of such a substance gained increasing prominence in the 19th century as scientists began searching for ways to detect and thereby prove its existence. One possibility followed from the basic assumption that the ether was stationary and that earth moved through it at a calculable rate. In pursuit of this figure, scientists devised instruments designed to measure the speed of light through other media, hoping to demonstrate the probability of a similar effect as light traveled through the stationary ether of outer space. None of these "ether draft" experiments of the mid-1800's succeeded conclusively in providing the existence of a stationary ether.

Intrigued by these failures, a young Albert Michelson began seriously contemplating the ether problem in the fall of 1880. Born in Prussian Poland of Jewish parents, Michelson was brought to this country in 1855. A short year later, the family resettled to San Francisco. Albert spent his youth in California and there developed an abiding interest in the sciences. In 1869, Michelson traveled alone cross country to personally request an over-quota appointment to the U.S. Naval Academy at Annapolis. After initially rejecting the request, President Grant acceded and Michelson began at the Academy that year. Upon graduation 3 years later, Ensign Michelson was assigned as a lecturer in physics. It was during this time that Michelson, fully immersed in the day's leading theories of light, electricity, and the ether, began to focus on the need to challenge the conventional wisdom.

In 1880, on a year's leave of absence from the Navy, Michelson traveled to Germany to study and work at the University of Berlin. Naturally inquisitive and particularly interested in optics, Michelson devoted most of his time to the development of a method to observe the conduct of light through the ether. It was while in Berlin that Michelson constructed an instrument he called an interferential refractometer (later renamed the interferometer) which was to be the key to the Michelson-Morley success. The idea of the experiment Michelson pondered was simple. He would project a beam of light in the direction in which the Earth is traveling in its orbit and simultaneously project a beam at right angles to the first; if the stationary ether existed, it would retard the first beam. The second beam, at exact right angles to the first, would arrive ahead of the first (even though the distances were the same) by a length of time determined by the velocity of the Earth. The difference would be directly observable through the interference pat-

terns of the two light beams at a common point. After 6 months of patient, detailed study, the results appeared negative. Michelson detected no significant lag in the first beam. The 1881 ether drift experiment had demonstrated the absence of a stationary ether.

Michelson was now convinced the ether was moving and that his interferometer simply could not detect its motion. In 1882, after further study in Germany and France, Michelson was appointed to the faculty of the Case School of Applied Science in Cleveland. Six roller coaster years of professional success and personal crises ensued. The stress and intensity of his work contributed to Michelson's near mental breakdown in 1885. He was sent to New York for a year to recover. Then, in 1886, a devastating fire forced the relocation of Michelson's laboratory to Western Reserve University, the home institution of Edward Morley. Despite this setback, Michelson persevered. He and Morley used a refined interferometer to establish a new standard of length for the meter (work which greatly influenced Michelson's subsequent receipt of the Nobel Prize) and performed numerous speed of light measurements, experiments considered extremely important to this day. In July 1887, the two men began a repeat of Michelson's 1881 ether drift experiment. With better equipment and revised techniques, Michelson hoped once and for all to prove the existence of the ether. A month later, the results were conclusive—once again no significant lag had been detected. The contradiction between conventional ether theory of the time and the new results obtained in this latest experiment was astounding. Not only was the existence of a stationary ether called into question, the likelihood of any ether existing at all was considerably diminished. The field was opened to a new way of thinking about the physical world.

Mr. President, Albert Michelson's ingenuity and determination engendered a fundamental change in our view of the universe around us. But it is the spirit of his genuis as much as his achievements themselves which we celebrate this year; that spirit which says no problem is unresolvable for the perseverent individual, no boundary so rigid as to be unchallengable, and no objective so difficult as to render it unachievable. Surely it is that same spirit which is the source of our greatness as a nation. I am proud to join my fellow Ohioans in saluting the work and life of this outstanding American scientist on the centennial of one of his most important successes.●

HERE LIES FREE TRADE, R.I.P.

● Mr. HEINZ. After the rise of the dollar, between 1981 and early 1985, and the subsequent increase in the U.S. trade deficit, many economists argued that the only necessary, and possible, tool needed to eliminate this growing trade deficit was the weakening of the dollar. The last few years, however, have proved them wrong. The dollar is at roughly 40 percent below 1980 levels, and the deficit continues to increase.

A recent article in the New York Times by Jeff Faux, president of the Economic Policy Institute, entitled "Here Lies Free Trade, R.I.P." dispels the facile notion that the weakening of the dollar will solve all of our trade deficit problems and argues that the primary reason for this situation is the lack of a truly free international trading system.

The author contends that much of the deficit problem is attributable to the protectionist practices of foreign governments, practices which naturally hinder U.S. sales abroad. He argues that the trade deficit cannot be solved merely by a weakening of the dollar, but rather it demands a strong governmental role in making U.S. businesses more competitive in the international market.

I bring this to Senators' attention because it closely correlates with what I have been saying for some time now: that the trade deficit problem must be addressed through a broader plan of attack than simply by weakening the dollar. Strong trade legislation, like that passed by the Senate, is also necessary to break down foreign trade barriers and to move the international trading system in a more market-oriented direction.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, Aug. 31, 1987]

HERE LIES FREE TRADE, R.I.P.

(By Jeff Faux)

WASHINGTON.—The failure of the nation's trade deficit to shrink has become a major embarrassment to the economic profession. According to conventional theory, the declining value of the dollar is supposed to make American goods cheaper and foreign goods more expensive, thereby enabling American producers to win back markets they lost when the dollar rose in the early 1980's. As a result, the trade deficit should have been dropping sharply for some time.

Instead, the excess of imports over exports remains at record levels, and each month's dismal figures put the United States further in debt to the test of the world. Now that the dollar is roughly 40 percent below its early 1985 levels, the persistent trade deficit should make even the most conservative thinkers suspect that we face a more profound problem than they have admitted.

Part of the problem is the rapidly changing nature of global competition. Most economists assumed that as the dollar dropped we would regain the markets we lost when it rose. But the high dollar lured new foreign firms into markets that had been held by Americans.

These competitors have not disappeared with the lower dollar but are fighting more fiercely to keep their market shares. Since many of them are subsidized by their governments, they are willing to take lower profits, often losses, to maintain production and employment at home.

Another source of misjudgment about the trade deficit is the stubborn resistance among economists to the possibility that classical notions of free trade might not be appropriate to the changing economic era. Economists have thus underestimated the problem of the trade deficit.

When the Japanese first began to make inroads into our manufacturing markets, prominent economists told us not to worry. The Japanese were dismissed as makers of cheap copies of American products.

When we lost large segments of our markets in autos, steel and consumer electronics, the conventional wisdom was that the Japanese culture was not creative and entrepreneurial enough to challenge our dominance in high technology.

Then we fell behind in semiconductors and robotics and lost our seemingly insurmountable lead in super-computers. The mainstream response was that America would always be the financial center of the world. At last count, eight of the largest 10 international financial institutions were Japanese. Then we were told that things would straighten out once the dollar came down.

All of these predictions were made on the basis of classical economic models that assumed, among other things, that all markets are free and competitive. In the real world, American companies compete in markets that are not free and therefore do not behave as predicted in the textbooks. Governments all over the globe are subsidizing exports, restricting imports and targeting domestic industries for expansion in a scramble for shares of stagnant world markets.

Managed trade, not free trade is now the norm. Trade relations between countries will become subject more to political negotiation and less to supply and demand in unregulated markets.

Once this reality is understood, it will be clear that we must abandon the expectation that the falling dollar will solve our problems. We must get on with the task of making our businesses more competitive and the messy but essential political work of government-to-government negotiations that expand or restrict United States markets according to principles of reciprocity and informed judgments about what is good for the American economy.

To help political leaders make these judgments, American economists will need to catch up to their European and Japanese counterparts in understanding the new, mixed-market environment.

Although absolute ideas die hard, eventually they do die. With each month, the gloomy statistics add more nails to the coffin of the venerable free trade theory. Parts of the theory will remain a useful tool for analyzing the behavior of certain markets, but as a general model free trade no longer describes the reality of the international marketplace.●

GORBACHEV ARTICLE ON PRAVDA AND IZVESTIA

● Mr. GORE. Mr. President, several days ago, when progress on the INF Treaty was announced in Washington, DC, Soviet Foreign Minister Shevardnadze—in his press conference—referred several times to an article by General Secretary Gorbachev in Pravda which the Foreign Minister characterizes as a major statement of Soviet views.

So far as I know, the U.S. press has not carried any information concerning Gorbachev's article. I have obtained a full English translation of the article and I believe that its contents are a matter of interest to every Member, regardless of their disposition toward Gorbachev's ideas. With permission, therefore, I submit this translation for publication in the RECORD.

The text follows:

MIKHAIL GORBACHEV'S ARTICLE FOR PRAVDA AND IZVESTIA

"The 42nd Session of the United Nations General Assembly opened a few days ago. It is this fact that suggested the idea of this article. Objective processes are making our complex and diverse world increasingly interrelated and interdependent. And it increasingly needs a mechanism which is capable of discussing its common problems in a responsible fashion and at a representative level and provides a place for the mutual search for a balance of differing, contradictory, yet real, interests of the contemporary community of states and nations. The United Nations organization is called upon to be such a mechanism by its underlying idea and its origin. We are confident that it is capable of fulfilling that role. This is why in the first autumn days, when the period of vacations is over and international political life is rapidly gathering momentum, when an opportunity for important decisions in the disarmament field can be discerned, we in the Soviet leadership deemed it useful to share our ideas on the basic issues of world politics at the end of the 20th century. It seems all the more appropriate since the current session of the United Nations General Assembly is devoted to major aspects of such politics.

"It is natural that what we would like to do first of all in this connection is to try and see for ourselves what the idea of the establishment of a comprehensive system of international security—the idea advanced at the 27th CPSU Congress—looks like now that 18 months have passed since the congress. This idea has won backing from many states. Our friends—the socialist countries and members of the nonaligned movement—are our active coauthors.

"The article offered to you deals primarily with our approach to the formation of such a system. At the same time it is an invitation for the United Nations member states and the world public to exchange views.

I.

"The last quarter of the 20th century has been marked by changes in the material aspect of being—changes revolutionary in their content and significance. For the first time in its history mankind became capable of resolving many problems that were hindering its progress over the centuries. From the standpoint of the existing and newly-created resources and technologies, there are no impediments to feeding the population of many billions of people, from giving them education, providing them with housing and keeping them healthy. Given the obvious differences and potential of peoples and countries, there is now the prospect for ensuring living conditions for the inhabitants of the earth.

"At the same time dangers have emerged which put into question the very existence of the human race. This is why new rules of coexistence on our unique planet are badly needed, and they should conform to the new requirements and the changed conditions.

"Alas, many influential forces continue adhering to outdated concepts concerning ways to ensure national security. As a result, the world is in an absurd situation whereby persistent efforts are being made to convince it that the road to an abyss is the most correct one.

"It would be difficult to appraise in any other way the point of view that nuclear weapons allegedly make it possible to avert a world war. It is not simple to refute it precisely because it is totally unfounded, for one has to dispute something which is being passed off as an axiom—since no world war has broken out after the emergence of nuclear weapons, obviously it is these weapons which have averted it. It seems that it is more correct to say that a world war has been averted despite the existence of nuclear weapons.

"Some time back the sides had several scores of atomic bombs apiece, then each came to possess hundreds of nuclear missiles, and finally, the arsenals grew to include several thousand nuclear warheads. Not so long ago Soviet and American scientists specially studied the issue of the relationship between the strategic stability and the size of the nuclear arsenals. They arrived at the unanimous conclusion that 95 percent of all nuclear arms of the U.S. and USSR can be eliminated without stability being disrupted. This is a killing argument against the 'nuclear deterrence' strategy that gives birth to a mad logic. We believe that the five percent should not be retained either, and the stability will be qualitatively different.

"Not laying claims to instructing anyone and having come to realize that mere statements about the dangerous situation in the world are unproductive, we began seeking an answer to the question of whether it was possible to have a model for ensuring national security which would not be fraught with the threat of a world-wide catastrophe.

"Such an approach was in the mainstream of the concepts that has taken shape during the process of evolving the new political thinking, which is permeated with a realistic view of what is surrounding us and what is happening around us, and a realistic view of ourselves, a view characterized by an unbiased attitude to others and an awareness of our own responsibility and security.

"The new thinking is the bridging of the gap between the word and the deed. And we embarked on practical deeds. Being confident that nuclear weapons are the greatest evil and the most horrible threat, we announced a unilateral moratorium on nuclear tests which we observed, let me put it straight, longer than we could have done. . . . Then came the January 15, 1986 Statement putting forth a concrete program for a stage-by-stage elimination of nuclear weapons. At the meeting with President Reagan in Reykjavik we came close to the realization of the desirability and possibility of complete nuclear disarmament. And then we made steps which made it easier to approach an agreement on the elimination of two classes of nuclear arms—medium- and short-range missiles.

"We believe that it is possible and realistic. In this connection I would like to note that the Government of the Federal Republic of Germany assumed the stand which is conducive to it to a certain extent. The Soviet Union is proceeding from the premise that a relevant treaty could be worked out before the end of the current year. Much has been said about its potential advantages. I will not repeat them. I would only like to note that it would deal a tangible blow at concepts of the limited use of nuclear weapons and the so-called 'controllable escalation' of a nuclear conflict. There are no illusory intermediate options. The situation is becoming more stable.

"This treaty on medium- and shorter-range missiles would be a fine prelude to a breakthrough at the talks on large-scale—50 percent—reductions in strategic offensive arms in conditions of the strict observance of the ABM Treaty. I believe that, given the mutual efforts, an accord on that matter could become a reality as early as in the first half of the next year.

"While thinking of advancing toward a nuclear weapon-free world, it is essential to see to it even now that security be ensured in the process of disarmament, at each of its stages, and to think not only about that, but also to agree on mechanisms for maintaining peace at drastically reduced levels of nonnuclear armaments.

"All these questions were included in proposals set forth jointly by the USSR and other socialist countries at the United Nations—the proposals for the establishment of a comprehensive system of international peace and security.

"What should this be like, as we see it?

"The security plan proposed by us provides, above all, for continuity and concord with the existing institutions for the maintenance of peace. The system could function on the basis of the UN Charter and within the framework of the United Nations. In our view, its ability to function will be ensured by the strict observance of the Charter's demands, additional unilateral obligations of states, as well as confidence measures and international cooperation in all spheres—political-military, economic, ecological, humanitarian and others.

"I do not venture to foretell how the system of all-embracing security would appear in its final form. It is only clear that it could become a reality only if all means of mass annihilation were destroyed. We propose that all this be pondered by an independent commission of experts and specialists which would submit its conclusions to the United Nations organization.

"Personally, I have no doubt about the capability of sovereign states to assume obligations in the field of international security now. Many states are already doing this. As is known, the Soviet Union and the People's Republic of China have stated that they will not be the first to use nuclear arms. The Soviet-American agreements on nuclear armaments are another example. They contain a conscious choice of restraint and self-limitation in the most sensitive sphere of relations between the USSR and the United States. Or take the Nuclear Nonproliferation Treaty. What is it? It is a unique example of a high sense of responsibility of states.

"In the present-day reality there already exist 'bricks' from which one can start building the future system of security.

"The sphere of the reasonable, responsible and rational organization of international affairs is expanding before our very eyes, though admittedly timidly. Previously unknown standards of openness, of the scope and depth of mutual monitoring and verification of compliance with adopted obligations are being established. An American inspection team has visited an area where exercises of Soviet troops are held, a group of United States Congressmen has inspected the Krasnoyarsk radar station, American scientists have installed and adjusted their instruments in the area of the Soviet nuclear testing range. Soviet and American observers are now present at each other's military exercises. Annual plans of military activity are being published in accordance with accords within the framework of the Helsinki process.

"I do not know a weightier and more impressive argument in support of the fact that the situation is changing than the stated readiness of a nuclear power to voluntarily renounce nuclear weapons. References to a striving to replace them with conventional armaments in which there supposedly exists an imbalance between NATO and the Warsaw Treaty Organization in the later's favor are unjustified. If an imbalance or disproportions exist, let us remove them. We do not tire of saying this all the time, and we have proposed concrete ways of solving this problem.

"In all these issues the Soviet Union is a pioneer and shows that its words are matched by its deeds.

"The question of the comparability of defense spending? Here we will have to put in more work. I think that given the proper effort, within the next two or three years we will be able to compare the figures that are of interest to us and our partners and would symmetrically reflect the expenditures of the sides.

"The Soviet-American talks on nuclear and space arms, the convention on the prohibition of chemical weapons, which is close to being concluded, will intensify, I am sure, the advance to detente and disarmament.

"An accord on defense strategy and military sufficiency could impart a powerful impulse in this direction. These notions presuppose such a structure of the armed forces of a state that they would be sufficient to repluse a possible aggression but would not be sufficient for the conduct of offensive actions. The first step to this could be a controlled withdrawal of nuclear and other offensive weapons from the borders with a subsequent creation along borders of strips of rarefied armaments and demilitarized zones between potential, let us put it this way, adversaries, while in principle we should work for the dissolution of military blocs and the liquidation of bases on foreign territories and the return home of all troops stationed abroad.

"The question of a possible mechanism to prevent the outbreak of a nuclear conflict is more complex. Here I approach the most sensitive point of the idea of all-embracing security: Much will have to be additionally thought out, rethought and worked out. In any case, the international community should work out agreed-upon measures for the event of a violation of the all-embracing agreement on the nonuse and elimination of nuclear arms or an attempt to violate this agreement. As to potential nuclear policy, it appears possible and necessary to consider this in advance and prepare collective measures to prevent it.

"If the system is sufficiently effective, then it will provide even more effective guarantees of averting and curbing a nonnuclear aggression.

"The system proposed by us precisely presupposes definite measures which would enable the United Nations organization, the main universal security body, to ensure its maintenance at a level of reliability.

II.

"The division of the world's countries into those possessing nuclear weapons and those not possessing them has also split the very concept of security. But for human life security is indivisible. In this sense it is not only a political, military and legal, but also a moral, category. And contentions that there has been no war for already half a century do not withstand any test on the touchstone of ethics. How can one say there is no war? There are dozens of regional wars flaring up in the world.

"It is immoral to treat this as something second-rate. The matter, however, is not only in the impermissible nuclear haughtiness. The elimination of nuclear weapons would also be a major step toward a genuine democratization of relations between states, their equality and equal responsibility.

"Unconditional observance of the United Nations Charter and the right of peoples sovereignly to choose the roads and forms of their development, revolutionary or evolutionary, is an imperative condition of universal security. This applies also to the right to social status quo. This, too, is exclusively an internal matter. Any attempts, direct or indirect, to influence the development of 'not one of our own countries' to interfere in this development should be ruled out. Just as impermissible are attempts to destabilize existing governments from outside.

"At the same time the world community cannot stay away from conflicts between states. Here it could be possible to begin by fulfilling the proposal made by the United Nations Secretary-General to set up under the United Nations organization a multilateral center for lessening the danger of war. Evidenly, it would be feasible to consider the expediency of setting up a direct communication line between the United Nations headquarters and the capitals of the countries that are parmanent members of the Security Council and the location of the chairman of the nonalignment movement.

"It appears to us that with the aim of strengthening trust and mutual understanding it could be possible to set up under the aegis of the United Nations a mechanism for extensive international verification of compliance with agreements to lessen international tension, limit armaments and to monitor the military situation in conflict areas. The mechanism would function using various forms and methods of monitoring to collect information, and would promptly submit it to the United Nations. This would make it possible to have an objective picture of the events taking place, to detect preparations for hostilities in time, impede a sneak attack, take measures to avert an armed conflict and prevent it from expanding and becoming worse.

"We are arriving at the conclusion that wider use should be made of the institution of United Nations military observers and United Nations peace-keeping forces in disengaging the troops of warring sides and observing ceasefire and armistice agreements.

"And, of course, at all stages of a conflict extensive use should be made of all means of a peaceful settlement of disputes and differences between states, and one should offer one's good offices, one's mediation with the aim of achieving an armistice. The ideas and initiatives concerning nongovernmental commissions and groups which would analyze the causes, circumstances and methods of resolving various concrete conflict situations appear to be fruitful.

"The Security Council's permanent members could become guarantors of regional security. On their part, they could assume the obligation not to use force or the threat of force, to renounce demonstrative military presence. This is so because such a practice is one of the factors fanning regional conflicts.

"A drastic intensification and expansion of the cooperation of states in uprooting international terrorism is extremely important. It would be expedient to concentrate this cooperation within the framework of the United Nations organization. In our opinion, it would be useful to create under its aegis a tribunal to investigate acts of international terrorism.

"More coordination in the struggle against apartheid as a destabilizing factor of international magnitude would also be justified.

"As we see it, all the above-stated measures could be organically built into an all-embracing system of peace and security.

III.

"The events and tendencies of the past decades have expanded this concept, imparting new features and specificities to it. One of them is the problem of economic security. A world in which a whole continent can find itself on the brink of death from starvation and in which huge masses of people are suffering from almost permanent malnutrition is not a safe world. Neither is a world safe in which a multitude of countries and peoples are strangling in a noose of debt.

"The economic interests of individual countries or their groups are indeed so different and contradictory that consensus with regard to the concept of the new world economic order seems to be hard to achieve. We do hope, however, that the instinct of self-preservation should snap into action here as well. It is sure to manifest itself if it becomes possible to look into the chain of priorities and see that there are circumstances, menacing in their inevitability, and that it is high time that the inert political mentality inherited from the past views of the outside world be abandoned. This world has ceased to be a sphere which the big and strong divide it into domains and zones of vital interests.

"The imperatives of the times compel us to institutionalize many common sense notions. It is not philanthropy which prompted our proposal to agree on the reduction of interest payments under bank credits and the elaboration of extra benefits for the least developed nations. This holds a benefit for all, namely a secure future. If the debt burden of the developing world is alleviated, the chances for such a future will grow. It is also possible to limit debt payments by each developing country to the share of its annual export earnings without detriment to development, to accept export commodities in payment for the debt, remove protectionist barriers on the borders of creditor-nations and stop adding extra interest when deferring payments under debts.

"There may be different attitudes to these proposals. There is no doubt, however, that the majority of international community

members realize the need for immediate actions to alleviate the developing world's debt burden. If that is so, it is possible to start working out the program through concerted efforts.

"These words 'through concerted efforts' are very important for today's world. The relationship between disarmament and development, confirmed at the recent international conference in New York, can be implemented if none of the strong and rich keep themselves aloof. I already expressed the view that Security Council member states, represented by their top officials, could jointly discuss this problem and work out a coordinated approach. I confirm this proposal.

"Ecological security. It is not secure in the direct meaning of the word when currents of poison flow along river channels, when poisonous rains pour down from the sky, when the atmosphere polluted with industrial and transport waste chokes cities and whole regions, when the development of atomic engineering justifies taking unacceptable risks.

"Many have suddenly begun to perceive all that not as something abstract, but as quite a real part of their own experience. The confidence that 'this won't affect us,' characteristic of the past outlook, has disappeared. They say that one thorn of experience is worth more than a whole wood of instructions. For us, Chenobyl became such a thorn. . . .

"The relationship between man and the environment has become menacing. Problems of ecological security affect everyone—the rich and the poor. What is required is the global strategy of environmental protection and the rational use of resources. We suggest starting its elaboration within the framework of the UN special program.

"States are already exchanging appropriate information and are notifying international organizations of developments. We believe that this order should be legitimatized by introducing the principle of governments' giving annual reports about their conservationist activity and about ecological accidents, both those that occurred and those that were prevented on the territory of their countries.

"Realizing the need for opening a common front of economic and ecological security and starting its formation mean defusing a delayed-action bomb planted deep inside mankind's existence by history, by the people themselves.

IV.

"Human rights. One can name all the top statesmen of our times who threatened to use nuclear weapons. Some may object: It is one thing to threaten and another to use. Indeed, they haven't used them. But campaigning for human rights is in no way compatible with the threat to use weapons of mass destruction. We maintain that it is unacceptable to talk about human rights and liberties while intending to hang overhead, in outer space, the 'chandeliers' of exotic weapons. The only down-to-earth element in that exoticism is the potential of mankind's annihilation. The rest is in dazzling wrapping.

"I agree: The world cannot be considered secure if human rights are violated in it. I will only add: If a large part of this world has no elementary conditions for a life worthy of man, if millions of people have the full 'right' to go hungry, to have no roof over their head and to be jobless and sick indefinitely when treatment is something they cannot afford, if, finally, the basic human right, the right to life, is disregarded.

"First of all, it is necessary that national legislation and administrative rules in the humanitarian sphere everywhere be brought in accordance with international obligations and standards.

"Simultaneously it would be possible to turn to coordinating a broad selection of practical steps, for instance, to working out a world information program under UN auspices to familiarize peoples with one another's life, life as it is, not as someone would like to present it. That is precisely why such a project should envisage eliminating from the flow of information the enemy image stereotypes, bias, prejudices and absurd concoctions and the deliberate distortion and unscrupulous violation of the truth.

"There is much promise in the task of coordinating unified international legal criteria for handling in a humanitarian spirit issues of family reunification, marriages, contacts between people and organizations, visa regulations and so on. What has been achieved in this within the framework of the all-European process should be accepted as a starting point.

"We favor the establishment of a special humanitarian cooperation fund of the United Nations formed from voluntary state and private contributions on the basis of the reduction of military spending.

"It is advisable that all states join the UNESCO conventions in the sphere of culture, including the conventions on protecting the world cultural heritage and on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property.

"The alarming signals of recent times have pushed to the top of the agenda the idea of creating a worldwide network of medical cooperation in treating most dangerous diseases, including AIDS, and combating drug addiction and alcoholism. The existing structures of the World Health Organization make it possible to establish such a network on relatively short notice. The leaders of the world movement of physicians have big ideas about this.

"Dialogue on humanitarian problems could be conducted on a bilateral basis, within the forms of negotiation that have already been established. Besides, we propose holding it also within the framework of an international conference in Moscow: We made the proposal at the Vienna meeting in November last year.

"Pooling efforts in the sphere of culture, medicine and humanitarian rights is yet another integral part of the system of comprehensive security.

V.

"The suggested system of comprehensive security will be effective to the extent in which the United Nations, its Security Council and other international institutes and mechanisms will effectively function. It will be required to enhance resolutely the authority and role of the UN, the International Atomic Energy Agency. The need for establishing a world space organization is clearly felt. In the future it could work in close contact with the UN as an autonomous part of its system. UN specialized agencies should also become regulators of international processes. The Geneva Disarmament Conference should become a forum that would internationalize the efforts on transition to a nuclear-free, nonviolent world.

"One should not forget the capacities of the International Court either. The General Assembly and the Security Council could approach it more often for consultative conclusions on international disputes. Its mandatory jurisdiction should be recognized by all on mutually agreed-upon conditions. The permanent members of the Security Council taking into account their special responsibility, are to make the first steps in that direction.

"We are convinced that a comprehensive system of security is, at the same time, a system of universal law and order ensuring the primacy of international law in politics.

"The UN Charter gives extensive powers to the Security Council. Joint efforts are required to ensure that it could use them effectively. For this purpose, it would be sensible to hold meetings of the Security Council at the foreign ministers' level when opening a regular session of the General Assembly to review the international situation and jointly look for effective ways to improve it.

"It would be useful to hold meetings of the Security Council not only at the headquarters of the UN in New York, but also in regions of friction and tension and alternate them among the capitals of the permanent members states.

"Special missions of the Council to regions of actual and potential conflicts would also help consolidate its authority and enhance the effectiveness of the decisions adopted.

"We are convinced that cooperation between the UN and regional organizations could be considerably expanded. Its aim is to search for a political settlement of crisis situations.

"In our view, it is important to hold special sessions of the General Assembly on the more urgent political problems and individual disarmament issues more often if its efficiency is to be improved.

"We empahatically stress the need for making the status of important political documents passed by consensus at the United Nations more binding morally and politically. Let me recall that they include, among others, the final document of the First Special Session of the United Nations General Assembly Devoted to Disarmament, the Charter of Economic Rights and Obligations of States, and others.

"In our opinion, we should have set up long ago a world consultative council under UN auspices uniting the world's intellectual elite. Prominent scientists, political and public figures, representatives of international public organizations, cultural workers, people in literature and the arts, including laureates of the Nobel Prize and other international prizes of worldwide significance, and eminent representatives of the churches could seriously enrich the spiritual and ethical potential of contemporary world politics.

"To ensure that the United Nations and its specialized agencies operate at full capacity, one should come to realize that it is impermissible to use financial levers for bringing pressure to bear on it. The Soviet Union will continue to cooperate actively in overcoming budget difficulties arising at the United Nations.

"And, finally, about the United Nations Secretary-General. The international community elects an authoritative figure enjoying everybody's trust to that high post. Since the Secretary-General is functioning as a representative of every member state of the organization, all states should give him maximum support and help him in fulfilling his responsible mission. The international community should encourage the United Nations Secretary-General in his missions

of good offices, mediation and reconciliation.

"Why are we so persistent in raising the question of a comprehensive system of international peace and security?

"Simply because it is impossible to put up with the situation in which the world has found itself on the threshold of the third millenium—facing the threat of annihilation, in a state of constant tension, in an atmosphere of suspicion and strife, expending huge funds and quantities of the labor and talent of millions of people only to increase mutual mistrust and fears.

"One can speak as much as he pleases about the need for terminating the arms race, uprooting militarism, or about cooperation. Nothing will change unless we start acting.

"The political and moral core of the problem is the trust of the states and peoples in one another, and respect for international agreements and institutions. And we are prepared to switch from confidence measures in individual spheres to a large-scale policy of trust which would gradually shape a system of comprehensive security. But such a policy should be based on the community of political statements and real positions.

"The idea of a comprehensive system of security is the first plan for a possible new organization of life on our common planetary home. In other words, it is a pass into the future where security of all is a token of the security for everyone. We hope that the current session of the United Nations General Assembly will jointly develop and concretize this idea."●

CITIZENS FOR DECENCY THROUGH LAW ON JUDGE ROBERT H. BORK

● Mr. ARMSTRONG. Mr. President, in a few weeks the full Senate will debate the nomination of Judge Robert Bork to the Supreme Court of the United States. In preparing for that debate, my colleagues will no doubt review many articles, studies, and statements on Judge Bork, both pro and con. In the spirit of helping Senators have access to all sides of the question, I am inserting into the RECORD a brief analysis of Judge Bork's judicial philosophy prepared by the Citizens for Decency Through Law of Scottsdale, AZ. I hope my colleagues find this statement of use as they reflect on this important matter.

I ask that the statement be printed in the RECORD.

The statement follows:

ANALYSIS OF ROBERT H. BORK'S JUDICIAL PHILOSOPHY, CITIZENS FOR DECENCY THROUGH LAW, INC., SCOTTSDALE, AZ

SUMMARY

Citizens for Decency through Law, Inc. strongly urges the United States Senate to confirm Judge Robert Bork as an Associate Justice of the United States Supreme Court. Judge Bork's lengthy and distinguished legal career provides him with superb qualifications to serve on the Court. His understanding of the role of the judiciary, and his approach to constitutional interpretation are consistent with the separation of powers provided for by the authors of the Constitution. Specifically Judge Bork understands, as does the Supreme Court, that obscene and pornographic material is outside the protection of the first amendment, and can constitutionally be proscribed by communities and states.

INTRODUCTION

Judge Robert Bork has been described by opponents as a "rigid, ideological conservative." He also has been derogatorily characterized as "against abortion," "against pornography" and "against homosexual rights." In fact, he is none of these things. Those who accuse him reveal only their own ignorance of the intricacies of constitutional law and judicial philosophy, or worse, their talent for character assassination and outright dishonesty.

Even Judge Bork's enemies acknowledge his brilliant scholastic and jurisprudential record. Justice Stevens, considered a moderate-to-liberal member of the high Court, has taken the rare step of publicly defending Judge Bork. Justice Stevens has praised Bork's qualifications and called him a "welcome addition to the Court." Federal judges surveyed by the L.A. Times would vote to confirm Bork by a better than 2-to-1 margin. Leading law professors—liberal and conservative—have publicly vouched for Bork's academic credentials and urged his confirmation.

But credentials are no longer the issue. His "ideology"—as his critics so crudely refer to a judicial philosophy developed over four decades of learning—has been made the central issue of the upcoming confirmation hearings. These attacks must be answered by a defense of Judge Bork's principled and reasoned approach to jurisprudence. This memorandum shall do three things:

(1) Explain the judicial philosophy of Judge Bork with regard to the constitutional role of the judiciary, and the judge's obligation to interpret the Constitution by discerning the intent of the Framers;

(2) Show that Judge Bork's judicial philosophy does not favor the political goals of conservatives or liberals;

(3) Show that Judge Bork's judicial philosophy is not only correct, but required by the Constitution.

SEPARATION OF POWERS

Judge Bork's veiws on the role of the judiciary can be summed up quite easily: "A judge is not a legislator." It seems a simple and obviously true proposition, yet most attacks on Judge Bork focus on his refusal to act like a legislator. But the President cannot make rulings on guilt or innocence—that is for the judiciary. The Congress cannot negotiate treaties—that is for the President. And the judiciary cannot make laws—that is for the Congress. Obviously Judge Bork understands the constitutionally required separation of power better than his critics. Invariably, their concern is not the Constitution, but the bottom line on particular issues. That is why they rail against Judge Bork for being "against abortion," even though he has never publicly expressed any view on the wisdom or morality of the practice.

Judge Bork is not, in a legal sense, "against' abortion. In fact, given his self-avowed libertarian leanings, he quite possibly might oppose any restrictions by the state on the practice of abortion, if he were a voting member of Congress. But as a judge, his personal views about abortion are completely irrelevant. When asked to decide whether a state law outlawing abortion violates the Constitution, the question for a judge is not: "Should abortion be illegal?" but "Does the Constitution prevent states from outlawing abortion?" The Judge may believe strongly that women should be free to obtain abortions, but unless he finds something in the Constitution that says otherwise, he must let the law stand as constitutional. But the approach taken by a divided Supreme Court, in Bork's words, "confuses the constitutionality of laws with their wisdom."[1] Believing that abortion should be legal, the Court has ruled that the Constitution requires it to be legal.

In his 1971 law review article "Neutral Principles and Some First Amendment Problems," Bork describes the proper role of the judiciary:

"Nothing in my argument goes to the question of what laws should be enacted. I like the freedoms of the individual as well as most, and I would be appalled by many statutes that I am compelled to think would be constitutional if enacted. But I am also persuaded that my generally libertarian commitments have nothing to do with the behavior proper to the Supreme Court."[2]

SUBSTANTIVE DUE PROCESS

The theory of substantive due process, culminating in the "right to privacy" line of abortion cases, is a prime example of what ails present methods of constitutional interpretation. At the same time, substantive due process provides us with historical evidence that judicial activism can be used to either "conservative" or "liberal' political ends.

Substantive due process is the judicially created notion that there inhere within the 14th Amendment due process clause some substantive rights retained by individuals; that the words ". . . nor shall any State deprive any person of life, liberty or property, without due process of law . . ." not only guarantee procedural rights, as the language clearly indicates, but also give rise to separate substantive rights. These substantive rights, which cannot be deprived even if due process is given, supposedly arise from an individual's "liberty" interest. But what are these rights? There is no way of telling—until the Supreme Court tells us.

Essentially, substantive due process is a fiction created by the judiciary to strike down legislation with which the judiciary disagrees. Although now used nearly exclusively to "liberal" political ends, the doctrine was originally created in the 1930's by conservative Supreme Court justices who sought to stop President Roosevelt's New Deal legislation. These justices disagreed with Roosevelt's progressive legislation, and created substantive due process as a means to protect free market capitalism.

Faced with President Roosevelt's court-packing scheme, the Supreme Court eventually changed its view of the New Deal legislation. The doctrine of substantive due process fell out of favor, until it was revived in the 1960's in the case of *Griswold* v. *Connecticut*.[3] But this time liberal judges were the activists, using the theory of substantive due process to protect non-economic "privacy" interests discovered floating in the "penumbras" of the Bill of Rights. But all that talk about "penumbras" and "privacy" means only that the Supreme Court didn't like the fact that Connecticut prevented the use of contraceptives, even by married couples. But the Court needed some justification to strike down the law.

Eight years later the Supreme Court informed us that this "zone of privacy" also protected a women seeking to abort her child.[4] But in 1986 we found out that it doesn't protect homosexual sodomy.[5] As

Judge Bork points out in his criticism of *Griswold*, this kind of judicial creation does not provide any "neutral principles" upon which to base a decision. That leaves only the subjective value preferences of whoever happens to be on the Court. Judge Bork prophetically saw that the lack of guiding principles in *Griswold* would lead to the confusion of extending the right to one group (women seeking abortions) and not another (homosexuals):

"*Griswold*, then, is an unprincipled decision, both in the way in which it derives a new constitutional right and in the way it defies that right, or rather fails to define it. We are left with no idea of the sweep of the right of privacy and hence no notion of the cases to which it may or may not be applied in the future. The truth is that the Court could not reach its result in *Griswold* through principle. The reason is obvious. Every clash between a minority claiming freedom and a majority claiming the power to regulate involves a choice betwen the gratifications of the two groups. When the Constitution has not spoken, the Court will be able to find no scale, other than it s own value preferences, upon which to weigh the respective claims to pleasure." [6]

If Judge Bork truly were a "rigid, conservative ideologue," he certainly would have supported the use of substantive due process to strike down liberal legislation in the 1930's. But Judge Bork has made clear his view that substantive due process is wrong when used to conservative ends, wrong when used to liberal ends. He has been just as critical of the use of substantive due process to protect the free market as to create a "right to privacy." He would not be a "conservative activist" on the Supreme Court.

When the Court acts to strike down majority legislation without explicit authority from the Constitution, all that has happened is that the power to make law has been shifted from elected representatives to five unelected lawyers. Right now liberals are happy with substantive due process, because it has served their political ends. But once upon a time it served the interests of conservatives, and it may do so again. That is why it is in the interest of all to support the confirmation of Judge Bork, who would apply "neutral principals" in a manner that would serve the political interests of neither the left or the right, and return the "imperial judiciary" to its proper role under the Constitution.

INTENT OF THE FRAMERS

Judge Bork's intellectual pursuit of a theory of constitutional interpretation that is "neutrally derived, defined and applied," [7] led him to what is now called an "original intent" methodology. Essentially, proponents of this methodology assert the seemingly non-controversial view that the Constitution means what its authors intended it to mean.

An example of Judge Bork's method of constitutional interpretation is given in the 1971 "Neutral Principles" article. Specifically, Judge Bork takes the correct view that pornography was never intended to be protected by the first amendment guarantee of free speech. This is the same view taken by the United States Supreme Court in every decision on the subject—that category of material that is legally "obscene" is outside the protection of the first amendment. And this is why Citizens for Decency through Law, Inc. supports the confirmation of Judge Bork. His correct view of the Constitution leads him to the correct legal view on particular issues, including the issue with which CDL is concerned. Again, Judge Bork recognizes that the question for a judge is not: "Should obscene material be banned?" but "Does the Constitution forbid the banning of obscene material?"

To answer that question, Judge Bork examines the free speech clause of the first amendment in an attempt to discern what the Framers intended it to protect. At the time he wrote the 1971 article, Judge Bork believed the Framers intended the first amendment to protect only explicitly political speech:

"I am led by the logic of the requirement that judges be principled to the following suggestions. Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic." [9]

In contrast to critics' portrayal of Judge Bork as a rigid, inflexible conservative, he has since amended his view, stating that the Framers intended more than explicitly political speech to be protected by the first amendment. Nevertheless, his inquiry remains the correct one: "What did the Framers of the first amendment intend that provision to protect?" rather than "What limitations do we think should be placed on speech?" The latter is a question to be debated by the legislative branch of government. But when judges start talking about the "broad principles" contained in the first amendment, this invariably means they are departing from the intent of its authors, and substituting their ideas of what should be constitutionally protected for what actually is protected. Judge Bork, on the other hand, is committed to the principle that a written Constitution is meaningless if we pay no attention to the intent of the men who wrote it. Without the anchor of "original intent," judges would be free to make their own value preference a part of constitutional law, thus essentially usurping the law-making function from the legislative branch. Judge Bork would resist the temptation to impose this will on the country, and would return the judicial branch to its proper role of interpreting, not making law.

FOOTNOTES

[1] R. Bork, "Neutral Principles and Some First Amendment Problems," 47 INDIANA L.J. 1, at 28.

[2] Id., at 21.

[3] 381 U.S. 479 (1965).

[4] *Roe* v. *Wade*, 410 U.S. 113 (1973).

[5] *Bowers* v. *Hardwick*, 106 S.Ct. 2841 (1986).

[6] Bork, 47 INDIANA L.J. at 9.

[7] Id., at 23.

[8] Id.

[9] Id., at 20.●

INFORMED CONSENT: MISSOURI

● Mr. HUMPHREY. Mr. President, there is no person in any State that is immune to the complications that can follow medical procedures. For the patient's own protection, medical personnel must inform them about the possibilities of complications before a procedure is initiated.

In the case of abortion, however, such informed consent is neither required nor often provided. My office has received hundreds of letters from women in every State that indicate many people are being denied appropriate information about the abortion procedure and its effects.

To rectify this situation, I ask my colleagues to support my informed consent bill, S. 272. It would allow those considering abortion to be told the pertinent facts so they can make an informed decision. Anything less is an abridgement of a woman's rights.

Mr. President, I also ask that a letter be inserted into the RECORD.

The letter follows:

FEBRUARY 14, 1987.

HON. GORDON J. HUMPHREY: My abortion took place in 1975 in southern California. I went into a Planned Parenthood hoping to have an IUD implanted after being on the pill. Since my period had not started, a pregnancy test was given resulting in a positive test. I was married at the time but I was so unsure about our marriage. The news so shocked me. I know that even though we took some time to "think" about it, I was not stable enough emotionally, physically and mentally to make the decision.

After a week or so my husband and I went back to the Planned Parenthood center to schedule an abortion. We sat down with a "counselor" who only asked us basically the questions "why have you decided on an abortion?" and "Are you sure?" The only information she provided was the standard medical procedure that we needed to know, i.e., what was expected of us in preparation, the procedure and anesthesia to be used and proper care, etc. There were no pictures of fetal development, no mention of possible consequences or complications. I know that if I was shown a picture of the fetus at that stage, I would have used some common sense. The counselor fed me just the information needed to satisfy my emotional state of being!! I strongly urge for adequate logical, realistic, complete counseling to be done. I support you in your work!

May God Bless You!

REBECCA FALKNER,
Missouri.●

GRAMM-RUDMAN-HOLLINGS

● Mr. PELL. Mr. President, since the Gramm-Rudman-Hollings proposal for automatic Federal Government spending cuts was first presented to the Senate I have consistently opposed and voted against it.

Yesterday, for the first time, I voted in support of legislation that included a new version of the Gramm-Rudman-Hollings deficit reduction provisions. I did so with great reluctance. I remain opposed to the basic concept of automatic mindless budget cuts that take effect without the considered judgment and by the specific vote and approval of the people's elected representatives in Congress. As I have said repeatedly, running our government and determining its budget by complex, incomprehensible formulas seems to me to be an abdication of the responsibility of the Congress to determine the policies of the nation using its own best judgments.

The revised version of Gramm-Rudman-Hollings approved by the Senate yesterday was included in legislation that provided for an essential increase in the debt limit for the U.S. Government. The existing temporary debt limit authorized by the Congress expired at midnight last night, and unless a new authorization for the existing indebtedness of the government was quickly approved by the Congress, we faced the prospect that the U.S. Government would soon be unable to pay the interest due on its existing debt, and would default, for the first time in history, on its financial obligations bringing our government to a grinding halt.

It was with the threat of such a default in mind that, despite my continued objections to the Gramm-Rudman-Hollings provisions, I vote for the debt ceiling legislation.

I hope the Gramm-Rudman-Hollings automatic spending cuts never take place, and they will not take place if the President and the Congress agree to take the actions necessary, including both revenue increases and spending restraints, that are necessary to reduce the Federal budget deficit.

I believe reducing the Federal Government deficit is essential to the continued economic well-being of our Nation. As I have in the past, I will continue to work for reductions in our budget deficits. And I will work to see those deficit reductions are made the right way, by the considered votes of the Congress, and not by computer-driven mindless automatic formula cuts.●

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

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

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL TOMORROW AT 8:15 A.M., CONSIDERATION OF H.R. 2907

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:15 tomorrow morning; that there be 5 minutes to be equally divided between the two leaders, and that at the conclusion of the 5 minutes, the Senate proceed to the consideration of the Treasury-Postal Service appropriation bill.

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

NO RESOLUTIONS OR MOTIONS, OVER UNDER THE RULE, TO COME OVER, AND CALL OF THE CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that no resolutions or motions over under the rule come over tomorrow and that the call of the calendar under rule VIII be waived.

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

Mr. WARNER. Mr. President, the distinguished majority leader outlined the bill to be brought up at 8:30 a.m. Perhaps just as a precaution he might state what time he expects a vote to occur on that bill.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the same restrictions as heretofore ordered until the hour of 8:15 tomorrow morning; that following the order for the two leaders there be 10 minutes of morning business, to be equally divided between Senators ROCKEFELLER and DASCHLE; that at the conclusion of that time, namely 15 minutes in total, the Senate then proceed to the consideration of the Treasury-Postal Service appropriations bill.

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

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene tomorrow, following the adjournment, at the hour of 8:15 a.m. There will be 15 minutes for morning business, which has already been allocated under the order, and then at about 8:30 a.m. the Senate will proceed to the consideration of the Treasury-Postal Service appropriations bill. There will be 30 minutes on that bill to be equally divided. No amendments will be in order.

A vote has been ordered to begin at circa 9 o'clock. That rollcall vote in the morning, the first, being early, will be a 30-minute rollcall vote. I should say again that it will be my expectation to call for regular order at the end of 20 minutes.

Then the Senate will resume consideration of the Department of Defense authorization bill with a plethora of amendments awaiting in the wings. There will be rollcall votes throughout the day.

It is conceivable that we could have an all-night session tomorrow night. It is conceivable, and not only conceivable, but it is more than possible. It will be the same with respect to a Saturday session. I hope tomorrow we can eliminate a good many of the amendments, have a good day's work, and reach a time agreement, hopefully, on final passage of this measure no later than Tuesday evening.

If all of these things break, if we get the time agreements, if we wipe out a lot of amendments, perhaps we can wipe out a Saturday session or wipe out a session tomorrow night, and if we have a lot of luck, we might be able to wipe out most amendments.

In spite of that, let me ask unanimous consent that it be in order to ask for the yeas and nays at this time on passage of the Treasury-Postal Service appropriations bill.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. BYRD. Mr. President, if my good friend has any further business or reflections or statements to make, I will be glad to yield.

Mr. WARNER. Mr. President, only to indicate that I think all Members should check with their respective cloakrooms concerning the possible holding of caucuses in the morning. I know on our side the distinguished Republican leader is planning to hold a caucus in the morning.

Mr. BYRD. Mr. President, the able Virginian has just made a good suggestion. I should like to put my own cloakroom on notice that we should alert Senators that there will be a conference of Democrats at the hour 10 o'clock tomorrow morning, which will coincide with the same hour during which our Republican friends will be meeting.

Effort is going to be made there to reduce the number of amendments and further reduce the time and hopefully to help us to have that luck we were talking about with respect to spending less time in this Chamber over the next few days.

Mr. WARNER. Mr. President, the majority leader is correct. The Republican leader has now, I am told, confirmed that there will be a caucus at 10 o'clock in his office, S-230. All Members are requested to attend.

I thank the Chair and I thank my good friend, the distinguished majority leader.

Mr. BYRD. Mr. President, I thank my friend.

ADJOURNMENT UNTIL 8:15 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 8:15 tomorrow morning.

The motion was agreed to and, at 12 midnight, the Senate adjourned until Friday, September 25, 1987, at 8:15 a.m.