

trends—not even keeping pace with inflation. During the fiscal year 1998 appropriations process, the national security appropriations bill had the lowest percentage increase from fiscal year 1997 funding level than any other of the appropriations bills. In fact, military construction appropriations had a negative change over the fiscal year 1997 funding levels, making funding for national defense grow at one-fifth the rate of domestic spending increases.

Mr. President, I am not opposed to increasing the funding for Veterans' health care, but not at the cost of our national security, and I strongly urge all of my colleagues to oppose this amendment and not further aggravate a serious underfunding of our defense.

I thank the Chair and yield the floor.

Mr. WARNER. Mr. President, I yield back the remainder of our time.

Mr. HARKIN. Mr. President, I yield back the remainder of our time.

Mr. WARNER. I think it is important that the Chair state the pending UC order for the purpose of the RECORD here for those listening.

The PRESIDING OFFICER. All time is yielded back.

Mr. WARNER. Mr. President, if I understand it, does the Senator from Washington desire some time on this amendment?

Mr. GORTON. The Senator from Washington would like about 3 minutes as in morning business.

Mr. WARNER. On this amendment?

Mr. GORTON. Not on this amendment.

Mr. WARNER. Fine. At the conclusion of this amendment, and all time having been yielded back, I ask the Chair to recognize the Senator from Washington so that he might speak for 3 minutes.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from Washington will be recognized for 3 minutes as in morning business.

Mr. WARNER. Mr. President, for the information of the Senate, my distinguished colleague, the ranking member of the committee, and I will clear some 20 amendments on behalf of the members of the Armed Services Committee and others, and then we will go into the routine wrapup on behalf of the majority leader and the distinguished Democratic leader.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

MICROSOFT WINS APPEALS COURT DECISION, DOJ LOSES

Mr. GORTON. Mr. President, yesterday a three judge United States Appeals Court panel overturned the preliminary injunction issued against Microsoft last December by U.S. District Court Judge Thomas Penfield Jackson. This ruling by the Appeals Court is a major victory for Microsoft and its supporters. In fact, in my opinion, it is so significant as to make the

Department of Justice's current case against Microsoft even more dubious than it was at the time of filing.

The basic question before the panel was whether or not Microsoft violated antitrust law and a 1995 consent decree by integrating its web browser, Internet Explorer, into its Windows 95 operating system. The panel ruled that Microsoft's actions did not violate the consent decree and that Microsoft should indeed be allowed to integrate new and improved features into Windows because such integration benefits consumers.

The Department of Justice has just suffered a major defeat.

The ruling comes only a few weeks after the Antitrust Division of the Department of Justice filed a new case against Microsoft alleging anti-competitive behavior. The central point of the new case is Microsoft's integration of the Internet Explorer into Windows 98.

In the new case, the Department of Justice wants Microsoft either to remove Internet Explorer from Windows 98 or add a competing browser from rival Netscape into that Windows 98 program. Department of Justice lawyers claim that Internet Explorer is a separate product and that its integration into Windows 98 is a violation of antitrust law. Interestingly enough, there are other browser manufacturers, smaller than Netscape, who don't seem to have Department of Justice's ear or sponsorship.

But in the opinion issued yesterday by the Appeals Court panel, the judges ruled that Microsoft's product integration meets the court's requirement that product innovation bring benefits to consumers. The panel calls Microsoft's software design "genuine integration" and rules that the inclusion of Internet Explorer in Window's 95 is not a violation of the consent decree.

Further, the panel wrote that, "Antitrust scholars have long recognized the undesirability of having courts oversee product design, and any dampening of technological innovation would be at cross-purposes with antitrust law."

It is quite clear from this ruling that the U.S. Appeals Court for the District of Columbia believes that Microsoft is not violating the law by integrating Internet Explorer into its operating system software. That integration is beneficial to consumers and any attempt to stifle such innovations is harmful to consumers.

I see very little difference between the new case and the case just rejected by the Appeals Court. It is time for the Department of Justice to pick up its marbles and go home, Mr. President.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with consideration of the bill.

Mr. WARNER. Mr. President, it has been a long day. If you will bear with

us for a minute—I appreciate the Presiding Officer. It has been a very good day, and the chairman of the committee, Mr. THURMOND, and ranking member and others, should be commended. I think we have handled the key issues that will require considerable time for debate. We had extensive debate on important matters. I am optimistic that this bill can be put in a status for final passage tomorrow. We are going to work hard, I say to my good friend.

Mr. LEVIN. I share your enthusiasm and hopefully your optimism, but at least your enthusiasm for completing this.

Mr. WARNER. It is very high at the moment.

Mr. LEVIN. We will have another full day in order to accomplish that.

AMENDMENT NO. 2985

(Purpose: To require a report on leasing and other alternative uses of non-excess military property by the military departments)

Mr. WARNER. Mr. President, I understand that my colleague and I will alternate, so I will start off with an amendment on behalf of Senator THURMOND. I offer an amendment which would require a report on leasing and other alternative uses of nonexcess military property by the military departments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, proposes an amendment numbered 2985.

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

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

The amendment is as follows:

On page 347, below line 23, add the following:

SEC. 2933. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NON-EXCESS MILITARY PROPERTY.

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

(1) The Secretary of Defense, with the support of the chiefs of staff of the Armed Forces, is calling for the closure of additional military installations in the United States as a means of eliminating excess capacity in such installations.

(2) Excess capacity in Department of Defense installations is a valuable asset, and the utilization of such capacity presents a potential economic benefit for the Department and the Nation.

(3) The experiences of the Department have demonstrated that the military departments and private businesses can carry out activities at the same military installation simultaneously.

(4) Section 2667 of title 10, United States Code, authorizes the Secretaries of the military departments to lease, upon terms that promote the national defense or are in the public interest, real property that is—

(A) under the control of such departments;

(B) not for the time needed for public use; and

(C) not excess to the requirements of the United States.

(b) REPORT.—Not later than February 1, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and