

**EVALUATE THE PRESIDENT'S USE OF THE LINE
ITEM VETO AUTHORITY FOR MILITARY CON-
STRUCTION FISCAL YEAR 1998 APPROPRIA-
TIONS**

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION
SPECIAL HEARING

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EVALUATE THE PRESIDENT'S USE OF THE LINE ITEM VETO AUTHORITY FOR MILI- TARY CONSTRUCTION FISCAL YEAR 1998 APPROPRIATIONS

THURSDAY, OCTOBER 9, 1997

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The committee met at 2:04 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Ted Stevens (chairman) presiding.

Present: Senators Stevens, Domenici, Bond, Gorton, McConnell, Burns, Bennett, Craig, Faircloth, Hutchison, Byrd, Inouye, Leahy, Bumpers, Lautenberg, Reid, Murray, and Boxer.

DEPARTMENT OF DEFENSE

STATEMENTS OF:

MAJ. GEN. CLAIR F. GILL, USA, DIRECTOR OF ARMY BUDGET

MAJ. GEN. EUGENE LUPIA, AIR FORCE CIVIL ENGINEER

REAR ADM. JAMES F. AMERALT, USN, DIRECTOR OF NAVY BUDGET/FISCAL MANAGEMENT

OPENING STATEMENT OF HON. TED STEVENS

The CHAIRMAN. This committee meets today for the first time to evaluate the President's use of the line item veto authority. I have called this hearing after consultation with Senator Byrd because of the way that President Clinton used this new prerogative, the line item veto. We want to assess whether that tool was used as intended by Congress to eliminate wasteful or unnecessary spending.

The projects the President has impounded from the military construction bill fail to meet that standard in our judgment. In June the President reached a budget agreement with the bipartisan leadership of Congress. Our colleague, Senator Domenici, was the key architect of that pact. That agreement provided an increase of \$2.6 billion for national defense over the amount requested in the President's budget for fiscal year 1998. We did not receive any new budget requests based upon the increased budget limit.

The President's action on the military construction bill reneges on the budget agreement he reached with the Congress. He did not strike that agreement with the Appropriations Committees. We were not permitted in that room. We were given our spending caps under the agreement, and we presented the Senate with 13 bills consistent with the spirit, terms, and limits of the revised budget. We upheld our end of that agreement; the President has not.

The procedures under the Line Item Veto Act, Public Law 104-130, afford Senators 5 days to introduce a disapproval bill. Any such bill will be referred to this committee and we have 7 session days to review and report any such bill. After that, we would be automatically discharged.

Today's hearing is intended to afford the committee a chance to review the status of these projects in the military's future budget plans and their executability in 1998's fiscal year. We have asked these witnesses today to be prepared to answer questions about the 38 projects on the President's list. We seek only factual information about the projects. I will not ask the witnesses to defend any project or the President's decision. They may do so if they wish.

This committee based its original decision on these projects on the facts and information we obtained from the Department of Defense. Before proceeding further, we want to establish on the record these issues so that any further action can be guided by merit, need, and timeliness of the projects under consideration.

Admiral Amerault, General Lupia, and General Gill, we all thank you for your willingness to appear here on very short notice. This is a very short timeframe in this new act. We did not ask for any prepared statements from you today, and we will turn to questions to you following any statements by the members.

I will also announce that just as a matter of procedure such bills will be considered by the full committee and Senator Byrd and I will determine the timeliness of when we will hold any hearings concerning the override or consideration of the President's impoundment actions under the line item veto bill.

Let me call on Senator Byrd, please.

STATEMENT OF HON. ROBERT C. BYRD

Senator BYRD. Thank you, Mr. Chairman.

The time constraints as written in the act are pretty tight. I commend you for holding this hearing on a matter of profound constitutional implications for this body and for the working relationship between the Congress and the executive branch. And in the long run it will have profound implications for this country. It is doubly important in that it involves matters directly bearing on the national security of the United States.

On Monday the Congress and the American people were informed that a list of 38 projects included in the military construction appropriations bill, recently passed by both Houses of Congress by the duly elected representatives of the people, had felt the slash of the President's veto pen through the vehicle of this strange and cumbersome, and may I add illegitimate gimmick dubbed the line item veto.

The administration cited three criteria which had supposedly governed the use of the President's line item veto pen. The first criterion was that the project was not included in the President's fiscal year 1998 budget request. Now I would point out that the committee did approve virtually all of the President's budget request in fashioning the military construction bill.

The committee acted responsibly in its area of expertise to include items that were already in the Department of Defense's 5-year plan, and moved projects up in time that were considered ur-

gent or very meritorious, or to fill shortfalls in quality of life projects, or in Guard and Reserve projects that are traditionally shortchanged by the administration—any administration, every administration, Republican and Democratic—in full anticipation that Congress would fill in the shortfall.

That practice has been going on for years, and without congressional action on Guard and Reserve matters those forces would long ago have been reduced to levels that would put into question their place in our Nation's defense preparedness.

I point this out to highlight the fact that the budget is not perfect and the administration does expect the Congress to supplement the budget with projects that enhance the Nation's capabilities.

The second criterion used by the White House in justifying its veto list was that the project was not a quality of life project, such as housing, dining, clinics, child care or similar family oriented facilities. Many such facilities were added by the subcommittee to improve what the subcommittee found was an inadequate budget submission in these areas.

Thus, the administration concedes in this manner that its budget submission was not perfect and the committee has a role in improving the quality of its product and the quality of life of our service members.

The third part of the required three-part so-called criteria which we were given as justification for the lineouts is not, in fact, relevant to most, if any, of the projects selected for this veto. The third criterion which we were informed was applied to each project selected was that the project was not executable—that is, could not begin construction in fiscal year 1998.

But all of the projects included in the fiscal year 1998 Senate-passed bill were, by standards set by the subcommittee itself, in consultation with the Armed Services Committee, executable in fiscal year 1998. The subcommittee was so informed on each and every project by no less an authority than the Department of Defense.

Now I was called on Monday by the Director of the Budget, Mr. Raines to inform me that the project at Camp Dawson, WV, was on the veto list. I informed Mr. Raines said that the material provided to me by the Department of Defense stated clearly in black and white that this project could be executed in the third quarter of fiscal year 1998, and Mr. Raines said that was not his understanding.

This led me to wonder and leads me to wonder where the White House is getting its information. The Camp Dawson project clearly can begin construction in 1998, fiscal year 1998, and indeed the cost of the project would only be greater if it were delayed.

The Department has conceded the value of the project in that it is included in the Department's 5-year plan. I told Mr. Raines that. He did not believe it. He wanted me to send him down the papers from which I was reading. We sent them down. He said he would get back to me. He did not.

It appears to me that the method of deciding which projects would be vetoed and which would not is basically capricious and that there is only a flimsy rationale for the selection. I conclude that the White House appears to be more intent on flexing its new-

found power than in making any considered judgment regarding the merits of the array of projects included in the bill.

I was informed by the Department of Defense that the project at Camp Dawson, WV, was indeed executable in 1998. I was told that construction could begin by the third quarter of fiscal year 1998. Now, by virtue of inclusion on the infamous hit list, I am suddenly advised that it is not executable. Thus, the standard of executability in fiscal year 1998 by the White House as a litmus test for inclusion on the President's hit list flies in the face of the Defense Department-sanctioned architecture of the bill itself as passed.

All of the 38 projects vetoed, in fact, did meet that third criterion. Therefore, according to the administration's own litmus test not one of those projects was eligible to be vetoed and should not have been included on the list, thus making the criteria, that particular criterion, and in many cases the other two criteria, a sham.

I have railed against this abomination, this gimmick, this illegitimate legislative end run around the Constitution for years. I have carried that battle. I have said so from the steepletops. And it did not make any difference to me whether it was a Republican President or a Democratic President. That has nothing to do with it.

I have railed against it, and I am proud of my constancy on that issue. I did not vote for that horror, and I wonder how some Members who did vote for it, made the very unwise choice to support it, are feeling now that their legislative initiatives have felt the line item meat cleaver. And if their items did not feel it this time, there is more to come.

There are several appropriations bills to be sent to the President's desk, and I have no doubt that he will use the line item veto on it. So get ready.

Now I recognize that the decision to include or not include a project and the criteria that were used was not the responsibility of the gentlemen who are sitting before the committee. That was a White House decision, and it is abundantly apparent that there was less than full consultation with the Department of Defense on the part of those at the White House who recommended to the President that the cuts be made. And so it is the responsibility of those who are at the White House in the White House cutting room.

Now I ask unanimous consent, Mr. Chairman, that the statement made by President William Clinton at the time the line item veto was announced in the Oval Office on October 6, 1997, be included at the conclusion of my remarks.

[The information follows:]

REMARKS BY THE PRESIDENT IN LINE ITEM VETO MESSAGE

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
Washington, DC, October 6, 1997.

The PRESIDENT. Good afternoon. Today we take another step on the long journey to bring fiscal discipline to Washington. Over the past four and a half years, we've worked hard to cut the deficit and to ensure that our tax dollars are used wisely, carefully and effectively. We have reduced the deficit by 85 percent even before the balanced budget legislation passed. The balanced budget I signed into law this sum-

mer will extend our fiscal discipline well into the next century, keeping our economy strong.

But to follow through on the balanced budget, government must continue to live within its means, within the framework established in the agreement. The line item veto, which all Presidents of both parties had sought for more than a century, gives the President a vital new tool to ensure that our tax dollars are well spent, to stand up for the national interests over narrow interests.

Six days ago, I signed into law the Military Construction Appropriations Act, a \$9.2 billion measure that is vital to our national defense. Today I'm using the line item veto to cancel 38 projects inserted into that bill by the Congress that were not requested by the military, cannot make a contribution to our national defense in the coming year, and will not immediately benefit the quality of life and well-being of our men and women in uniform. The use of the line item veto saves taxpayers nearly \$290 million and makes clear that the old rules have, in fact, changed.

I want to stress that I have retained most of the projects that were added by Congress to my own spending request. Congress plays a vital role in this process and its judgment is entitled to respect and deference. Many of the projects I have chosen to cancel have merit, but should be considered in the future. This is simply the wrong time.

The projects I have cancelled are all over the country, in the districts of lawmakers of both parties. These are tough calls involving real money and hard choices. I cancelled the projects that met three neutral and objective criteria:

First, the Department of Defense concluded that these projects were not a priority at this time, after conducting its own rigorous, massive planning process. Judgments about our defense needs made by military professionals must continue to be the basis of our national defense budgeting.

Second, the projects I am cancelling do not make an immediate contribution to the housing, education, recreation, child care, health or religious life of our men and women in uniform. Our fighting forces and their families make extraordinary sacrifices for us, and I have a longstanding commitment to improve their living conditions. I have, therefore, left untouched a number of extra projects not requested this year because they fulfill that commitment in enhancing the quality of life of our men and women in the service.

Third, I am cancelling projects that would not have been built in fiscal year 1998 in any event; projects where the Department of Defense has not yet even done design work. In short, whether they're meritorious or not, they will not be built in the coming year in any event.

In cancelling these projects, I was determined to do nothing that would undercut our national security. Every penny of our defense dollars should be used to maintain and improve the world's strongest system of national defense.

Also, under the balanced budget, however, we have the added obligation, again I say, to ensure that taxpayer funds are expended wisely. The use of the line item veto here will ensure that we focus on those projects that will best secure our strength in the years to come.

Let me say finally that the work of protecting taxpayers in reforming the government must continue. I will scrutinize the other appropriation bills, using appropriate criteria in each instance, and will exercise the line item veto when warranted. And I will continue to fight for bipartisan campaign finance reform.

Tomorrow the members of the Senate must decide: Will they move forward with a bipartisan campaign finance reform bill, or be derailed by a partisan poison pill? The American people will be watching. If they make the right choice, this can, indeed, be a banner week for reform in our government.

Thank you.

The CHAIRMAN. Thank you.

Senator BYRD. I have some questions, but I will await the statements of other members.

The CHAIRMAN. Yes, sir; let me call on the subcommittee chairman, Senator Burns.

STATEMENT OF HON. CONRAD BURNS

Senator BURNS. Thank you, Mr. Chairman, and thank you for convening these hearings.

I, along with a lot of us on this committee and, of course, Members of the Senate was disappointed to learn on Monday that the

President had identified 38 projects for elimination. It is my strong belief and it was my strong belief at the time we passed the conference report, meeting with the chairman and ranking member of the Appropriations Committee in the House, and after Senator Murray and her leadership as ranking member on this committee, that we had passed a balanced, credible bill which reflected the priorities of the Department of Defense, as they have articulated them to us over this past year.

Our committee carefully reviewed each project to ensure that it met the criteria that we use to screen these types of projects, and it was done every step of the way.

We also closely consulted with the military services to ensure that their highest priorities were addressed in this bill. When 33 of the 38 projects were in the Department of Defense future year defense plan, it is clear to me that we were right on target. I also want to emphasize that every project was authorized by the Armed Services Committee—every project.

Since I became chairman of the subcommittee 3 years ago, my focus has been improving the quality of life for service members and their families. We made a significant effort to do that in this bill by allocating 42 percent of the total funding to family housing, a total of \$2.1 billion. Additionally, we provided another \$1 billion to fund construction of barracks, for child development centers, for medical facilities for our troops, and, more importantly, we have done this without sacrificing the mission of readiness.

This bill reflects a reduction of almost \$2 billion from the amount that was appropriated in 1996, a reduction of 22 percent over the last 2 years. So we have not been derelict in our duties in trying to bring the spending down and staying within the reaches of the budget agreement. We are being responsible by continuing to bring down the Federal spending, but in a very responsible manner.

These 38 projects reflect a combination of quality of life, of safety, of readiness, and infrastructure enhancement initiatives. A good number of them would significantly improve the day-to-day working conditions for our men and women in uniform. They are the ones that are being shortchanged here by this President's veto, not the officials in the Pentagon or the White House. The veto sends a clear message to those who serve the country that they do not count.

I am even more familiar with our Montana facilities. The President vetoed improvements for our dining facility at Malmstrom Air Force Base. If the President were to accept my invitation—and it still stands today—to have lunch there, he would see a facility badly in need of repair, and I mean really, because this building was put up for another purpose and was changed into a dining facility almost as an afterthought. And in some areas of it I am thinking that it would flunk the most basic of health inspection procedures.

It is disappointing that the President tells the American public that these 38 projects could not be executed this fiscal year. On each and every project the Pentagon confirmed that they could, in fact, be initiated.

Again, I look forward to hearing the witnesses today, and I especially appreciate working with Senator Murray as ranking member

on this committee as we completed the conference report. No report had more agreement in our negotiations than this conference report did.

I appreciate you holding these hearings. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Murray, as ranking member.

STATEMENT OF HON. PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman. I want to thank you for convening this hearing on the President's decision to utilize the line item veto on 38 projects that were approved by this Congress.

As the ranking member of the Military Construction Subcommittee, I want to remind my colleagues and the administration that we did use stringent criteria in funding Milcon projects, criteria that appears to be tougher than that applied by the administration. And I would remind my colleagues that the military construction conference report was adopted by a 97-to-3 vote.

Further, the fiscal year 1998 military construction budget was cut by \$600 million over the previous fiscal year. I am a cosponsor of this resolution to overturn the President's action on the Milcon bill. This is the first opportunity for the President to utilize the line item veto, and the Appropriations Committee is going to have to get used to this new Presidential authority. I accept that reality.

But the Congress has a responsibility to ensure the administration is thorough, responsive, and fair in applying that line item veto. And in terms of being thorough, I think the record is fairly clear. On the other hand, the White House process was severely flawed.

Congress has a role in the process, including funding projects that exceed the administration's request. The administration invites congressional adds. Their budgets are drafted with full knowledge that Congress will supplement the budget request to meet the country's needs. Military construction is a perfect example of the administration underfunding priority needs.

For years, Democratic and Republican administrations have purposely invited congressional rewrites of the Milcon bill. For example, the administration's fiscal year 1998 request for the Guard and Reserve was once again wholly inadequate. The Guard was reduced by 42 percent and the Reserve by 30 percent over fiscal year 1997 funding levels. Of course the Congress responded, adding moneys for a variety of projects, some of which are on the administration's list.

The Army's budget request for new housing construction was reduced by 53 percent over 1997 appropriated levels. The Navy reduced funding for new housing construction funds by 44 percent. And the Marine Corps sought moneys that would allow it to solve the marine housing deficit by the year 2088. That is 91 years from now.

Mr. Chairman, the Military Construction Subcommittee has sought to meet the important quality of life needs of our personnel. That has certainly been my objective on the subcommittee, and I know that Chairman Burns feels similarly.

Mr. Chairman, thank you for scheduling today's hearing. I stand ready to work with you, Senator Byrd, Senator Burns, and this committee to protect important congressional prerogatives.

The CHAIRMAN. Well, I thank the subcommittee chairman and ranking member for their statements.

Let me say in my time I cannot remember a military construction bill being so noncontroversial until now. It was a bill that was very, very well prepared and it actually strained out a lot of projects I thought should have gone forward. But you both did an excellent job and the full committee approved it unanimously, as I recall.

Does any other Senator wish to make a statement?

Senator DOMENICI. I do.

The CHAIRMAN. Senator Domenici.

STATEMENT OF HON. PETE DOMENICI

Senator DOMENICI. Mr. Chairman, fellow Senators, first, Senator Byrd, I think you directed a question at me, because I am one who voted for the Line Item Veto Act.

Senator BYRD. Senator, I did not direct the question at you.

Senator DOMENICI. I understand.

Senator BYRD. Or any particular individual.

Senator DOMENICI. I am trying to be nice here. I am not trying to be argumentative. [Laughter.]

Senator BYRD. Thank you.

Senator DOMENICI. I was just going to tell you that I am not prepared to tell you how I feel right now in public. [Laughter.]

I would like to make a couple of observations, and then I would like to talk about some facts. Frankly, I believe the line item veto, as exercised by this President and as is threatened on some other bills, leaves Congress in a very, very interesting position and leaves the President in an interesting position.

First of all, the argument is presented to us that if the President puts a project in his budget, it is a good project because it is in his budget. If we approve it, there is no chance of it getting vetoed. It is, therefore, sanctified by a Presidential budget. I am very concerned to think that no other projects can be thus sanctified if they are Congress' intent.

We are now working in a situation where we will soon be saying to the President that we will not fund his projects. Somehow or another we have to make the point that some of our projects are as good as his.

I believe that one of these projects of mine which I will go into later is necessary for safety reasons at the White Sands Missile Range, and I have a letter from a general saying it. I am not sure the President knows that.

My point on the facts. The only thing the budget did with reference to defense—and I have already told the chairman this—is to establish budget authority and outlays for the year 1998. It established those numbers of \$268.2 billion in budget authority and \$266 billion in outlays for defense.

Thus far the two Appropriations Committees in the two bodies have approved three bills that share in that funding—the Milcon, the big defense bill which we call 051, and DOE defense. The Presi-

dent cannot say, and the press is not justified in saying, that these three bills combined have broken the budget agreement. They have not, because, as a matter of fact, they are within the moneys agreed upon by this President and the Congress in the 5-year budget plan for expenditures by the Department of Defense.

Second, I hear the administration saying that we should not have put some of the DOE defense money into the big defense bill, and that in some way violates the budget agreement. Let me tell you, there is nothing in the budget agreement that told us how to allocate between the three subcommittees that get defense money—nothing. I have had the staff look again. So we did not violate anything in the budget agreement with reference to defense when we produced these three bills that made up the whole, which is the agreed upon budget number.

Now from my standpoint, every good turn deserves another, and every time you decide that you want to have a bad turn, you cannot sit by and assume that it will never turn bad on you. I want to repeat. If any President assumes that an interpretation of the line item veto is that only the President's projects are clearly good enough to spend money on, then I tell you we have a real war going.

Congress has no obligation to fund his projects. I can find nothing anywhere that says we must approve the President's projects. Do you, Senator Byrd? Is there anything in the Constitution that says we must appropriate money because a President put it in his budget? I do not find anything.

So I believe this is serious business, and the President ought to be looking at it a little differently than to see how many projects he can find that are Congress'. He had better try to find out if they are good projects also. That is what he ought to try to find out.

Thank you, Mr. Chairman.

Senator REID. Mr. Chairman?

The CHAIRMAN. Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUE

Senator INOUE. Thank you, Mr. Chairman. I wish to commend you for convening this hearing. I ask unanimous consent that my full statement be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR DANIEL K. INOUE

Mr. Chairman, I would like to begin by thanking you for holding this hearing today. On October 6, 1997, the country entered a new era in our democracy. No longer can it be stated that Congress holds the power of the purse. This function is now shared with the bureaucrats at the Office of Management and Budget and the staff of the President.

With the President's action, he stripped out funding for 38 projects which had been scrupulously reviewed by the Congress and had been supported by an overwhelming vote in both Houses.

The line item veto authority which Congress has provided the President has very few restrictions on the type of program which the Chief Executive can eliminate. I believe it would be fair to say, however, that the authors of this legislation felt it would be used by the executive branch to cut out wasteful projects.

In this first instance, we can see that the authors of this legislation and its proponents were sadly mistaken.

The President's advisors recommended that he veto 33 projects with which the Defense Department intends to proceed.

In several cases, contrary to the information provided to the President, we have been told that the Defense Department was already spending design funds and was nearly ready to proceed with construction.

I do not believe one should fault the President for his actions. The Congress gave him the authority to exercise the line item veto with few strings attached and he did. Perhaps he vetoed projects with which the Congress in all likelihood disagrees, but that is his prerogative.

At this hearing, it is my hope that we can shed some light on the facts involved with the programs in question.

The President was told that these projects would not be ready for construction during the coming year, while Congress was told that each was fully executable.

I would like to address one program of particular interest to me and the military commanders in Hawaii. Several years ago, after consultation with the Commander in Chief of the Pacific, I authored a provision to establish a new center to study civil military relations and democratic institutions.

The new institution was called the Asia Pacific Center. It was modeled after the Marshall Center in Europe and it is designed to teach military and civilian leaders of emerging democracies, and other countries which have not embraced democracy, about democratic government.

The institution has been hailed by Secretaries of Defense, and past and current military leaders as a welcome addition to the Defense Department. While it is still in its infancy, I can say that its early programs have been greeted with widespread support and commendation.

Early this year, the Commander in Chief of the Pacific Command came to me with a problem. At this time, the Asia Pacific Center has no permanent home. For three years, the military leaders in my state debated on where to house this institution. Late last year they concluded that using existing facilities at Ft. Derussy would be the most cost effective location.

While the CINC was able to get \$9.5 million added to the defense long range plan to refurbish these facilities, it would not be available until 2003. The CINC noted that he was paying nearly \$1 million per year to a lease commercial facility, and he questioned whether the Congress could act to speed up the construction project.

I had my staff check with the Navy to ensure that the project could in fact be executed if Congress were to add funds in the 1998 military construction bill. When the Navy informed me that they could execute the program, I sought support from the authorization and Appropriations Committees for the refurbishment project.

Both committees agreed, and the funds were appropriated.

On Monday, the President put a stop to this with his pen. He has effectively told CINCPAC that he will have to wait until 2003 to get his new schoolhouse. I am hopeful that the Congress will vote to request the President to reconsider this line item veto. Based on the merits there was no reason to deny funding for this project. It is sought by our military leaders, it is for a program that they strongly endorse, and it will be ready to begin construction this year.

This is only one example of a meritorious program which has been sacrificed to line item veto. I suspect that there may be many others.

Again I thank our chairman for holding this hearing so that the facts can be made available for all members of the Senate and the public and I look forward to the testimony we will receive on this subject.

The CHAIRMAN. Senator Craig.

STATEMENT OF HON. LARRY CRAIG

Senator CRAIG. Mr. Chairman, let me put my full statement in the record. I do appreciate this hearing.

Let me tell my colleague from West Virginia, who is not only a student of the Constitution but an authority on it, that the President's actions that brought us to this meeting, while I voted for the line item veto, increasingly impress upon me the wisdom of our Founding Fathers. I think you know what I am saying.

Senator BYRD. I thought that when I voted against it.

Senator CRAIG. I was sure that you would come up with the appropriate rejoinder.

Mr. Chairman, we are here because of the whole of the bill and the specifics that impact individual States that we represent. You

laid out very clearly, as did the ranking member and the chairman of the subcommittee, the criteria by which these projects were put in the Milcon budget.

I must tell the President that the two projects that he line itemed for Idaho met that criteria—that the architectural and engineering design was started and were in the DOD's 5-year defense plan. They met the criteria to be place in this budget. So on that, Mr. President, you were arbitrary, and you were capricious.

I cannot understand, therefore, the logic, if, in fact, there was any. I do understand, though, the advantage of having your President versus our President. I do not know of a Republican Senator or House Member that got called by the administration, but I know that most of my colleagues on the other side of the aisle at least got the courtesy of the call that they were feeling the ax along with Republicans.

And so I would say, Mr. President, that maybe the Founding Fathers were tremendously wise when they never mentioned the executive branch of Government proposing a budget, let alone controlling a budget. It was only the legislative branch that began over the years to give the executive branch a level of participation in what we are involved in here.

So, Mr. Chairman, I hope we can move forward with dispatch. I think we have the votes to cause this President to be less arbitrary and capricious in the future.

[The statement follows:]

PREPARED STATEMENT OF SENATOR LARRY E. CRAIG

Mr. Chairman, this hearing is important not only to discuss this year's military construction program but to establish the Department of Defense's commitment to set the record straight in determining the future of appropriations for military construction. Although Milcon represents a small portion of the overall Defense budget, it is the only portion that touches each service member and his or her family. Milcon is the single element the affects everyone.

Every type of facility and installation contributes to the quality of life. High quality installations contribute to personnel and family readiness, which translates directly to combat capability.

That is why the success of DOD's installations is just as important as the next generation of new technology. Efforts to replace many antiquated facilities with a single facility will save future monies by reduced utilities and maintenance costs, necessary to operate the older facilities.

The facilities that were moved forward in the Milcon process for Mt. Home Air Force Base are currently designed at 50 percent or more and could be awarded this year, if appropriated and authorized in a timely manner. The B-1B avionics facility is in support of the bomber beddown. The current avionics repair and maintenance must take place at Ellsworth Air Force Base in South Dakota, some 900 miles away. Every year that this facility is delayed, jeopardizes the defense capability and readiness of the Air Force's premier composite wing which is considered the model installation and wing for the Air Force of the 21st century.

The new F-15C squadron operations facility not only moves this function to the front line of operations, but eliminates the command and control problems and improves effectiveness of operations and maintenance coordination. It provides a relocation of the logistics headquarters group to the existing facility. In turn, the headquarters vacates a 1954 converted dormitory facility which has been planned to be demolished for over five years.

I want to reiterate: in justifying the veto of both projects, President Clinton said, "architectural and engineering design has not started". This is incorrect. A majority of the design work has been done on both. The President's actions here do not meet his own criteria. I can only wonder if the rest of his veto items were as poorly researched.

These projects are not pork. They are essential programs contributing to national security and improving the readiness of our forces. The President's veto message

simply is not justified. The bill the Congress passed already cut spending \$610 million below last year. The bill we passed was consistent with the bipartisan plan to balance the budget. The veto of these projects reflects ill conceived priorities, a disdain for the military and a lack of understanding of a total defense readiness concept.

Mr. Chairman, I look forward to working with you to provide adequate funding for high quality military installations, necessary housing and environmental protection for our lands.

This is the least a grateful nation can do for our service personnel, their families, and insure the readiness the nation demands of our armed forces.

Senator REID. Mr. Chairman.

The CHAIRMAN. Let me go in accordance with—Senator Bumpers.

STATEMENT OF HON. DALE BUMPERS

Senator BUMPERS. Mr. Chairman, I yield to nobody in the U.S. Senate, with the possible exception of Senator Byrd, in my contempt and detest for the line item veto. In the past 15 years, I have taken a lot of political heat for my stand, but I agree with Arthur Schlesinger when he said he thought in 1787 that the greatest assemblage of minds ever under one roof were in Philadelphia.

I believe that this hearing serves the purpose of bringing all the Members of Congress, not just the members of the Appropriations Committee, up short. I believe it brings an awareness to all of the Members of the Congress that we can go home and receive our pay through the mail if the line item veto is sustained by the Supreme Court.

I would hope that today's hearing would be the beginning of an initiative in the U.S. Congress to repeal and reverse what we did and not wait for the Supreme Court to rule it unconstitutional.

To suggest—you think of this—to suggest that only the President has the knowledge and the perspicacity to know what is best for the country—not just the Defense Department but the Department of the Interior, any other department of the Federal Government—that only the President knows what is best and that when he asks for it that is the final say, that Congress cannot tinker with it, and if you try to change his priorities you are going to wind up with hearings like this. It is an absurdity on its face.

Finally, Mr. Chairman, I would have a difficult time voting to override the President's veto. He is going to veto other things, and I think the defense bill is in for big hits. And I think other bills are going to get a lot of vetoes. And I think the more he does that, the more pain Congress feels, the more apt we are to get hot right now and do something to repeal the line item veto legislation, which was one of the most impropitious bills ever passed by the Congress.

So, as I said, I thought we made a terrible mistake. I stood up and voted against it. To be quite candid with you, everybody thought Ronald Reagan was going to be President for life when we did that. And I did not. And I am like Senator Byrd. I do not care who the President of the United States is. This whole thing was patently absurd, patently unconstitutional.

So, Mr. Chairman, I thank you for bringing this hearing this afternoon and allowing all of us to say whatever we want to say about it. But I am hoping that the result will be not just to override the veto but to reverse what we did.

Senator REID. Mr. Chairman?

The CHAIRMAN. You are next, Senator Reid.

STATEMENT OF HON. HARRY REID

Senator REID. There is a certain part of me that is really gloating right now. I knew this was going to happen. It was only a question of when. The Constitution which I believe in set forth, I think, what we should base our life here on, and that is separation of powers.

This was an absolute violation of separation of powers. But we gave it to him. Nobody took it from us. We gave it to the President. Why? I mean, are we next going to crown the man king, or she queen? I have heard some things said here today. You know, what the President did is arbitrary and capricious. It does not matter. He can be arbitrary and capricious. Nobody says he has to—he can veto this stuff because he does not like the way somebody parts their hair or the color of their tie.

He does not have to have a reason. It was nice enough he came up with, as flawed as it might be, some reasons for vetoing this stuff. But arbitrary and capricious? I say to my friend from Idaho, he can be. Nobody can stop him from being arbitrary and capricious.

And I also say my friend Patty Murray said the White House process is flawed—not nearly as flawed as the congressional process. That is the problem. The congressional process is flawed that we handed to the President.

Now I worked with Senator Burns for 2 years. I was the ranking member of this committee. We worked very, very hard to come up with a fair bill. We had criteria, just like they had criteria this year. And I think it is an absolute sham that we are wasting—we have these officers in the military—wasting their time. They should not be here. We should be out completing our appropriation bills.

We should be working on things that we have on the Senate floor. We should not be wasting our time here on this senseless gesture of pandering. And I hope that we do as Senator Bumpers says we do. Let us not wait for the Supreme Court. Let us do something courageous and say we were wrong.

Now I am going to support the veto. Whatever little congressional prerogative we have left, I am going to exercise it to the very zenith. I hope we can override the President in this bill. Maybe he will be a little less aggressive in some of the other bills that come.

So I say to you, Mr. Chairman, thank you very much for convening this meeting and allowing me to say how I feel, but also to tell you that I, as my mom told me many times, I hope everybody's happy now. [Laughter.]

Senator BENNETT. Mr. Chairman?

The CHAIRMAN. Senator Bennett.

STATEMENT OF HON. ROBERT BENNETT

Senator BENNETT. Mr. Chairman, I am willing to tell the Senator from West Virginia how I feel in public. I feel like I need to eat a little crow.

I supported the line item veto. I endorsed the line item veto during my campaign. And one of the reasons I did, is because the vast majority of Governors in this country have the line item veto. We have it in the State of Utah. I think the Governor of Utah has used the line item veto once in 10 years, or something of that kind. And I thought it was an appropriate power for the President to have.

I assumed that the same procedure would apply in the line item veto threat that applies in other veto threats. All of us have had the experience of writing legislation and having the administration sit down and say, if that language stays in this bill, the President will veto it. And then we negotiate. That is true of bills before the Energy and Natural Resources Committee on which I sit. That has been true of bills in the Appropriations Committee.

The administration comes to you and says, that is veto bait. We have Cabinet officers come sit at these tables and say, respectfully, Mr. Chairman, if that language stays in this bill, I will have to recommend to the President that he veto it.

And I assumed that that would apply to issues that would come under the line item veto threat. I assumed incorrectly. I cannot speak for the other items in this bill, but I can speak for the issue that relates to my State. Throughout the entire process, we were in full consultation and contact with the administration on the substance of the bill. Not once was there the slightest hint that the administration had any objection. All of the language that was drawn up, and the money that was proposed were cleared with representatives of the administration.

And it went into the bill with the full assumption that it had complete administration backing. If we had had a signal from the administration that they did not like what we were proposing, that it was veto bait, we would have negotiated with them, as we do on everything else where the President threatens a veto.

But in this instance it went entirely the other way. The representatives of the Department of Defense said you are in good shape. This is appropriate. This is fine. We had no warning.

I had no assumption that any President of the United States would do that with the line item veto. I thought it would be a negotiating tool rather than a weapon after the fact. And my assumption was wrong. I am prepared, if Senator Bumpers and Senator Byrd proceed, to reconsider my previous position based on the experience here that in the line item veto the President has not proceeded with the same openness that he has with his straight bill veto. And that is what misled me.

So I hope that we can put these projects back together again—every one of them approved by the Defense Department during the negotiating period—and say to the President, if you want to exercise the line item veto, at least do us the courtesy of telling us in advance what you are going to object to instead of springing it on us after the fact.

The CHAIRMAN. Thank you.

Senator BOXER. Mr. Chairman?

The CHAIRMAN. Senator Boxer.

STATEMENT OF HON. BARBARA BOXER

Senator BOXER. Thank you so much for calling this meeting.

There is a lot of anger in this room, and I want to compliment my colleagues who expressed their willingness to work with Senator Byrd in taking another look at their vote. But we have to be angry at the Congress here. As one of the people who abhors the line item veto, because I ask myself why did I come here. I came here to do a job. I did not come here to set obstacles.

Now it is an unpopular vote. If you ask the people do they like it, they always say, yes, we like it. But in truth why do we come here? We have to fight so hard—at least speaking for myself. We fight hard for our States. We have to convince others that what we are talking about is in the national interest.

Now we go set up another obstacle for ourselves. It is like we woke up one day and gave ourselves a punch in the mouth, in the jaw, hobbled ourselves. And it does say in the law the President has to consult. It does not say in the law he has to be reasonable, or she. It does not say any of the things my colleague assumed would happen.

There is always tension between the legislative branch and the executive branch, I say to my friend, no matter who the President is. In this situation, where I agree with this President a lot of the time, even I could not support the line item veto, because it is not about who is in office. It is about the principle of the separation of powers, the balance of powers, if you will.

Mr. Chairman, I want to just explain one particular issue here that is caught up in this line item veto, because when I spoke to the administration this was what they said to me, I say to my friend from Idaho. They said, well, these were not in the President's budget. Now my kids would say, duh. Of course not. The President is not the only one who writes the budget here. He writes a budget. He gives us his leadership. And then we take that into consideration.

And whether it is my Chairman Domenici here or my Chairman Stevens here, we go through the process and we have our own opinions. And one example is the Pasadena Marine Reserve Center, where the administration said none of these were quality of life issues. I take issue with that statement. The Pasadena Marine Reserve Center, 230 reservists use the facility on a given weekend. There are three showers, Mr. Chairman, with no heat or hot water. After the Northridge earthquake, we have dilapidated conditions such as leaking ceilings, cracked walls, and unstable floors.

Now maybe the Congressperson from that district knows about that better than someone in the executive branch. So it is not a matter of who the President is. It is what we did to ourselves, and I assure you if it was a Republican President you would still be complaining, no doubt, because it is this eternal struggle between the two.

And I look forward to working with you, my colleagues. I am very pleased that you are willing to take a look at your vote again, because I think Senator Byrd was so right on this one, and I hope we can reverse what we did to ourselves and to our communities.

The CHAIRMAN. Well, Senators, with due respect, this is no place for a debating society, but I would like to take a few of you on some other time. This has nothing to do with passing a bill that the President signed. This has to do with abuse of power. I live in a

State that has a line item veto and I served in the State legislature. I can never remember a flareup like this with the Governor of Alaska.

This is abuse of power by a President who knows he does not have to face the public again. He has a bunch of people down there that know they will never serve in Government again, because most of us will not confirm anyone that is with him.

So let us make sure we understand what we are dealing with. We are dealing with a raw abuse of political power, and the only way to deal with that is to go back and do it again. My grandmother used to say to me, if at first you do not get it right, do it over again. And that is what we are going to do. We are going to give him the bill back again, and we are going to make the record right now to justify that.

Let me ask these three gentlemen who have come and been very patient with us for 45 minutes. There is a time for us to sort of vent our feelings. First, though, Senator Byrd had a comment. I am sorry, Senator. I forgot you asked me that.

Senator BYRD. That is all right.

Mr. Chairman, I have heard the argument that the States have the line item veto; why shouldn't the President of the United States have it? I combated that argument ad nauseam. Nobody heard me on the Senate floor.

Senator REID. That is not true. A few did.

Senator BYRD. A few did.

I want to tell you I know this is not the time to debate the political theory behind the line item veto concept, but Senators should understand that even though some of their States may have the line item veto the line between the separation of powers and checks and balances is more finely drawn at the Federal level than it is at the State level.

Our constitutional system is based on the separation of power and checks and balances. And our Constitution says that every State in this United States shall have a republican form of government, but not every State has a constitution that says that that State's government is founded on the system of checks and balances and separation of power.

There is a big difference. And I said time and time and time again, and so did many of my colleagues who were against this line item veto, that the line item veto at the States is not to be equated. It is not the equivalent of a line item veto at the Federal level.

My State legislature, when I was in it, met once every 2 years for 2 months only. Now there the Governor has to have some powers to cut budgets and make decisions, because the legislature is not there to make them. Do not preach to me that the line item veto legislation at the State level is the same thing as we have here.

We operate in a different sphere—s-p-h-e-r-e—a different sphere at the Federal level. I do not care if they all have the line item veto, all the State. The Federal union of States was created on the basis that the power rests with the people and that the power of the purse rests with the legislative branch. It is in there. And that no law can be made by anybody other than the Congress. All powers to make laws rest with the Congress.

I probably ought to be more critical of the people who advised the President on this one, more critical of them perhaps than the President, far more. But I said that is what has happened. I said that faceless bureaucrats—and I do not say that in derogation of bureaucrats; we have got to have them—but I have said that faceless bureaucrats would determine what projects would be line item vetoed. It would not be the President himself.

Now, having said that, the fault lies with the Members of Congress. I will never forget the day—it was March 23, 1995—when the Senate voted to give the President the line item veto. Now that line item veto passed the Senate, and went to conference. And the House had sent a bill to conference. These were two different bills. They were in conference almost 1 year.

But Mr. Dole—I like Mr. Dole—he was a candidate for President, and I have the impression that it was he who really got the conferees to working and got that thing out of conference. And on March 27, 1996, the United States completed the act of stabbing itself in the back by passing the conference report on the line item veto.

Now I spoke until I was hoarse. Senators would not listen to me. They knew where I was coming from, so they did not listen to me. But we all are going to have to eat crow collectively. We did this. If we had not given the President this tool, he would not be using it.

Now as far as his negotiating, may I say to my good friend Senator Bennett, who has the courage to say he's here to eat crow, may I say this. If it is a West Virginia item, I am not going to negotiate with the administration on it. If they want to veto it, lay on, McDuff. [Laughter.]

I am not going to negotiate them. That is what I said was one thing that is wrong with this line item veto. You give the President the power. He holds a hammer over the head of every Member of the House and Senate, and to that extent it impinges upon our freedom of speech, because if we get up and say this about the President's nominee or some action he takes, you can rest assured they have a way of getting even, and they just might try it.

But I say this now, I say it here in the committee, and I will say it to the White House or anywhere else. If they want to line item veto an item from West Virginia, I will not negotiate. That is what they want us to do. They want Members of Congress to negotiate. I have never seen—I have never seen congressional leaders sit down and negotiate with administration people after the subcommittees have held their hearings, marked up the bills, taken all these things into consideration, including the administration's objections—and we know what they are—before we mark up the bill.

And we need to know how they feel. It helps to guide us. But once the subcommittees have done their work, Senator Domenici, once your subcommittee has done its work and you have spent hours and days and weeks in hearings and marking up the bills, and you know all those things, you know what they object to, if it is the collective judgment of you and your subcommittee that that item ought to be in there, it should be put in.

Then, for them to come up here when the conferences are working on these things and say now that is veto bait, if you do not

change this, it will be veto bait, I say go ahead and veto. You know what your rights are under the Constitution. Veto. We know what our rights are. It is too late then to come up here and threaten.

So, as far as I am concerned, it is too late for negotiations at that point. But I say here and now and I say it on the record, if they want to veto a West Virginia item, they can go to it, and I will have my say afterwards. But I am not negotiating.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator. I would remind all concerned that the Constitution specifically says the legislative power is vested in the Congress of the United States, and that the President, he may recommend to the consideration of Congress such measures as he shall judge necessary and expedient.

But I am trying to just say this. We have not exercised some of the power we have got. I would hate to be a Presidential nominee waiting for confirmation right now, and I would hate to be someone who is waiting for an act of Congress that is necessary to start a new program. You know? We are not all eunuchs. The Constitution made the Congress a very strong body in a national democracy, and we are here to consider again the abuse of power.

Now let me get back where I was. Gentlemen, I thank you again for your patience. I have before me the list of the projects from your individual services, so let me just ask each of you this. First let me read to you what Mr. John Hamre, the Under Secretary, sent to me. He said the administration used three criteria to decide to use the line item veto on individual projects in the fiscal year 1998 military construction bill.

The project was not requested in the President's fiscal year 1998 budget, it would not substantially improve the quality of life for the military service members and their families, and it would not likely begin construction in 1998.

Now we had gone to the trouble of asking each service to review the projects, so let me ask you, General Lupia, is there any project that was in this list that—and I am talking about now the 33 that were on the long-term program for the Department of Defense. There are five that were not, so I am not addressing those yet. The 33 that we did review with the Department, which were in the Senate-passed bill, are any of those that meet the criteria I just listed?

Were any of them either not requested in the budget, would not substantially improve the quality of life for military service members or their families, and would not begin construction in 1998?

They went in to say because the Department reported to the office that no design work had been done on it. Are any 1 of those 33 that are Air Force projects subject to those restrictions?

General LUPIA. Mr. Chairman, the Air Force had 13 projects of the 54 added by the Congress that were line item vetoed.

The CHAIRMAN. Yes.

General LUPIA. Thirteen of those were line item vetoed. Sir, all of those 13 projects were in our 5-year defense plan. None of the 13 were in the President's budget. But they were all in our 5-year defense plan.

The program years varied. Some were in the year 2000 out to the year 2003. Of the 13 items, quite frankly, sir, there is 1, a dining

hall at Malmstrom Air Force Base, that I am having a little bit of trouble with determining why the project did not qualify as a quality of life project, and I was not in on the decisionmaking, so I do not know what criteria was used.

The CHAIRMAN. It is all three criteria, General. Was it capable of being executed in 1998?

General LUPIA. Yes, sir, executed, it was, sir.

The CHAIRMAN. But you had trouble finding whether any design work had been started?

General LUPIA. No, sir; I have the information on design work. What I was saying was I have trouble understanding why the Malmstrom dining hall did not qualify as a quality of life project, and again I do not know who made the decision or how, but it is, in fact, a project that supports 700 of our airmen who eat in the dining hall at Malmstrom.

The CHAIRMAN. Well, it was my understanding if it satisfied any one of those three criteria it was not supposed to be on the list. That was what I was informed. Quality of life projects were taken out. Those in the President's budget were taken out. And those that already had design work and could be executed in 1998 were taken out, and the balance were supposed to be those that were vetoed.

Were there any of those that did not have one of those three criteria, as far as the Department of Air Force is concerned?

General LUPIA. No, sir.

The CHAIRMAN. General Gill, how about your service, the Army?

General GILL. Mr. Chairman, we had 44 projects that were accelerated by Congress. I believe 14 were line item vetoed. Of those 14 projects, 12 were in the 5-year, the future years defense program; 2 were not. We were asked whether or not they had begun design, and we reported that all of those projects were not under design. Now we made errors on two of those reported. But we reported that they were not under design. Those 14 projects were not under design at that time.

Earlier we had been asked by Congress last spring whether or not these projects were in the FYDP and could they be executed in fiscal year 1998. You can debate what execution means. We reported in all cases that they could be executed. To me as a budget person or as an engineer, that means award of a contract.

The CHAIRMAN. Yes; that is what we understood, too, General.

General GILL. Nobody ever clarified that.

The CHAIRMAN. But two of them have some question as to whether that design work has actually been done. The design work I think was added in at an earlier time. Were either of those two quality of life projects?

General GILL. No, sir; they were operational projects. One was a National Guard aviation support facility in Rapid City, SD, and in this case the design work is done by the State, and the action officer in the National Guard Bureau and the State Guard representative miscommunicated and we provided the wrong information to OSD. The State had actually begun some design work, but had been reported as zero percent design.

The other case was at Fort Campbell, KY, a vehicle maintenance shop. This was the result of a project that was phased and, in fact,

the design had been done completely in the earlier phase 1. The data base did not carry the design as being completed for phase 2. Phase 2 was accelerated. It was reported as not designed when, in fact, it is at 100 percent.

The CHAIRMAN. Thank you very much.

Admiral, I would ask you the same question about the Navy and Marine projects, please.

Admiral AMERAULT. Yes, sir; sir, all but 3 of the 12 projects that were line item vetoed in the Navy were in the FYDP, in the years 2000 to 2003, some in the out-years of the FYDP.

We reported that all could be executed. That is under the definition that executable means to us a construction contract could be let in the fiscal year. We reported that they could all be executed in fiscal year 1998. And none of them were quality of life.

The CHAIRMAN. Now I am not going to ask about the other five, because I do not have the information about them, as a matter of fact, myself, and I think those were initiated in the House and the House will reinstate those if it so desires.

Let me go back to each of you with just one more question, and then I am going to see if other members have questions.

I want your judgment, General, whether each of the projects that were vetoed, in every case, the Air Force projects, is the project an essential Air Force project to meet your mission?

General LUPIA. Sir, the projects are essential to the Air Force and they are in our 5-year defense plan. In terms of budget constraints, some of them are in later years than we would like to have them, but they are of military value. Each of the projects vetoed would enhance operations at the respective installations, but their deferral to a future year does not undercut national security.

The CHAIRMAN. Well, I can answer that one. We had extra money because of the budget agreement. Not extra. We had an increase in money, more than we anticipated, so we reached out and brought projects from the later years of the defense plan into this year in order to use that money so we used it on projects that have already been approved for the mission of the Department of Defense.

Now all of the ones we selected meet that definition, as far as you are concerned—being essential for your mission?

General LUPIA. Yes, sir; and they are in our 5-year defense plan.

The CHAIRMAN. Let me ask you the same question, General. Are they all essential to the mission of the Army, the ones that were vetoed?

General GILL. I think categorically I can say that those that are in the FYDP were essential. It is my judgment—and you asked my judgment—that those which fell within the FTDP, appear to be essential facilities for the accomplishment of the Army's mission. They would have been moved forward had there been enough room in our budget. Some of them would have come forward; others would have been gotten to later. It was simply a matter of how many dollars we had and our internal prioritization.

The CHAIRMAN. Thank you. The same question to you, Admiral.

Admiral AMERAULT. Yes, sir; we reported that, whether or not these projects were militarily essential in our response to questions from OSD, we reported in all cases that they were, with the excep-

tion of those three that were not in the FYDP. We were not asked that question for those three.

Their placement within the FYDP was simply a matter of budget priorities, affordability, and so forth.

The CHAIRMAN. The timeframe of affordability within the 5-year plan. Thank you much.

Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

Which witness would be conversant with the item in West Virginia, the Camp Dawson item?

General GILL. Sir, that is an Army project.

Senator BYRD. All right. General Gill, was this project included in the Department of Defense future year defense plan?

General GILL. Yes, sir; it was in fiscal year 2002.

Senator BYRD. That is exactly what I told Mr. Raines.

Will this project enhance readiness, safety, or working conditions for service personnel?

General GILL. Yes, sir, all of the above.

Senator BYRD. Has the site been identified for the project?

General GILL. Yes, sir.

Senator BYRD. Has any money been spent on the design of the project?

General GILL. I do not have knowledge of that, sir. This is a State project and States design these projects, with the approval of the Army Assistant Secretary for Installations and Logistics, who tells them go ahead and begin your design. So I do not have knowledge of any design funds being expanded on this project, but I do not know that absolutely.

Senator BYRD. The design contract was signed in August. Can you begin to execute this project during fiscal year 1998? I believe you have already answered that in the affirmative.

General GILL. Yes, sir.

Senator BYRD. Were you consulted on including this project on the veto list?

General GILL. Sir, a member of my staff was asked whether or not design had begun, and we reported it had not. We did not have the same information that you have just provided, that there was some design begun in August.

Senator BYRD. But there were three criteria. One had to do with, was it on the 5-year defense plan?

General GILL. That is correct. It was. It was reported as affirmative.

Senator BYRD. I was told by Mr. Raines it was not. And he wanted me to send down the papers from which I was reading, which I did. I have already indicated that.

But it is clear to me, Mr. Chairman, that the right hand did not know what the left hand was doing in this situation. That is embarrassing to the administration, but it is just what some of us thought would happen.

I want to thank you again for holding this hearing. If this were the only bill that we would have to face this situation on, it would be one thing, but we are going to have to face this many times, and we are going to have to have these people up here away from their work many times, and we are going to have to have Senators away

from their other duties many times—just what I said would happen—take the time of the Congress needlessly.

And we have to do our whole work over and over again. We have come to a pretty sorry pass.

Thank you.

The CHAIRMAN. You are right about that. If I am informed properly, Senator, we should expect somewhere between, I would say, 200 and 400 line item vetoes in the defense bill.

Senator Domenici.

Senator DOMENICI. I will go very quickly. I think the project at Kirtland Air Force Base, that is yours, General Lupia. I understand that this project was included within the defense future year defense plan. Is that true?

General LUPIA. Yes, sir; it was in 2002.

Senator DOMENICI. Is this project mission-essential within the context of the plan?

General LUPIA. Yes, sir, it is.

Senator DOMENICI. Has a site been identified for this project?

General LUPIA. Yes, sir, it has.

Senator DOMENICI. Has money been spent on the design of this project?

General LUPIA. Yes, sir; we have already invested \$350,000 in beginning the planning and design of the project.

Senator DOMENICI. Can you begin to execute this project during fiscal year 1998?

General LUPIA. Sir, we can execute it, the definition being contract award in 1998, yes, sir.

Senator DOMENICI. Thank you, Mr. Chairman. Thank you, General.

The CHAIRMAN. Senator Domenici. Pardon me, you are Domenici. Senator Inouye. [Laughter.]

Senator INOUE. Thank you very much. Before I proceed with my questions, I would just like to make an observation.

As a result of this committee's action a few years ago, when the administration requested six F-117's, we felt it was not enough. We asked for 40. Imagine if they had line itemed that one. We would still be in Desert Storm.

The CHAIRMAN. How about the Osprey?

Senator INOUE. The Osprey, the administration suggested to us it was veto bait. Today it is the centerpiece of the Navy and the Marine Corps.

We also decided that since we had nothing to counteract theater missile defenses we came up with the Patriot. That was on its way out. If we had not provided the money and if he had line itemed that one, I do not know what would have happened, sir.

The CHAIRMAN. You can add the C-17 to that too.

Senator INOUE. We can add the C-130 also, and a whole list of these things that began with congressional initiatives.

The CHAIRMAN. And all of those were congressional add-ons.

Senator INOUE. Admiral, if I may ask, my staff indicated the Navy had every intention of executing construction of the Asian Pacific Center.

Admiral AMERAULT. Yes, sir; sir, that project is in the FYDP in the year 2003. We had spent no military construction planning and

design funds on that project. That is what we reported on September 26. Since that time, the A&E contract for preparation of an RFP was awarded on September 30, 9 days ago. Since then \$145,000 has been obligated.

Our anticipation was the earliest construction contract award would be in the third quarter of fiscal year 1998.

Senator INOUE. Can you assure the committee that you received no instructions from Navy or Defense or any other administrative leadership directing you to add or delete any item to protect any particular region or location?

Admiral AMERAULT. I can certify that we have not been asked to do anything of the sort.

Senator INOUE. Can you assure the committee that, to the best of your knowledge, political interests were not a factor in selecting the items for line item veto?

Admiral AMERAULT. I can assert that we were not asked to make any judgments with regard to political or any other consideration on any of these projects except to report status of design status, executability in fiscal year 1998, and military essentiality.

Senator INOUE. So your files would indicate that we have already expended \$145,000 for design?

Admiral AMERAULT. Within the last 9 days, sir.

Senator INOUE. And you are ready to move in the third quarter of the next fiscal year.

Admiral AMERAULT. We anticipate that we could award that contract in the third quarter of 1998.

Senator INOUE. I thank you.

The CHAIRMAN. Senator Craig.

Senator CRAIG. Thank you much, Mr. Chairman.

Let me do a similar action, General Lupia, on the two items vetoed—Mountain Home Air Force Base, the B-1 avionics building. What is its current status?

General LUPIA. Sir, we reported in April 1997 that the project was zero percent designed. We are today reporting 10 percent work that has been accomplished since then.

Senator CRAIG. So design activity is fully underway?

General LUPIA. Yes, sir, that is correct.

Senator CRAIG. Location?

General LUPIA. The site has been identified, no problem with the site, no environmental problems. The project is in the Air Force's 5-year defense plan in the year 2000. So we had already planned to spend 1998 design money to get it going. We spend 2.5 percent 2 years out, and then 6.5 percent on design 1 year out. We have already invested in the project.

Senator CRAIG. How essential is this to the overall beddown of the B-1's at Mountain Home?

General LUPIA. Sir, this project is essential to the beddown. We have been using workarounds and will continue to do that, but it is essential to the beddown.

Senator CRAIG. The F-15 squadron operations facility, what is the status of that, to your knowledge?

General LUPIA. Sir, that project is in the Air Force's 5-year defense plan in the year 2002. So we reported that we have not begun design. But this is again back in April 1997.

Senator CRAIG. Is it true design has begun? We are informed by the commander out there that design has been done, and 65 percent by November.

General LUPIA. This past November, sir?

Senator CRAIG. This coming November.

General LUPIA. This coming November?

Senator CRAIG. Yes.

General LUPIA. Sir, I have the project today at 10 percent designed, that we have invested \$140,000, and, quite frankly, I cannot tell you if it will be 65 percent by November.

Senator CRAIG. So both of these are clearly within the 5-year plan, design work has begun, locations have been determined.

General LUPIA. No environmental problems, sir.

Senator CRAIG. No environmental problems, viewed to be essential for mission?

General LUPIA. Yes, sir.

Senator CRAIG. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Faircloth.

Senator FAIRCLOTH. Senator Bennett.

The CHAIRMAN. Senator Bennett.

Senator BENNETT. Thank you. I must indulge in a little hometown business and recognize that Admiral Amerault and I share degrees from the University of Utah.

Admiral AMERAULT. Yes, sir.

Senator BENNETT. He was not born and raised in Utah, but chose to go there to school.

Senator CRAIG. Senator, did he learn to sail on the Salt Lake?

Senator BENNETT. I sincerely hope not.

Admiral AMERAULT. I already knew, sir. I was the racing commodore of the Great Salt Lake Yacht Club while I was there.

The CHAIRMAN. You bit into that one, didn't you? [Laughter.]

Senator BENNETT. Yes.

My concern, of course, is with the Army, and, General Gill, I understand your previous answer to the chairman you indicated no design money had been spent with respect to Fort Douglas and the Reserve facility there. Is that your understanding?

General GILL. Sir, that is my understanding. I have no information on design money being spent. But I have already been corrected once.

Senator BENNETT. We will be happy to help you on that. The design is 35 percent complete, and I do not think that that happened in a vacuum. I think somebody paid some payroll somewhere. The design is underway and 35 percent complete as of this point, with the expectation, I am told from Utah, that the final design contract would be let relatively quickly.

We have a circumstance that is a little different from the rest of these projects. The Washington Post, in talking about it, began its story with one word—"oops"—with respect to the circumstance in Utah. You are aware of the fact that there is a timeframe on this caused by the coming of the Olympics to Utah in 2002?

General GILL. Sir, I have been informed.

Senator BENNETT. You have been informed. All right.

Mr. Chairman, for those who are interested in this circumstance, this is land that is left over, if you will, from a military facility that has been closed, Fort Douglas. The Reserves are currently occupying it, but the long-term goal is that this land will be turned over to the University of Utah, be used by the University of Utah for educational purposes and be deeded to the State.

There is no hurry in doing that, except that the University of Utah pointed out that if they are going to be the location for the Olympic village in 2002, they need the land now in order to build the dormitories for the athletes which will become then the Olympic village.

And in negotiations with the Reserves over a period of several years a timetable was worked out, and this appropriation would have handled the moving of the Reserves from this land to State land, where the National Guard currently holds forth, and it would simply be an acceleration of the time pattern that had already been set down by the Congress and the Defense Department in previous years.

And I understand, sir, that this is indeed in your long-term program? Your FYDP it is down for 2003?

General GILL. That is correct.

Senator BENNETT. 2003 will be a little late for the Olympics that takes place in 2002, which is why it was accelerated. Is it your understanding that this project could, in fact, be executed in fiscal year 1998?

General GILL. There is discrepancy in the cost. There is one cost. There is \$12 million of it was accelerated into fiscal year 1998. There is some disagreement with the Army Reserve as to whether that funds the entire project or not, but, sir, that part of it could be executed.

Senator BENNETT. So the part that is in the bill could be executed in fiscal year 1998?

General GILL. Yes, sir.

Senator BENNETT. I just call your attention to the fact that if this gets delayed and then goes forward at some future year, the athletes are going to show up in 2002, whether we have beds for them to sleep in or not. And the whole anticipation of doing this thing in advance was to see to it that this land would get transferred to the State on a more accelerated pace so that it could become part of the Olympic village.

This was explained to the Defense Department, and we had full concurrence from those people with whom we worked that it was a good idea to move this up in advance.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman. I have some somewhat nonspecific questions. But let me ask you, the sum total that was line itemed out was how much money? Do you know?

The CHAIRMAN. \$287 million.

Senator FAIRCLOTH. How much does it cost us a month to stay in Bosnia?

General GILL. I can only do some arithmetic on the U.S. Army's cost of staying over there. It is about \$150 million. That is the extra cost of doing that contingency operation.

The CHAIRMAN. The total cost is \$2 billion to \$3 billion a year, Senator.

Senator FAIRCLOTH. So it is costing the veto amount 1 month to stay there, roughly the cost of 1 month.

Admiral AMERAULT. That is not too bad an estimation, sir.

Senator FAIRCLOTH. It is very, very close.

We are spending \$280 million, roughly, a month to be in a place we never should have been, and we are talking about extending it. And yet the President cuts out \$280 million in military construction that includes necessary training for the military.

There is no logic to it. Let's talk about the project in my State for urbanized training. Are we going to be fighting fewer battles in the future in urbanized areas or more?

General GILL. Common wisdom says more.

Senator FAIRCLOTH. What?

General GILL. Common wisdom says there will be more military operations in urban terrain.

Senator FAIRCLOTH. Well, do you think it was a good idea to cut out an urbanized training facility?

The CHAIRMAN. Senator, I have to restrain you and say that these gentlemen are here on the basis that we will not ask them to defend or oppose the President's judgment as their Commander in Chief.

Senator FAIRCLOTH. Thank you. I did not know that. I sure do not want them to have to defend it. [Laughter.]

The project at Fort Bragg is 35 percent designed.

General GILL. I do not show that, sir. Let me look at the numbers here.

Senator FAIRCLOTH. What do you show?

General GILL. It is shown as a fiscal year 2001 project, and no design done. That is the information I have been provided on that.

Senator FAIRCLOTH. Well, Fort Bragg provided that it was 35 percent designed.

All right. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF SENATOR LAUCH FAIRCLOTH

Thank you, Mr. Chairman, I appreciate your calling this hearing to complete the record on the Military Construction appropriation bill for 1998. The President has just lined out 38 projects which the Congress supported after we determined their importance. This hearing will give us the opportunity to go over these projects in more detail, and afterward, I'm sure, it will be clear why these projects should stay in the budget.

I strongly disagree with the criteria chosen by the President. His first criterion implies that projects not requested by the administration, the so-called congressional adds, are "pork." At this point, those projects got further scrutinized and could only get off the "pork" list if they are far enough along in their designs or are aimed at "quality of life." After all the hard work that I know this committee did to achieve the proper level of funding for the proper projects that are essential if we are ever to turn around our slipping military infrastructure, I object to our decisions being categorized as unnecessary under such simplistic criteria.

I am particularly disappointed to hear that the President has canceled military construction funding for the Military Operations in Urban Terrain (MOUT) Training Facility at Fort Bragg.

It is highly ironic that at a time when this President seems to want to send American troops just about anywhere to conduct so-called "peacekeeping," he has vetoed the exact tool that our soldiers need to prepare for those missions. The 82nd Air-

borne is the light infantry force that does the door-to-door building checks in the cities and villages.

Perhaps President Clinton and I have different priorities, but I haven't forgotten Mogadishu. We should not be short changing training, especially when urban guerrilla warfare is one of the main threats that our men and women on the ground are facing every day in Bosnia.

I wonder if the President is aware of the condition of the current urban training site at Fort Bragg. These pictures show the sorry situation. The current facility is falling apart and has become a safety concern. And if the President is concerned about "quality of life," I would mention that "quality" should apply to our soldiers' working conditions as well as to their housing conditions.

The MOUT training facility also meets the President's "design" criterion. This training facility will use the same design that was used for the urban training facility that was built at Fort Polk, LA, several years ago. All that needs to be completed is the Fort Bragg site specific modifications, and those are well underway. Construction at Fort Bragg can start in the late spring.

This is a project that is long overdue and one our men and women fully deserve.

Senator DOMENICI. Mr. Chairman?

The CHAIRMAN. Sir?

Senator DOMENICI. Mr. Chairman, could I put two documents in the record with reference to a project?

The CHAIRMAN. You certainly may. Without objection, we will put them in the record.

Senator DOMENICI. I do not want to ask the Generals about the White Sands launch revitalization complex of \$6.9 million, but I have a letter from the commanding general, Brigadier General Laws, which indicates that failure to do this constitutes an extreme safety hazard, and a point paper from the White Sands Missile Range that indicates that if this is not replaced, in that part of the facility that is infested with roaches—excuse me, with rats, there is apt to be hantavirus exposure, and this would have been taken care of by this particular funding.

I would like those two documents in the record.

[The information follows:]

LETTER FROM BRIG. GEN. JERRY L. LAWS, COMMANDING GENERAL, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE

U.S. ARMY WHITE SANDS MISSILE RANGE,
White Sands Missile Range, New Mexico, August 18, 1997.

Honorable JOE R. SKEEN,
House of Representatives,
Washington, DC.

DEAR MR. SKEEN: This information is provided in response to your question on the health and safety matters at launch facilities at White Sands Missile Range. As you are aware from your recent visit to White Sands Missile Range (WSMR), extensive parts of our infrastructure, particularly the vital launch complexes, are in disrepair or are unserviceable. Many of these conditions entail critical safety and environmental problems that earnestly must be addressed as soon as possible.

Recently, we were required to disconnect the water supply that feeds a fire suppression system at a major missile assembly building due to uncontrollable and excessive plumbing leaks. We have many buildings at these launch complexes with inoperable heating and cooling systems. We also have septic systems that have or are failing, and will have to be deactivated due to environmental reasons. The resource reductions of the last several years have exacerbated the already significant backlog of maintenance and repair to the aging infrastructure of WSMR.

Aside from the increasing difficulties for our personnel to accomplish the critical test and evaluation mission for major programs of all the services in DOD, I am very concerned for their safety and health from working in such conditions. I deeply appreciate your consideration of these issues.

Sincerely,

JERRY L. LAWS,
Brigadier General, U.S. Army, Commanding General.

POINT PAPER—REVITALIZE LAUNCH COMPLEXES (MCA PROJECT NO. 47830), WHITE SANDS
MISSILE RANGE, NEW MEXICO

Health and safety issues

The revitalization efforts are to correct serious health and safety situations. WSMR is utilizing a missile assembly building (daily) that has an inoperable fire suppression system due to major leakage. WSMR employees are working in buildings which have failing septic systems. WSMR is presently utilizing buildings at these launch complexes which do not have heating and cooling systems. Personnel are potentially exposed to hanta virus due to infestation of rodents below existing structures.

Obligation schedule

Construction contract can be obligated by fourth quarter fiscal year 1998.

Project development

Scope of work and cost estimate completed by contractor and validated by in-house personnel.

6,700 square feet new construction.

Project design

Project did not make the programming cut off line in fiscal year 1997, consequently design was not started previously. Design is presently at the 10 percent level.

ADDITIONAL SUBMITTED STATEMENT

The CHAIRMAN. The subcommittee has also received a statement from Senator Shelby which will be included in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

I want to thank you, Mr. Chairman and Senator Byrd, for holding this hearing. Charting a course of action in the aftermath of the line item veto possibly may be the most important issue this committee confronts this year. I voted for the Line Item Veto Act, and I still believe in its promise to curb wasteful, duplicative, and unnecessary spending. None of those adjectives applies, however, to any of the 38 projects that were cut from the Military Construction Appropriations Act. The committee members and staff carefully evaluate requests for additional military construction projects, considering questions such as:

Is the project in the Future Years Defense Plan?

What is the current design status?

Can the project be executed in the fiscal year?

Is the project mission essential?

Though the President states that these projects failed to meet his purported criteria, the committee already has closely scrutinized every request to ensure that these criteria and more are satisfied. Therefore, this was a careless and capricious application of the line item veto. It was not a deft act of political courage or budgetary acumen; instead, it underscores the fact that the Administration, after 5 years in office, still does not have a coherent military strategy and is not willing to provide sufficient resources to an anemic defense budget. Instead of rationalizing cuts to a shrinking defense budget, the Administration should join Congress in acting responsibly by providing the military with the resources it needs to remain the world's finest.

CONCLUSION OF HEARING

The CHAIRMAN. Thank you very much.

We have reached the time when we must end this hearing. I want to thank the three of you as general officers for coming. This is a new procedure. We all have to establish some new procedures.

We will hold a hearing of this type on every one of the line item vetoes. We will await the outcome of the vetoes on the Department of Defense bill.

If the veto pen is used to the extent that I have heard that it will be, I will join with anyone else who wants to introduce a bill to repeal the line item veto.

Thank you very much.

[Whereupon, at 3:25 p.m., Thursday, October 9, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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