SENATE—*Thursday, November 12, 1987*

The Senate met at 9 a.m., and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

*Yea, though I walk through the valley of the shadow of death, I will fear no evil; for thou art with me * * * surely goodness and mercy shall follow me all the days of my life; and I will dwell in the house of the Lord forever.*—Psalm 23:4 and 6.

Eternal God, You have created us to live forever. You have set eternity in our hearts—a fact which we ratify by our instinct for immortality expressed in the energy we expend and the investments we make to prolong life. As a hopeful future gives meaning to the present so life after death gives meaning to existence. Aspirations for a family and a successful career make school meaningful and motivate us to study. Plans for retirement are an incentive to work harder and better at what we do daily. It is the future which makes the present make sense. Thank You, merciful Father, for the offer of eternal life so gladly given in grace. Help us to understand that eternal life is a gift to be received, not a goal to be achieved—that as life itself is a gift, eternal life is as well. With gratitude for this immeasurable benefit, we praise You in the name of Him who is loving sacrifice. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 12, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

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

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, the Chaplain's prayer was so refreshing, so reassuring as he quoted from the 23d Psalm and spoke of the assuredness of immortality.

We are so busy, we forget. We give little thought to the great mystery of life. It is only when we come to danger or to the end of the way that for the most part we reflect on the great and eternal things.

From time to time, I have been in turbulence while flying. I am not a very brave air traveler. When that happens, I do not call on President Reagan or former President Carter. I say, "Oh, Heavenly Father, bring us home safely."

I saw a young man executed in Moundsville, WV, at the State penitentiary 36 years ago when I was a member of the West Virginia Senate. The law required a certain number of witnesses to attend an execution.

This young man had been sentenced to die for murder, and over the several months preceding the execution, he had shown no interest in having a chaplain in his cell. He scoffed at the suggestion that there be a chaplain in his cell.

But when the last few days came and the Governor of the State declined to commute his sentence, he asked for a chaplain.

I went down to visit him that night just before the execution, and the chaplain was there with him.

At the execution, when they lowered the black veil over his face and all was very still, this young man who had scoffed at God, had scoffed at religion, said, "Oh God;" those were his last words, "Oh God."

Many times as I grew up in the coal mining communities, I heard coal miners talk about men who were pinned beneath slate, their bones crushed. Their last words were, "Oh Lord, Oh Lord."

Beyond all credulity is the credulousness of atheists who believe that chance could make the world when it cannot build a house.

Jesus said:

In my Father's house are many mansions: If it were not so, I would have told you. I go to prepare a place for you.

And if I go and prepare a place for you, I will come again, and receive you unto myself; that where I am, there ye may be also.

Mr. President, those of us who have lived a long time and who have lost dear ones, long to see across that mystic ocean of eternity those dear ones, once again. We receive hope from the reading of the Scriptures, and I thank the good Lord for this prayer that we heard today. The world is "too much with us," too scornful, too cynical. Man thinks he is all powerful, but he is not. He is powerful, but he is not omnipotent.

Mr. President, I close by reciting some words from William Jennings Bryan's "The Prince of Peace." I think that they are most appropriate following the Chaplain's prayer this morning.

If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will He leave neglected in the Earth the soul of man made in the image of his Creator?

If He stoops to give to the rosebush whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope to the sons of men when the frosts of winter come?

If matter mute and inanimate, though changed by the forces of Nature into a multitude of forms, can never be destroyed, will the imperial spirit of man suffer annihilation when it has paid a brief visit, like a royal guest, to this tenement of clay?

No, I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all His creation, has made provision for a future life in which man's universal longing for immortality will find its realization. I am as sure that we live again as I am sure that we live today.

I thank our Chaplain for taking time out to remind us and to remind the listening and viewing world that there is a God; He is King; and that He has made provision for eternal life. And if we live in accordance with his teachings in pursuance of His promise, we can enjoy eternal life with Him, and I can see my grandson again.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. SHELBY). Under the previous order,

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

there will now be a period for the transaction of morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin [Mr. PROXMIRE] is recognized.

WHAT REALLY DRIVES STOCK MARKET PRICES?

Mr. PROXMIRE. Mr. President, at last we have a definitive explanation of what guides the stock market. All those who thought the king-size increases in the Federal deficit caused the stock market to swoon can forget it. Those who blamed the stock market collapse on Ways and Means Committee proposals to limit tax deduction for interest on loans that finance hostile takeovers, forget that, too. Even that wild and wonderful theory of columnist Bob Novak that the rejection of Judge Bork's nomination for the Supreme Court put the stock market in a spin no longer stands up. As for the theory that President Reagan has visibly lost control of the Federal Government and the ensuing lack of confidence did the stock market in, we can kiss that one goodbye, too.

A New York Times article earlier this month offers the one theory that stands the single true test of predicting stock market behavior.

Here is a theory that has been repeatedly tested and it has held true for 20 years. Virtually every time it comes up a winner. No other theory comes close. Consider the record. In every one of the last 20 years the theory has proven correct for at least one of the three popular indices: Dow Jones; New York Stock Exchange Composite and the Standard and Poor's 500. And 91.7 percent of the time for all three taken together have confirmed this theory. So far the direction of the New York Stock Exchange index has been correct 19 times in 20 years. Each of the others were correct in 18 of the past 20 years. The basis for the theory's prediction did not exist prior to 20 years ago. So in summary 17 times the theory has been unanimously correct. That is all three of the indices have moved in the predicted direction. The rare exceptions have been by very narrow margins. So, Mr. President, this is a phenomenal record of proven foresight and wisdom. I challenge any economist, any successful multimillion-dollar investor anywhere to come up with a more impressive record of success in market forecasting.

So what is the basis for this astonishing record of forecasting? Here it is: When the Super Bowl game that is played in January is won by a team that once belonged to the American Football League, the market will close that calendar year, lower than it did the year before. If a team from the old National Football League wins, then the market will finish higher. This year, for instance, the theory predicts the stock market will finish higher than it finished last December 31, because the NFL Giants won the Super Bowl in January of this year. In spite of the sensational stock market crash on "Black Monday," the Dow and the other indices are still higher than they were December 31, 1986. The theory tells you they will finish higher.

Now, Mr. President, let this Senator rush on to assure you that I know this theory to be absolute balderdash. It is the sheerest nonsense. "The phenomenal success" is pure coincidence—delightful coincidence but coincidence. What the story of this theory tells us in that we should be very suspicious of any explanation of stock market movements. The fact is that no one knows why stocks rise and fall. If anyone did, he or she could parlay that knowledge into wealth beyond the wildest dreams. What the astonishing success of this ridiculous theory tells us is that no explanation now no matter how precisely it squares with experience can explain the stock market crash.

The most common explanation—the Federal deficit is a case in point. Here is the one cause of Black Monday that has been most commonly seized upon by experts in the press, in the Congress and in the economic fraternity. And it is just about as nonsensical as the Super Bowl theory. Consider the record. Here is a theory that argues that a rising Federal deficit will undermine investor confidence and bring down the stock market. So let us test this theory that a rising deficit is stock market poison and drives the Dow Jones index down with what has actually happened.

Compare the Dow with the deficit performance in each fiscal year. The result is astonishingly consistent. What does the Dow do when the Federal Government runs a big deficit? The year 1982 was the first year of mega deficits. That was the first year the Federal deficit exceeded $66 billion. It hit what was then an appalling $128 billion. What happened to the Dow with that precedent-shattering deficit? The Dow rose from 853 at the beginning of the fiscal year to 917 at the end. The big deficit pushed stock market prices higher. What happened the next year, 1983, when the deficit increased more sharply than in any year before or since and climbed to an horrendous $209 billion? The Dow soared. It zoomed from 988 to 1237. The next year, 1984, the deficit dropped modestly down to $184 billion. Did the Dow rise on that odd news? No, indeed. The Dow actually fell from 1252 down to 1213. Then in 1985 the deficit rose again. This time to $212 billion. Bad news? No, indeed. The Dow loved it. It rose sharply from 1199 to 1318. And in 1986 the deficit broke all records to rise to an astonishing $221 billion. How did investors react? They gave the country one of the biggest bull markets ever. The Dow shot up from 1352 to 1813. Then came the coup de grace. This past year the deficit came in far lower at a surprisingly improved $148 billion. So what happened to the stock market? The stock market suffered the worst crash in at least 58 years.

Now, Mr. President, this Senator has worked and voted and fought hard to hold down the deficit, to cut Federal spending even on programs that I strongly approved because of my belief that our fiscal policy has been grossly irresponsible. It has buried this country under an enormous burden of debt. But the current craze to tie the stock market collapse and the short time value of American equities in with the Federal deficit is sheer nonsense. It is every bit as foolish as arguing that the Super Bowl winner in January sets the course of the stock market for the coming year. There is a difference. The difference is that there is at least some historic respectability based on actual events to the Super Bowl theory. But how about the deficit theory? Historic developments—the hard facts—of the actual Federal deficits each year and the actual performance of the stock market show that if there is any connection between Federal deficit and stock market performance, it is this: The bigger the increase in Federal deficits, the more likely it is that stock market prices will rise during the year.

This Senator has concern about the stock market. But I have far greater concern about our economy. Deficits may be good at least in the short run for the stock market. There is no question in my mind—none—that they are bad and I mean very bad for the economy.

Mr. President, I ask unanimous consent that the article by Leonard Koppett in the New York Times to which I referred be printed in the RECORD.

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

QUARTERBACKING THE MARKET

(By Leonard Koppett)

Palo Alto, Calif.—Amid the gyrations of the world's stock markets, so bewildering and frightening to all concerned, there is available one statistical barometer that can be watched with comparative calm for the next few weeks. It is the Super Bowl stock theory, first outlined in the sports pages of The New York Times (by me) in 1978.

The theory states that when the Super Bowl game, played in January, is won by a team that once belonged to the American Football League, the market will close that calendar year, 11 months later, lower than it did the year before. Otherwise, it will finish higher.

It has held true for 20 years in at least one of the three popular measures of stock prices, and 91.7 percent of the time for all three taken together. Before that, there was no Super Bowl game to provide guidance.

Last January's Super Bowl game was won by the New York Giants, never a member of the A.F.L., and therefore an "up market" predictor.

The magic numbers are the Dec. 31, 1986, closing figures for the Dow Jones Industrial Average (1,895.95), the New York Stock Exchange composite idex (138.58) and the Standard & Poor's 500 index (242.17).

The theory says nothing whatever about what fluctuations may occur during the year. Nor does it indicate how much higher or lower the final tally will be.

But it does provide a single beacon of stability at this time of day-to-day confusion about such previously inconceivable hour-by-hour swings.

So far, the New York Stock Exchange number has moved "correctly" 19 times in 20 years; each of the other two were "correct" 18 of 20 times. But never have all three been "wrong" in the same year, and 17 times they have been unanimously "correct." The exceptions have been by such narrow margins that confidence in the formula has not been seriously undermined.

In 1970, the Kansas City Chiefs won the Super Bowl, indicating a down year. The N.Y.S.E. index got it right, dropping 2.5 percent. The S. & P. 500 just missed, going up one-tenth of 1 percent. The Dow Jones, wildly volatile even then, went up 4.8 percent. In 1978, the Dallas Cowboys were victorious, heralding an up year. The perverse Dow went down 3.1 percent, but the others were right on target.

In 1984, the Los Angeles Raiders were Super Bowl victors, signaling a lower year-end close. This time, the Dow got it right (falling 3.7 percent) while the other two strayed upward by margins of only 1.3 percent and 1.4 percent.

Theorists have speculated that these more broadly-based indices were misled by the fact that the Raiders had moved from Oakland to Los Angeles, belonged to the up-market category. Sorting out such complications as franchise shifts and different nicknames in the same city is a bit much to expect from econometricians, and they got mixed up. They had no trouble when the Oakland Raiders had won in 1977 and 1981.

Whatever else happens between now and Dec. 31, therefore, the test is clear. That day (a Thursday), the market should close no lower than 1,895.96 on the Dow, 138.59 on the N.Y.S.E. and 242.18 on the S. & P. 500.

If none of these are "correct," we will see that not even football results can be relied upon for market analysis, and the future will seem dark and terrifying indeed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, we are all very well aware of the conditions that have fallen upon us over the recess with respect to the unexpected snowstorm, and the discommoding of travel and arrival arrangements by Senators who had to be out of town during the Veterans Day recess. Therefore, in an effort to accommodate Senators who are having problems flying into Washington and so on from distant parts, having cleared this request with the other side of the aisle, I ask unanimous consent that the vote by rollcall which was to occur at the hour of 9:30 a.m. today on the conference report on H.R. 1451, the Older Americans Act, be rescheduled to occur at 1 p.m. this afternoon.

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

VOTE ON EXCEPTED COMMITTEE AMENDMENTS EN BLOC

Mr. BYRD. Mr. President, according to the order that was entered on November 10, anent the vote on the excepted committee amendments dealing with nuclear waste, the amendments being to the energy-water appropriation bill, the time for a vote on those excepted committee amendments en bloc was set at 12 noon today. In accordance with the rearrangement of the vote on the conference report on the Older Americans Act, and for the reasons already stated, I ask unanimous consent that the vote on the excepted amendments en bloc to the energy-water appropriation bill occur immediately following the vote on the adoption of the Older Americans Act conference report.

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

30-MINUTE ROLLCALL VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that the first rollcall vote of the day which will occur as heretofore ordered at 1 p.m. be a 30-minute rollcall vote, and that the call for the regular order occur at the expiration of the 30 minutes, and that that be an automatic call for the regular order.

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

THE DEBATE TIME

Mr. BYRD. Mr. President, where does this leave the debate time which was to have begun at 10 o'clock and to have gone until 12 noon on the excepted committee amendments? I ask unanimous consent in response to my own question that the debate begin at no later than 11 o'clock this morning. If it begins earlier, let it run until 1 p.m., but that it begin no later than 11 a.m., and of course, that will be equally divided and controlled as heretofore ordered.

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

Mr. BYRD. Mr. President, this would mean that the debate of the Reid amendments and the debate on the Adams amendments and any other amendments would occur following on in the same sequence as was recognized by the order that was entered last week.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for him later in the day.

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

BICENTENNIAL MINUTE

NOVEMBER 2, 1820: BIRTH OF BEN: PERLEY POORE

Mr. DOLE. Mr. President, 167 years ago this month, on November 2, 1820, Benjamin Perley Poore was born. Poore never served as a U.S. Senator, but he was about as closely associated with this institution as any person could be without having won an election.

Ben: Perley Poore, or "Perley" as he signed his newspaper columns, was for decades the Washington correspondent of the Boston Journal and, at the same time, the clerk of the Senate Committee on Printing. He was also briefly the clerk of the Foreign Relations Committee. In the 19th century it was not at all unusual for newspaper reporters to moonlight as clerks to congressional committees and as secretaries to Senators. They were in town for the same months as the Congress. They were literate men who could draft a good speech and handle constituent mail. And they always seemed to need the second salary. One supposes that they reciprocated by writing only favorable notices of the Senators who hired them.

Perley became the premier patronage collector of his generation. In addition to his clerkship, he also edited the Congressional Directory—which he copyrighted in his own name—and the Biographical Directory of the American Congress and compiled The Federal and State Constitutions, and a Descriptive Catalogue of Government Publications, all on government contracts. At the same time, he regularly published his gossipy news stories from Washington, which at the end of his career he compiled into a wonderful memoir: "Perley's Reminiscences of Sixty Years in the National Metropolis."

At the age of 66, the rotund and bewhiskered Ben: Perley Poore collapsed

while climbing the stairs to the Senate Chamber, and died shortly thereafter. From the 1840's to the 1880's he had faithfully recorded the stories of the Senate and its Members, and collected his patronage rewards.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. If there is no further morning business, morning business is now closed.

RECESS UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, in order to save Senate's time, allow the offices of the Senate, the doorkeepers, the Presiding Officer, and the other employees of the Senate to have a little time for walking in the snow, breathing fresh air, and perhaps arriving a little late, I ask unanimous consent, rather than have a longer quorum call, that the Senate stand in recess until the hour of 10:30 a.m. today, and that at that time, the Senate resume consideration of the energy-water appropriations bill.

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

Thereupon, at 9:26 a.m., the Senate recessed until 10:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BREAUX].

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate as if in morning business for a period of 6 minutes.

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

The Senator is recognized.

THE RECENT CONGRESSIONAL PAY RAISE

Mr. GRASSLEY. Mr. President, I would like to take advantage of this opportunity to address this body on the prospective congressional pay raise. Meanwhile, just a few feet from here, the leaders of the House and Senate, both Republican and Democrat, are negotiating with representatives from the White House to work out a budget agreement. I want to point out to this body that there is a considerable inconsistency between what we on the Hill portray to the public about what we are doing for fiscal reform and balancing the Federal budget, and what we actually do. I am referring to the fact that we bury salary increases deep in the many, many pages of massive legislation that pass this body and the other body.

Mr. President, here we go again! Just a few days ago the other body voted to give themselves, and presumably the Members of this body, another pay raise. The other body hid a pay raise in the bowels of the 1987 Omnibus Budget Reconciliation Act. This is that same notorious bill for which the leadership of the other body had to use various "arm twisting" tactics to force its passage by a scant 1 vote, 206 to 205. The pay raise included in that bill, was disguised as a 3-percent cost-of-living adjustment for all Federal employees.

If also approved by this body, this pay raise would be received once again by virtue of an automatic increase, as provided in a law regarding COLA's, that was adopted in 1975. I hope that legislation which has passed this body—once on an 84-to-4 vote and again on a voice vote—and is now in conference between the House and Senate will be passed and signed into law. This legislation would knock out that automatic feature. My legislation would simply require both Houses of Congress to vote on a pay raise before Members could receive it. I tend to believe that it is not the pay raise itself, but how it is adopted without a vote by Congress, which frustrates the public. That is what the people are really objecting to.

For anyone keeping count, Members of Congress were making $75,100 at the beginning of this year. The new increase would raise congressional salaries to an embarrassing $92,200. That 23-percent increase is some cost-of-living adjustment.

Any guesses on how Congress would pay for this 23-percent salary hike? That question is easy to answer, especially since the pay increase is attached to a bill that contains a $12 billion tax increase.

Mr. President, I have several articles from Iowa newspapers. I will ask unanimous consent to insert these into the RECORD. I would like to read the headlines:

"Pay Raise for Congress Sneaks Past Back Door—Boost Hidden in Last Week's House Action"

"Untimely Pay Boost."

"Fiddling in D.C."

Reading from a portion of one article, I quote:

> Is there any federal budgeting situation so grave that members of Congress would stifle the temptation to raise their own salary?
>
> With Wall Street—nay, the world—watching for signs of fiscal wisdom and integrity, lawmakers crank up the legislative machinery.
>
> Intriguingly, the bill providing the last step of that (pay) boost is labeled the "Guaranteed Deficit Reduction Act of 1987." It reeks of huckster hype.

"Huckster Hype"! That is hitting it right on the head! I hope that makes my colleagues as proud as it makes me!

I hope that the people around this country put the fire to the feet of their respective State's Congressmen and Senators. I hope the public will pin them down on where they stand on this issue.

I hope they ask their Congressmen and Senators what they are going to do to change the process that allows Members of Congress to raise their pay by default. I hope that they ask them what they are going to do to assure that the Grassley legislation is maintained in the fiscal year 1988 legislative branch appropriations bill. What are they going to do to make certain that the House appropriations conferees ease off their opposition to the Grassley amendment in the legislative branch appropriations bill?

Mr. President, I have also repeatedly assured my colleagues that my amendment does not affect COLA's. My amendment only affects those raises which are recommended by the Quadrennial Commission. Little did I realize, however, that the other body would rush to award themselves a COLA.

Mr. President, I have made no bones during my relatively short tenure in the Senate that I am just a hog farmer from Iowa. I am proud of that background, and fortunately or unfortunately, that background conjures up some rather fitting images. Anyone who has ever seen hogs stampede to the feed trough will have no doubt of the image that is now playing in my mind.

At the same time that Congress is heaping the feed higher in its own trough, we demand that every one else go on a fiscal diet. "Untimely" is an understatement for the hypocrisy of raising our own salaries again, in the face of deficit reduction negotiations with the admininstration.

This action, to accept the cost-of-living adjustment in the same year Congress accepted the pay raise recommended by the Quadrennial Commission, is almost unprecedented. In 1977, when Congress accepted a 28-percent salary increase, it was shamed into canceling the subsequent COLA. But this year Congress is positioning itself for its third pay increase this year?

Lip service will not do. Votes which are cast too late, after the expired time lines, will not do. You would think that we would learn that the public simply will not accept these shenanigans.

Mr. President, I ask unanimous consent that the four articles previously referred to be printed in the RECORD.

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

[From the Des Moines (IA) Register, Nov. 5, 1987]

FIDDLING IN D.C.

Usually we're in favor of the congressional pay raises. Not this time. The proposed $2,700 raise sneaked through the House last week is scandalous.

The scandal is not the amount. Even if the raise takes effect, members' salaries would still be lower than they were in the 1960s, adjusted for inflation.

Rather, the action is outrageous for the way the raise was slipped through, attached to an alleged deficit-reduction bill. Of course, that behavior is nothing new for Congress—which is precisely what's so obnoxious about it now.

In the midst of a worldwide financial crisis, the incident reeks of business as usual. Nero may have fiddled while Rome burned. The American Congress sneaked itself a pay raise while the world financial order tumbled.

The financial markets are in turmoil because they no longer can cope with some serious imbalances, not the least of which are the gargantuan U.S. budget deficits. The world is waiting a signal from Washington that the United States is finally ready to come to grips with its deficits. Instead, the President and Congress have given the world an Alfred E. Neuman grin: "What, me worry?"

The alleged deficit-reduction negotiations have turned into the politics-as-usual game of trying to pin the blame on somebody else while avoiding any substantive action. The amounts of the reductions being talked about would scarcely dent the deficits, and President Reagan thinks so little of the crisis that he isn't even personally involved in the negotiations.

If the turmoil in the financial markets is going to be kept from spreading to the real economy, meaning lost jobs and lowered standards of living, Washington must get serious.

An immediate freeze in federal spending levels is needed, and top leaders must set the example by freezing their pay first.

To do otherwise would indicate that America's leaders simply do not comprehend the gravity of the situation. That's an absolutely terrifying thought.

[From the Cedar Rapids (IA) Gazette, Nov. 4, 1987]

UNTIMELY PAY BOOST

Is there any federal budgeting situation so grave that members of Congress would stifle the temptation to raise their own pay? The question arises because of the spectacle on Capitol Hill last week:

With Wall Street—nay, the world—watching for signs of fiscal wisdom and integrity, lawmakers crank up the legislative machinery. They produce a "deficit reduction measure" ostensibly aimed at instilling confidence. (It includes about $12 billion in new taxes.) Then, in the part of the bill covering federal pay raises effective next January, they quietly insert language raising congressional salaries by 3 percent.

Now, 3 percent may not seem like much. But consider the run-up since last January. Senators and representatives started the year at $75,100 annually. First they jumped to $77,400 by the way of the fiscal '87 continuing appropriation resolution. Then, in a financial arabesque that hardly anyone understood, they vaulted to $89,500. (It turned out the boost was related to recommendations by the White House commission on salaries.) Next came the measure hatched last week along with the "deficit-reduction bill." It would put congressional pay at $92,200 next January and $100,000-plus within three years.

In light of what is expected from congressmen and what it costs to live in the Washington, D.C., area, those are not lofty sums. The purpose of the current exercise, however, is to decelerate Washington's spending machine. Symbolically, at least, giving Congress a 23 percent pay increase over a 12-month span mocks that intention.

Intriguingly, the bill providing the last step of that boost is labeled the "Guaranteed Deficit Reduction Act of 1987." It reeks of huckster hype. Most consumers should recognize the gimmick: When a company goes on and on about how "quiet" a machine or appliance is, chances are the product is comparatively noisy. When the pitch emphasizes size, expect the item to seem puny alongside some competing products. And when "guaranteed" is the first word you see, look for the product to be anything but guaranteed.

What seems guaranteed is Congress's overall reaction to the "discovery" that new legislation contains a pay mechanism. First an outcry: "This isn't the time!" Next, a discovery: To tamper with the salary gears is to upset the entire machine. Then, an excuse: "The pay commission and the president want it this way, so who are we to argue?" Finally, a retreat—not from the raise itself but from a vote holding each member accountable.

The congressional pay escalator fosters cynicism just when confidence is the order of the day. What a disappointing spectacle.

[From the Des Moines (IA) Register, Nov. 4, 1987]

PAY RAISE FOR CONGRESS SNEAKS PAST BACK DOOR—BOOST HIDDEN IN LAST WEEK'S HOUSE ACTION

(By John Hyde)

WASHINGTON, D.C.—The House of Representatives, in a little-noticed action last Thursday night, voted to increase congressional salaries to $92,200 a year.

The pay raise, if it eventually takes effect, will be the third salary increase this year for members of Congress. They were earning $75,100 at the start of 1987.

"It is unbelievably arrogant on the part of Congress to give itself a $2,700 pay raise when the deficit problem is so real and we're talking about holding down expenditures for everything else," Iowa Republican Representative Tom Tauke said Tuesday. "We ought to be the first in line to do our bit to hold down spending."

The congressional pay increase was part of a massive $14.5 billion deficit-reduction bill that passed Thursday on a 206-205 vote after a bitter partisan debate.

PUBLIC FOCUS

Although the salary angle was reported, most attention focused on provisions in the bill that would raise almost $12 billion in new taxes next year. All but overlooked was the measure's authorization of numerous other changes in federal spending, including a 3 percent cost-of-living increase for members of Congress and all other civilian employees of the federal government.

Several other steps must take place before members of Congress receive the pay increase. It must be passed by the Senate and signed by President Reagan, and another bill appropriating money for it must be approved.

A provision to appropriate the necessary money for the pay raise already has been included in the huge "continuing resolution"—a bill necessary to keep the federal government in business for the coming year—that may come before the House as early as next week.

Congress has raised its pay five times since the start of 1984, when congressional salaries stood at $69,800. Salaries were increased to $72,200 in January 1984 and to $72,650 in April 1984.

Then the salaries were increased to $75,100 in January 1985 and to $77,400 in January 1987.

HEFTY RAISE

In February, acting in response to the recommendations of a presidential salary commission, Congress gave itself a hefty 15 percent pay boost, setting congressional salaries at $89,500. The raise took effect in April.

The most recent pay increase was highly controversial, not only because of its size but also because it was maneuvered through Congress without ever being specifically approved. Under the terms of a new law, congressional pay raises recommended by the president take effect automatically unless both houses vote to disapprove it.

An unusual coalition of conservative organizations and consumer watchdog Ralph Nader has been seeking to overturn the February pay raise in the courts. Their lawsuit is pending.

Meanwhile, in the Senate, Iowa Republican Charles Grassley has been waging a lonely battle to change the law in order to require members of Congress to cast a recorded roll-call vote before a pay increase could take effect.

Grassley's most recent effort was attached to a bill appropriating money for the legislative branch. But his spokesman, Allen Finch, said the provision probably will be removed by a conference committee now considering the measure.

As for last week's action by the House, Finch said: "Talk about Custer's last stand. They're giving themselves pay raises faster than we can fight them."

Although few members of the press or public understood what was happening on the House floor last week, Tauke said representatives understood quite well that the bill contained a pay raise for themselves. "People did know," he said. "There was talk about it on the floor."

Tauke said his first reaction, upon hearing of the pay raise provision, was: "You've got to be kidding. . . . This absolutely sends all the wrong signals. We're asking people to fight the deficit at the same time we're increasing our salaries. This is one of the reasons people are so cynical about Congress."

PARTY SPLIT

The Iowa delegation split along party lines on the measure, with all four Republicans voting against the bill and both Democrats supporting it.

Freshman Democratic Representative Dave Nagle said he supported the bill because it offered a better way to cut the deficit than the automatic spending cuts that would result from a Gramm-Rudman "sequestration order."

"If sequestration comes, Iowa gets a $200 million cut," said Nagle. "The owner of a 100-acre farm is going to lose $1,800 in corn payments. . . . Measure that against this bill. The impact on Iowa is dramatically reduced."

Nagle said he is opposed to raising congressional salaries and will vote against a bill to appropriate money for the pay raise if it comes before the House separate from other appropriations.

"You can't ask the whole country to sacrifice and not ask Congress to sacrifice," he said.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the parliamentary situation,

The PRESIDING OFFICER. The Chair is getting ready to announce the pending business which is H.R. 2700.

Mr. BUMPERS. Is that under controlled time?

The PRESIDING OFFICER. It will be.

Mr. BUMPERS. Mr. President, I wonder if I could prevail upon the distinguished floor manager of this bill to yield me 10 minutes on an unrelated subject.

Mr. JOHNSTON. Mr. President, I think we are going to need most of and really actually all of our time.

The PRESIDING OFFICER. The Chair could respond by suggesting to the Senator that he ask unanimous consent to proceed as if in morning business.

Mr. JOHNSTON. Then we could put the vote off another 10 minutes.

Mr. BUMPERS. Mr. President, I make that request, the unanimous-consent request that I be permitted to proceed for 10 minutes without the time being charged on the allotted time.

Mr. JOHNSTON. Would that mean the vote would take place at 10 after 1?

The PRESIDING OFFICER. The Chair will state that if the Senator from Arkansas would include that in his unanimous-consent request.

Mr. JOHNSTON. Mr. President, I think we could probably do it and put it all in before 1. The majority leader has set the 1 o'clock vote.

Mr. BUMPERS. If the majority leader has set the time of 1 o'clock as the vote I would not want to move that down without his being consulted. I wonder if we might be able to work it in before that, and if we cannot perhaps prevail on the majority leader to move it by 10 minutes.

Mr. JOHNSTON. I think perhaps the distinguished Senator from Nevada would maybe yield five and we could yield five.

Mr. BUMPERS. If I would assure the Senator from Nevada that no vote would be changed as a result of that 10 minutes lost——

Mr. REID. I agree to the unanimous-consent request that 5 minutes come out of my time, and 5 minutes out of the chairman's time.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I want to express my thanks to both Senators for their graciously acceding to this request.

THE FISCAL CRISIS

Mr. BUMPERS. Mr. President, I have some late information which I think is extremely reliable, and it is that at some point in time every Member of this body is going to be dead. After everybody in this body is dead, and in some instances before, historians are going to start recording how they performed as Members of the U.S. Senate.

Historians are not going to dwell on tenure. Historians could not care less about how long a Member serves in this body. Without being too patronizing, I might say that some people know how to extend their tenure here. You can read the polls, vote accordingly, go home and wave to the crowd, and parade and receive the adulation of people in your State for doing what is politically popular at that particular moment. Historians are going to be more concerned about the quality of your service here and what happened to the country while you were here.

Everybody in this body now knows, or certainly ought to know, that the economic philosophy and theory of supply—side economics was and is flawed. We have well over $1 trillion in additional national debt, which our children are going to have to pay off, to vouch for the failure of supply-side economics. But it was not really until Black Monday, when the stock market crashed 500 points, that people in this country said that they were willing for Congress to act and to bite the bullet, make unpleasant choices, and force everybody in America to share in the sacrifice to deal with the Government deficits, our $2.5 trillion national debt, and our $400 billion and $500 billion net international indebtedness. All of these debts will have to be paid and we need to start now to pay them.

So after Black Monday we get this high-level negotiating team to go into a room, and come back with a plan, telling us, as well as America and the financial markets of the world, what we are proposing to do about the deficits and debt.

There is just one thing wrong with what happened in that room and what the negotiators are probably about to announce today. Well, there are several things wrong. First, the President sent his negotiators to the meeting to negotiate with leaders of both parties of Congress and the President said, "Everything is on the table." The truth of the matter is that there is a lot that the President did not put on the table that ought to be discussed.

I am told by negotiators that, oftentimes, proposals were brought up, and the President's representatives would say, "We have to go back and try this on the President." That, of course, is evidence that everything is not on the table for the President.

Second, I can tell you that the financial markets of this country expect a lot more than $23 billion in debt reduction. In my humble opinion, if the negotiators come back here with $23 billion, not only will it not reduce the projected deficit next year year; the deficit will increase.

You know that economic growth is not going to be as great next year as has been projected. You know that the tax cut, the second year of the tax cut, which goes into effect January 1, costs the Treasury $17 billion—half in personal tax cuts, half in corporate tax cuts.

Is it not strange—let me say bizarre—that our negotiators are sitting in a room, trying to cut the deficit by $23 billion next year, they are saying absolutely nothing about the fact that there is a $17 billion tax cut scheduled to go into effect next year?

For whom is this tax cut going into effect? The wealthiest people in America.

Of this $17 billion tax cut, $9 billion is a tax cut for individuals and $8 billion is a tax cut for corporations. In fact, the tax cut for corporations went into effect on July 1.

Yet, the President has said, "You can't touch tax rates when you raise any revenue."

The Democratic negotiators apparently want $12 billion in new revenues. But if you analyze very carefully the $12 billion in revenue they are talking about, you will find that some of it is not real. For example, additional revenue is supposed to come from increased enforcement of tax collections by the IRS. You can put any figure you want on that revenue. You can guess this will increase revenues by $1, $2, or $3 billion. Just put down whatever figure you want and say, "this is the additional amount of money we are going to get as the result of more vigorous enforcement of the tax laws." Increased enforcement will be set at least $2 billion in this package, I promise you.

They have even talked about cutting the COLA's for everybody—Social Security, veterans, civil service retirees. I could not support cutting COLA's except as a last resort, after we have exhausted all our other options. If you are going to allow this $9 billion tax cut for individuals to go into effect, you clearly have other options. The $8 billion tax cut for corporations would be an issue if it hadn't already gone into effect.

This is not a tax increase; this is a tax cut. And who do you think gets it? The principal beneficiaries are the people in this country making over $75,000 a year.

How, in the name of all that is good and holy, can anybody even talk seriously about cutting the COLA's for the elderly of this country, for the retirees, while at the same time giving

people who make over $200,000 a year a $5,000 tax cut?

Mr. President, I have a chart, which I will insert in the RECORD immediately after my remarks, to show who benefits from this scheduled tax cut.

A little of this tax cut goes to the people who make between $10,000 and $20,000. They get a little bit of a tax cut—their effective tax rate drops three-tenths of 1 percent. But next year, everybody who makes between $20,000 and $75,000—listen to this—will experience a tax increase both in absolute dollars and in their effective tax rate. People making over $75,000 a year get a tax cut both in absolute dollars and in their effective tax rate.

If that is not shocking, I do not know how you can shock this place.

This tax cut is laying on the table and everybody is scared to touch it for fear the President will go on national television—the same President who brought us supply-side economics and $1.5 trillion additional debt—and talk about tax increases.

I was interested in seeing this ad in the Washington Post yesterday, a two-page ad: "Time for decisive action, a bipartisan budget plan." It was signed by prominent bankers, economists, and corporate executives. I have some good friends on that list. A two-page ad in the Washington Post "ain't" a beanbag. It cost a lot of money to place it. The ad includes all kinds of recommendations, including cutting COLA's: "COLA modifications should also be part of any long-term budget reform."

Mr. President, I will wager that there is not one name on this list that will earn less than $200,000 in 1988 and, therefore, who will not recieve a very handsome tax cut next year, courtesy of the largess of the U.S. Senate and House.

No place in this budget reduction plan do I see anybody saying, "Please don't give all these wealthy people another tax cut."

In 1981, we cut the top marginal rate from 70 percent to 50 percent. Then we cut it to 38.5 percent this year. Then we are scheduled to cut it to 28 percent next year. We have cut the capital gains tax rate from 49 percent to 28 percent to 20 percent now its 28 percent again and it's scheduled to rise to 33 percent next year.

Mr. President, to say that I am deeply concerned about the future of the country and the future of my children would be the understatement of the year. But I do not understand how somebody could say, "Well, we would be breaking faith with the American people if we discuss tax rates. We have made this tax reform commitment; we have to see it through."

Black Monday changed all that. Everything ought to be on the table, and the thing that ought to be at the top of the table is this chart, to show the American people that we are afraid to discuss whether we need another tax cut next year.

If the negotiators come out here with a proposal to cut the deficit by $30 billion, Wall Street is going to be unimpressed. If they came out with a $39 billion package, the financial markets of the country, and indeed the world, might say, "Well, at least they are finally beginning to come to their senses. Now that is a figure that might actually reduce the deficit next year."

Mr. President, when that deficit reduction package comes out, I am not saying categorically that I am going to oppose it. I am going to say to you right now that if there is any possible way to offer an amendment on that reconciliation bill that will give everybody in this body a chance to stand up for a little fairness, a little equity, and at the same time a little preservation of the economic future of this country, I am going to do my very best to give them that chance.

Mr. President, I ask unanimous consent that the table I alluded to earlier be printed in the RECORD immediately following my remarks.

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

According to the Joint Tax Committee, here are the income categories and the tax for each category, in dollar terms and as a percentage of income for the 1987 year, and what it would be if the 1988 tax rates go into effect:

Income class	Average tax liability		Tax as percent of income	
	1987	1988	1987	1988
$0 to $10,000	$−1	$−13	0.0	−0.3
$10,001 to $20,000	$640	$602	4.3	3.9
$20,001 to $30,000	$1,642	$1,751	6.6	6.7
$30,001 to $40,000	$2,652	$2,830	7.7	7.8
$40,001 to $50,000	$4,051	$4,300	9.1	9.3
$50,001 to $75,000	$7,276	$7,708	12.2	12.4
$75,001 to $100,000	$13,402	$13,335	15.7	15.0
$100,001 to $200,000	$25,463	$25,483	19.0	18.2
$200,001 plus	$119,208	$114,824	24.4	21.7

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1988

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the bill, H.R. 2700, which the clerk will now report.

The assistant legislative clerk read as follows:

A bill (H.R. 2700) making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the time between now and 1 p.m. this afternoon will be equally divided and controlled.

Who yields time to the Senator from Washington?

Mr. EVANS. Mr. President, the Senator from Louisiana had previously before he left authorized 15 minutes for the Senator from Washington.

Mr. REID. I have no objection as long as it is charged against Senator JOHNSTON's time.

The PRESIDING OFFICER. The Senator from Washington, under the agreement, is recognized.

Mr. EVANS. Mr. President, I have listened over the last week or so to what some times has been an almost unending debate on nuclear waste. I have listened to the Department of Energy castigated in many, many different words, most of them inaccurate. I have heard history lessons given, most of them inaccurate. I would characterize much of what has been said during the course of the last week as pure palaver, and it does not take hours to respond to it. In 15 minutes I hope and believe that I can set the record straight and at least hopefully instruct some of my colleagues about this issue and what it is really all about. It is very simple as to what it is all about. It is about delay. It is about delay and it is about committee jurisdiction. That is what it is all about.

We have had 10 hearings in the Energy Committee. We have written a comprehensive bill. We have visited two of the nations who have moved further and faster and more successfully than any other in the handling of nuclear waste, France and Sweden. I have personally analyzed countless documents and have followed this debate ever since I arrived in the Senate 4½ years ago.

A good deal of what this is all about is technical in nature. I must admit that even with engineering training I find it difficult at times to follow all of the technical elements of this act. But I certainly would say that many of those without a technical background simply have misjudged, I hope inadvertently, what has gone on and where we are.

The 1982 act, which many have referred to almost in terms of awe and referred to the authors in terms of even greater awe, was a good act, but it was not a perfect act.

The 1982 act was purposely ambiguous in many of its aspects simply because at that time there was a clear recognition of the political nature of this whole process, even though it ought to be as far as we can make it a technical and scientific process.

That ambiguity came back to haunt us in the actions taken by the Department of Energy in the succeeding year.

The Department of Energy attempted to react, and I am here not as an

apologist for the Department of Energy but neither am I here as an unfair castigator of the Department of Energy. They reacted perhaps imperfectly. I believe they acted wrongly and later admitted it in agreeing to set aside or delay indefinitely work on a second repository. That as not ambiguous in the act. It was very clear that work should be pursued on a second deep repository in a timely fashion to follow the first repository.

I believe DOE probably paid too much attention or too much emphasis in selection of the final three sites on the different kinds of material or medium that this deep repository would be placed in: salt or salt domes, basalt, and the other kinds of medium. But I do not think we can blame the Department of Energy specifically for that. After all, that was a particular and specific element in the act itself which said to the maximum degree possible, they should attempt to have a variety of mediums in the three sites selected.

I think the first point is very clear. The Department of Energy is neither an angel nor a devil in what has gone on up to now. They have made some mistakes, but so have we. We have done an inadequate job at times of oversight of really following through on a regularized basis what the Department was doing and the actions they were taking. We, many of us in this Chamber who represented States that were or might have been picked for a second repository, reacted violently and intensely and probably helped persuade the Department politically that they should set aside the second repository for a time.

So there was plenty of blame to pass around.

But we are where we are and we cannot undo or change or rewrite history. If we do nothing, if we let the 1982 act carry through to its conclusion, we will be on the way toward characterization of three sites, spending I believe probably unnecessarily at least $2 billion to $3 billion in excess of what we need and we will not have reduced the political problems by one iota.

We do need a midcourse correction. We do need to change the 1982 act. We have developed 5 years of information and all of that is worthwhile information.

Now some of it is the recognition that this is an even more political problem than we once thought. But we have also developed 5 years of scientific and technical information.

We understand, I hope, that this is a national problem which needs to be resolved and resolved as promptly as possible. We cannot chuck responsibility by simply delaying. We cannot chuck responsibility by appointing and giving responsibility to special committees. What in the world do we think we were elected for? Congress is the oversight body. We are the responsible agent for supervising the acts we have passed in the past years. It is up to us and through the committees of the Congress, of the Senate, and of the House, to insure that what we wanted to achieve through legislation is being achieved by the various agencies of Government.

I think the Energy Committee bill is well crafted, and in fact, it and the Environment and Public Works Committee bill have many of the same features and around those I believe we can coalesce. There is a recognition that instead of the triple characterization that was called for by the initial act that sequential characterization is an appropriate and proper thing to do simply because we can save a very large amount of money in doing it.

Both bills suggest that we can set aside for now and probably for an extended period of time any work on a second repository. The Energy Department bill specifically recognizes the desirability of financial incentives, and it is my understanding that the members of the Environment and Public Works Committee generally agree with that as a fundamental concept. Both agree that there is a need for a monitored retrievable storage facility although the Energy Committee goes further in authorizing it than the Environment and Public Works Committee. The real difference is timing. By taking more time we do not exclude politics.

More time only intensifies politics. We may delay, as the proposer of the change would, for two elections. It comfortably gets people by the 1988 and the 1990 elections.

But does that build courage? I doubt it very much. We only end up then in 1991 with a 1992 election, and the 1994 elections ahead of us.

No, Mr. President, I do not think delay excludes or diminishes the political nature of this process; it merely intensifies it. We have sufficient information to move ahead. If we are responsible in our actions, we ought to move ahead and see whether we have a site, any site, that can be successfully characterized.

Let us recognize the simple fact: Simultaneous characterization costs $3 billion. And I think that is an understated cost. Surface testing, that many in the long debate prior to this have talked about, surface testing will go on in any case and it will always precede the deep, massive drilling that would go on at any site.

It is appropriate and as fundamental as day versus night that you conclude those tests which might disqualify a site before you proceed with the expensive elements in further testing.

This legislation adds specificity which might well have been in the 1982 act but which was not. And that specificity gives us, even without further testing, a much greater clarity as to how to proceed in order on site characterization. It says that primary consideration should be given to the relative costs of construction, of characterization, of operation, and of closures of these sites; in other words, the entire cost during the life cycle of these repositories. That is important. But it was not taken into account because the act in 1982 did not allow it to be taken into account or require it to be taken into account.

We also in this act have said that health and safety would be given the kind of consideration that ought to be given, the number of deaths and the potential danger to people in each of the sites should be relatively measured. And that too is a characterization or a method of choice of a site to characterize that requires no further information and no further testing.

A site for characterization can be chosen by January 1989. It will minimize the politicization of this kind of proposal. Some have suggested, "Well, that comes in sort of a time in between administrations. It is a lameduck kind of thing and somewhat that is evil." Well, Mr. President, I think that probably removes, to the maximum degree we can remove, politics from site selection and site characterization.

My colleague from Washington suggested during the debate that it was somehow possible during that lameduck period for representatives from Nevada or from Texas having unusual political clout to keep those sites from being selected. Well, Mr. President, long before this administration was a lameduck administration, and while those people who supposedly had great clout were still in office, those sites were selected. They were among the three selected. So I think that that is a red herring, along with the whole trail of red herrings we have had drawn in front of this while it has been debated.

Mr. President, the potential money-saving cannot be ignored. The cost of delay, the cost of delay for an extra several years, has not been calculated, but the cost of delay and the concurrent resolution that goes along with it is simply unnecessary and unwise.

I say to my friends on the Environment and Public Works Committee, I would be glad to delay, I would be glad to join with them in an extensive delay in the characterization and selection of a deep repository if they, in turn, would join with me and let us come to our senses on the desirability of a monitored retrievable storage.

Mr. President, we have been hoodwinked by antinuclear forces into a crash program on a deep repository, unnecessarily and I believe unwisely. Nowhere in the world, nowhere in the

world, are other nations doing in the order we have chosen.

The PRESIDING OFFICER. The Senator from Washington has consumed 15 minutes.

Mr. EVANS. Mr. President, will the Senator from Louisiana give me about 3 more minutes?

Mr. JOHNSTON. Yes, Mr. President.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 3 minutes.

Mr. EVANS. Nowhere in the world are they doing it the way we are. France and Sweden both understand the technology of a monitored retrievable storage. They have them operating. We saw them. We visited each of them. They are of two different types, but both working very successfully, incidently, with the support and acquiscence of the people who live in and around these sites.

They understand, as we should, that you start with what you know best, put them into operation, collect the waste, adequately handle it, process it if you desire to, and continue to study a deep repository which should come later. The advantages of this are so well known and so straightforward that I fail to understand why we as a nation uniquely have rejected this order of events. We know the techniques of an MRS. It cools the waste and makes a deep repository cheaper and easier to ultimately construct. It probably, if we did it right, would cool the waste sufficiently so that we would make a second repository unnecessary, not just for an interim period but probably forever. It gives us time to really settle on the design and location of a deep repository.

We are more likely, ultimately, Mr. President, to gain acceptance of a monitored retrievable storage than we are a deep repository. Legislators from my own State even said, in a letter sent to me signed by 21 legislators, that if a defense MRS were built at Hanford, which is desperately necessary, that they could see the acceptance of some civilian waste along with that.

We have better information on an MRS from other nations. And if we move in the same order they are moving, we will gain their knowledge on deep repositories before having to make a decision.

We are pushed, shoved, scared by outside forces and organizations, each with their own agenda in trying to push us into a deep repository and ignore the value of a monitored retrievable storage.

But, Mr. President, we are where we are. It is time to make decisions. I believe the energy bill does so in a clear, in an orderly, and in a cost-effective manner. It minimizes delay and it also, Mr. President, minimizes politics.

I do not think we should conjecture on what the other House may do in the selection of conferees or how they would handle the negotiations between the two Houses. I do not believe we should respond to those who said, "Well, we can't legislate on an appropriations act." If that were a uniform conclusion, I would support it enthusiastically. But everyone knows that we constantly and repetitively legislate on an appropriations act where it appears to be the desirable thing to do. And that is precisely what we are doing here.

Mr. President, I hope that when the votes come up today and over the next several days we vote to sustain the position of the Energy Committee, we vote to move ahead on this process, and we vote most of all to reject the concepts of delay and politics which, I fear, too much have gotten involved in this debate.

The PRESIDING OFFICER. The time of the Senator from Washington has expired. Who yields time?

Mr. EXON. Mr. President, I would like to ask if the two sides would yield me 5 minutes out of their remaining time to speak on the subject, since no one else is anxious to speak at this moment. If I could get 2½ minutes of the 1-hour time allocated to the Senator from Nevada and 2½ minutes from the other side of the issue, I could dispose of this matter and I think not delay the Senate.

Mr. REID. Does the Senator from Louisiana wish to yield?

Mr. JOHNSTON. I will, reluctantly. I think we will be running out of time. I thought the Senator from Nevada——

Mr. REID. I was ready to proceed, but if the Senator is willing to yield 2½ minutes, I will, also.

Mr. JOHNSTON. Mr. President, I will very reluctantly do that and say this is the last such request I will accede to, because I am going to have to limit the people on my side. I do not know where they are.

Mr. REID. I will join with the Senator.

Mr. JOHNSTON. I yield.

Mr. EXON. Let me ask unanimous consent that I be allowed to proceed for 5 minutes without the time being charged to either of the other parties to the time agreement and that, if necessary, the vote be delayed by 5 minutes after the scheduled 1 o'clock vote.

Mr. BYRD. Mr. President, reserving my right to object, I do not wish to enter into any agreement that would have the effect of delaying the 1 o'clock vote.

Does the Senator wish to speak as in morning business?

Mr. EXON. I have been trying to accommodate everyone on this. As usual, we run into these situations where people have been on the floor, talking incessantly, about this very important matter. I think I have something important I want to say on another matter. I would like to speak for 5 minutes as if in morning business under some arrangement.

Mr. BYRD. Mr. President, how about having the time come out of both sides equally?

Mr. REID. We have already agreed to that, Mr. Leader.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

YOUTHFUL DRUG ABUSE AND THE SUPREME COURT

Mr. EXON. Mr. President, I thank my colleagues for their consideration. I am pleased with the President's nomination of Judge Anthony Kennedy to the vacancy on the U.S. Supreme Court. Judge Kennedy, of Sacramento, comes to this body with a lot of very progressive and yet conservative views. I believe at this juncture, from what I know now, subject to the confirmation process, that he is a good nominee.

Judge Kennedy's reputation as a sound conservative jurist precedes him and bodes well for his early eventual confirmation. However, as I said before and cautioned before, let us allow the confirmation process and approval to work in the Senate. It has served us well in the past.

The withdrawal of the nomination of Judge Ginsburg may in the long run prove to be a positive action and have a positive effect on society in general and prove to be very instrumental in moving forward our fight against illegal drugs. It sends a message to our youth that society condemns the use of all illegal drugs and this might be a turning point in our war against drugs. If so, the failed Ginsburg nomination might be eventually looked back upon as a shot heard round the world in the successful fight against drug abuse, especially youthful drug abuse, that I have fought all my life.

There has been a near landslide of prominent and effective public officeholders who have conceded early experimentation with marijuana. I reject the views of the holier than thou; those few who hold no one who has ever experimented with the drug are not fit for public office, years later, because of that transgression alone.

Where are our real Judeo-Christian ethics and principles? Who is the first among us to be without sin? I say again that I have never used marijuana. However, to say that that alone makes me holier than others and better qualified to serve in the public office—it is gross nonsense.

I was safely home during the Vietnam war tragedy, resting on my laurels as a World War II veteran, in an adult society that frowned upon long

hair and marijuana as kid stuff. We should remember it was the kids of that era who lived and died in Vietnam and it was us good guys, clean and wholesome, who exposed them to the Vietnam syndrome and brought them home—those who lived—to an aura of "Sorry about that."

The political purists of today who do not recognize the difference between the general pressures of the Vietnam-driven society and today talk as if they were smoking grass; even if they are, as I do not believe, free from any law violations.

Mr. President, I yield back the balance of my time and I thank my colleagues.

The PRESIDING OFFICER. The Senator form Nebraska yields time. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 10 minutes.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The Senate continued with the consideration of the bill (H.R. 2700).

Mr. REID. Mr. President, my friend from Washington, the senior Senator from Washington, I think, did what any good engineer would do, that is give a very poor history lesson.

In his opening remarks the senior Senator from Washington said he was going to give a history lesson, and then failed to do so. I would suggest that nowhere in my statements have I said anything about the monitored retrievable storage system being something that we should not do. In fact, if the senior Senator from Washington would look at the record, it would show that anything being done with the monitored retrievable storage system that is somewhat unusual is in the context of this legislation on an appropriations bill. It is nothing that this Senator has said or done, or nothing that the Environment and Public Works Committee has done.

If, in fact, anyone would look at the statements made by the senior Senator from Washington where he said: Nowhere do I say that we should do away with the monitored retrievable system—neither are we. I think that the Senator's suggestion is along the same lines as ours. Perhaps he has not been briefed properly by his staff as to what has been going on on the Senate floor. We do not suggest delay. The senior Senator from Washington suggests there might be something magical in the 1988 and 1990 election periods. Those Senators that have taken time on this floor; namely, the junior Senator from Washington and the junior Senator from the State of Nevada, we are not up for election in 1988 or 1990; we were just elected. So I would suggest, again, that this is an example of why engineers should not give history lessons.

I would further suggest, Mr. President, that the senior Senator from the State of Washington says: Follow the Energy Committee. We are not here with the Energy Committee; we are here with the Appropriations Committee. That is what is before this body, not the Energy Committee. So how can we possibly be asked to do that? We have an appropriations bill that is before this body and that is the bill we are debating. There should not be legislation on an appropriations bill.

The Senator talks of the time spent by the Energy Committee. Well, maybe they did; but certainly the Appropriations Committee is being asked to violate its own rules, and we as a Senate body are being asked to violate our own rules by legislating on an appropriations bill. Again, this is why an engineer should not give a history lesson.

I would also suggest, Mr. President, while we are talking about this history lesson, there has not been one word said to refute the history lesson that has been promulgated on this Senate floor these past 2 weeks; namely, that the Department of Energy has committed a travesty in the way they have interpreted the 1982 law.

No one has gone into the fact that the General Accounting Office, that the Ninth Circuit Court of Appeals, that the President of the United States, that the other body have talked about how poorly the Department of Energy has conducted itself; namely, by not following the law, not following its own rules and regulations, and not following its own scientific findings. That is something that in this history lesson should have been reviewed. The Senator suggested that he could, in 15 minutes, refute what has been said on this floor these past few days.

I would respectfully suggest that that is an engineer's history lesson and not a historian's history lesson.

Mr. President, also the point was made by the senior Senator from Washington about cost, about how that was the primary consideration.

Well, that, Mr. President, should not be the primary consideration in burying the most poisonous substance known to man. That is right, the most poisonous substance known to man should not be dependent upon cost. The No. 1 consideration should be public health and safety.

The distinguished senior Senator from Washington has said we should have the MRS and likely we do not need a high-level repository.

Well, that does not seem to be in keeping with what other people have said on this legislation. S. 1668 directs its entire attention to a high-level repository, and only a high-level repository. To do it quick and real quick.

So, Mr. President, I would respectfully suggest and submit that the history lesson we have been given this morning deserves not an average grade, not a C, but, maybe a D-minus.

Mr. President, I ask unanimous consent that the time that I have remaining of my 10 minutes be reserved.

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Mr. ADAMS. Mr. President, how much time remains for Senators ADAMS and REID?

The PRESIDING OFFICER. Fifty-seven minutes.

Mr. ADAMS. Mr. President, I yield myself 10 minutes of that time.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. ADAMS. Mr. President, for the last week, and actually for a longer period than that but particularly in this last week, Senator REID and I have been on the floor explaining our objections to the substance and to the procedure of the proposed changes in the Nuclear Waste Policy Act brought to us by the Appropriations Committee. We will soon be voting on that proposal.

We are asking that when that vote occurs, and it will be immediately after the Older Americans Act vote, that our colleagues join with us and vote "no" on including the Nuclear Waste Policy Act. It is a straight up-or-down vote to vote "no" on including it in the appropriations bill.

I have thought a great deal about what more I could say to my colleagues before this vote is cast. Mr. President, I guess it comes down to this: I know, and the people of my State know, that Washington is a potential site for a nuclear waste respository. We understand that.

Mr. President, we want and deserve some assurance that the process is fair and scientific, and we will not have that under the plan that is before us today. We simply will not have it. We regret that. We want to have a scientific procedure.

Instead, what we will have, if this amendment putting S. 1668 into this appropriation bill should pass, is a selection process that has been totally distorted by political rather than scientific considerations.

Mr. President, I do not think a single Senator, a single Member of the House, a single objective observer would care to defend the role that DOE has played as the lead agency in the nuclear waste program. At every turn, they have made not only mistakes but have destroyed the consensus that we had on nuclear waste policy starting in 1982. They failed to follow the law, failed to follow their

own criteria, failed to implement the cooperation and consultation mandate of the act.

During the last 1½ weeks, Mr. President, we have explained in detail what has not been done in the consultation process, what has not been done in cooperation with the States.

We have taken this time because we know this is an issue that most Senators have not turned their attention to in the last few years. We have tried to point out that consultation has been abysmal; that cooperation has been lacking.

Yet, despite this record of failure and incompetence, the approach before us would give them a free reign, rewarding failure with a grant of increased authority.

What is even worse about this amendment is the amendment would provide that the present Department of Energy would decide, on January 1, 1989, without ever characterizing all three sites on the surface and without having an EPA examination first.

We just hope that the Environment and Public Works Committee version of this bill will prevail eventually and be before the Senate. This is an end run around the authorizing committees.

It is important that we understand that this end run has substantive effects. It is not just a jurisdictional question. It is a question of cutting out of the process the people who have spent the time, who have the expertise in the Senate and in the House in this very difficult decision. They are the ones to do this, and it should not be done on an appropriation bill.

Maybe sometimes we have put something on an appropriations bill for convenience or because there is a time pressure. Mr. President, as I pointed out in my prior remarks, we are dealing with 10,000 years of half life of this waste. We are dealing with 1998 before we start to make movements into the Federal Government. It makes no sense, Mr. President, to rush to a decision on this.

Mr. President, this bill gives DOE the responsibility of selecting a single site for characterization despite the fact that the Nuclear Regulatory Commission has indicated that no one has enough information to make that decision now, and no one will have enough information to make that decision on January 1, 1989.

Even the managers of the bill appear to recognize that reality. They have indicated a desire to offer an amendment which would require DOE to gather more information about the nonselected sites so they can select between them if, for any reason, their preferred site does not work out.

Well, if we need more information before picking a backup site, does it not make sense that they need more information before they pick a primary site?

I obviously object to giving DOE the authority to make this primary decision. But my concern goes beyond just the DOE. I also object to a process that will give that authority to people who will be leaving office in less than a month, no matter who those people are. We ought not to let people who do not have to live with the consequences of this decision and do not have to live with those consequences make the decision. We ought not to allow those who will not have to bear responsibility for the decision make it. We ought to let those who are going to have to do this make it.

All of us are going to have to live with this decision for thousands of years. It does not just affect one State—it affects every State through which waste will be shipped. Those trains and trucks will be rolling through the towns and cities and villages of this country for more than half a century. And the people who are threatened by those trucks and trains will not be satisfied with answers to their questions which simply say, "Well, someone else made the decision." We are being asked to make the decision. We are being asked to make it today on an appropriation bill at a time when we do not have all the information from all the committees.

In that context, Mr. President, I want to talk about who ought to be making the decision. I believe the Energy Committee ought to have a role—and they certainly have. But I also believe the Environment and Public Works Committee ought to have a role—and they certainly have not. Nor would the House Energy or Interior Committee have a role if this decision is made on an appropriation bill.

It would be appropriation conferees on an appropriation bill, and the people who did the original Waste Policy Act would be excluded from the process. I certainly for one intend to do everything possible to see that those committees are involved.

There is another point to consider and that involves the budgetary implications of the pending amendment. The claim is made that adopting S. 1668, which is the first amendment that will be voted on in the energy and water bill under the unanimous-consent agreement, will save a lot of money and that we can afford to save that money; after all, advocates assert, we have studied this issue for years and any further research would just be pouring money down a rat hole. Now, Mr. President, I have already indicated—as have Senator SIMPSON and Senator BREAUX, the distinguished Senator from Louisiana, who is presently in the chair—that we do not have enough information. The only rat hole involved here is the hole that this bill would force us to dig before we are ready to dig it. But beyond that, this bill is not going to save us any money and I think we all know that. This amendment authorizes an MRS Program at a cost of $3 billion. Maybe there will be an attempt to amend that out. But what we are voting does that. It establishes what could be a very laudable benefits program for States hosting an MRS or a repository at a cost of up to $8 or $9 billion. Maybe we want to do that at some point but we should not be pushing that through at this time. And some of the modifications which have been proposed will eat into the alleged cost savings by continuing surface level testing at nonselected sites.

It just simply sets another time for spending it, and at that time it is going to be a deficit problem. Whether it comes up in 2 years or in 3 years, we might as well face what we have to do at the present time or, as has been suggested by the House and by the other committees, take some time before we do this.

So, Mr. President, none of my colleagues should look to this bill as a way to balance the budget. But even if they do want to adopt that view, that is even more reason to look at this legislation in the context of reconciliation where we are asked to make policy decisions for budgetary reasons.

Mr. President, I have given a number of speeches and made a number of arguments on this subject over the past week or so. And it is hard to find the final words, some magic formula which would let my colleagues understand why my State and I feel so abused and outraged by what has happened under an act which we originally supported. In simple terms, I think it comes down to this: We want to be treated fairly. And we do not think we have been.

For 40 years now, a great deal of nuclear waste has been stored in Washington State at the Hanford Reservation. The people of Washington State have accepted, without complaint, the Government's decision to use their area for a host of nuclear related activities. They have accepted the Government's weapon material producing N-reactor and some have supported its continued operation despite the very real safety problems it poses. They have accepted the fact that millions of gallons of nuclear wastes have leaked out of rusting single shelled tanks into their environment. They have come to terms with the fact that there are nuclear materials buried throughout the Hanford Reservation in sites which no longer can be identified or monitored. The people of the State of Washington have been willing to live with all of that because they think they are making a contribution to the national defense and well-being of this Nation.

But Mr. President, if we are going to ask these people to make yet another sacrifice, it ought to be for the right reasons. We cannot ask them to accept a nuclear repository—on top of everything else they have accepted—unless we know, as well as science can ever know anything, that Hanford is the best site. We will not know that under the approach advocated here.

Voting for my position on this matter is not a vote for delay—it is a vote against undue haste. Voting for my position on this matter is not a vote for placing your own States at risk—it is a vote against putting the three finalist States at undue risk. Voting for my position on this matter is not a vote against reform of the Nuclear Waste Program—it is a vote for realistic reform. And voting for my position on this matter is not a vote against the Appropriation Committee—it is a vote for involving all of the authorizing committees in this decision.

Mr. President, I am asking my colleagues to oppose a provision strongly supported by Senators JOHNSTON and MCCLURE. Believe me, I know how difficult that is. But I am asking my colleagues to do more than vote against this provision. I am asking them to vote for fairness. I am asking them to vote for a scientific process. I am asking them to vote for a real reform of the Nuclear Waste Program. I am asking them to vote for placing some reasonable restrictions on the Department of Energy. I am asking them to vote for involving all of the authorizing committees in the task of fixing this program. I am asking them to vote for reason and rationality. Mr. President, I hope my colleagues will vote "no" on the amendment.

Mr. President, how much remains of my time and that of Senator REID? We wish to yield to other Senators.

The PRESIDING OFFICER. The Chair will observe the Senator controls 43½ minutes.

Mr. ADAMS. I thank the Chair. Mr. President, I will yield the floor at this time so that the managers of the bill may yield time, or I will yield to the Senator from Texas, whichever.

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Mr. JOHNSTON. Mr. President, the present amendment saves this country $3.9 billion. It is very simple mathematics. According to the GAO, to characterize three sites, as called for in the present law, costs $5.8 billion. This amendment goes from three characterizations to one characterization. It is simple mathematics—savings, $3.9 billion. Whether you say it fast or whether you say it slow, that is real money paid by real rate payers in the United States, and it is not only worth doing, it is absolutely essential to do it unless there is some overriding, real reason not to do it.

One further point, Mr. President. We are told that that savings is not real because the MRS is going to cost additional money. Mr. President, the MRS has been in the Nuclear Waste Policy Act since its beginning.

As a matter of fact, before the Congress in which the Nuclear Waste Policy Act was passed, the Senate passed a bill which contained only an MRS. The following Congress we came back to a two-track system, which was a repository and an MRS. So it is no additional cost. It is simply the authorizing of the plans which are part of the Nuclear Waste Policy Act.

Furthermore, the statement that this adds $3 billion simply does not comport with the facts. The total life-cycle cost of an MRS, according to the report filed in the RECORD, is approximately $1.5 billion to $1.6 billion higher than a system without an MRS facility. That is a life-cycle cost spread over the 40 to 50-odd years of the proposal. But that is not an addition. That has been in the law all along, since the very first moment the act was passed.

Back to the question: Is it proper, is it scientifically feasible, is it prudent, to go from three characterizations to one characterization, and do it as provided in this act?

The answer to that question, Mr. President, is very simply yes, it is. First of all, let us examine the nature of nuclear waste. Is it really a scientific problem? Mr. President, we have been hearing the experts in our committee for over 10 years on this. Let me give you one sentence, an example of what they say. The distinguished scientist, Dr. Alvin Weinberg of the Institute for Energy Analysis at Oak Ridge, says this. I am quoting from page 3 of our hearings. "If one were to judge by the estimates of most technical people, radioactive waste disposal is almost without exception not regarded as being a particularly difficult problem technically."

Dr. Weinberg, Mr. President, is a distinguished scientist and he says almost without exception it is regarded as being not a particularly difficult problem technically. He goes on and he says, for example, "It does not for example compare in difficulty with the problem of reactor safety. Why then has the radioactive waste issue evoked such bitter opposition on the part of the public?" He says, "I believe the public in expressing its fears of nuclear waste tends to confound possible releases from a waste repository with the far more lethal releases from an uncontained reactor accident."

Mr. President, the fact that it is not a difficult problem technically, the fact that the public reacts to it perhaps out of superstition, ignorance, or some other kind of irrational fear does not mean that those fears are not real. And in the commodity with which we deal which is politics, it is certainly real. But just to be clear about it, technically the problem of disposal and isolation of nuclear waste has never been considered by the technicians in the field as being a particularly daunting problem technically.

Nevertheless, I can assure every Senator here that we do not treat it as a simple problem. Indeed, we have been slushing money, pouring money down what I call the nuclear rat hole in a view somehow to try to reassure people that all of our paper studies before we begin ever to turn the first spade of dirt are all safe. Indeed, Mr. President, we are spending about a half-a-billion dollars a year on paper studies right now. Let me repeat that: about a half-a-billion dollars a year on paper studies before we turn the first spade of dirt.

Why, Mr. President, with those kinds of paper studies you could design an SDI program. But what are we doing? We are just, you know, having the scientists drawing up new reports. So the question here is, Do we want to continue that horrendous waste or do we want to make a decision and get on with the program? Well, can we do so?

We had heard the same things that my colleagues had heard that you cannot do it safely, that there are all of these problems of the Department of Energy and how badly they ran the program, that somehow it was unsafe to get on with this program. So we got the experts up. Who are the experts?

Well, you have the NRC, the Nuclear Regulatory Commission. We had Mr. Hugh Thompson testify before the committee. He is Director of Nuclear Safety and Safeguards. And I asked him:

> Now your statement, as I understand it, very clearly states that there is no reason why we should not proceed to characterize the three sites?
>
> Mr. THOMPSON. That is correct. We have identified issues, we have identified a range of concerns of licensing issues which we believe in fact can only be resolved by proceeding with site characterization. We see no technical reason why that would disqualify any of these sites based on the information that we have to date.
>
> Question. So that in effect from a technical standpoint the Department of Energy's work on the three sites has been adequate and has been technically sufficient to proceed with the process?
>
> Mr. THOMPSON. That is correct.

Mr. President, we have heard hours and hours of testimony of filibuster on this floor about why they are flawed but the Nuclear Regulatory Commission—what higher authority is there?—says it is not flawed, said it is technically correct, says we are ready to proceed. But, oh, no, we are told we

must delay, we must have more paper studies at half a billion dollars a year.

If you do not believe the Nuclear Regulatory Commission, how about the National Academy of Sciences. We had them up to testify. You see, the National Academy of Sciences have been monitoring this process with people in the field day by day, step by step, and by bit of information by bit of information. And we had Dr. Frank Parker, who is Chairman of the Board on Radioactive Waste Management of the National Academy of Sciences. And I asked Dr. Parker:

Dr. Parker, in summary, is it fair to say that you see no technical reason at the present time why we should not proceed with the characterization of the three sites?

Dr. PARKER. That is correct, sir.

The second question:

While there may be ways in which to improve the procedure, and I think the participation in the National Academy of Sciences certainly has and will continue to improve the confidence in these procedures, have those procedures been adequately followed up to this point consistent with the act and consistent with public safety to proceed with the implementation of the act?

Dr. PARKER. This is our opinion, sir.

Mr. President, I do not know which one would be considered to be the supreme court of nuclear waste, whether it would be the National Academy of Sciences, or whether it would be the Nuclear Regulatory Commission. It sort of depends on whether you want to take one group of scientists or the other, but clearly one of them or both of them are the highest authority you can get to assess and assay this program. And they say we are ready to go. They say there is no technical reason, there is no safety reason, that there are a lot of questions to be resolved but those can be resolved only by the characterization of the sites. The process has been proper, not perfect but they followed the act, they have assessed the information, and they are ready to go.

These are questions as these experts say that can be determined only with characterization. Can we, instead of characterizing three sites simultaneously, do only one site? According to the Nuclear Regulatory Commission we can do so. They say, "In effect, simply put, the Commission does not oppose legislation that would require the Secretary of Energy to select one site for at-depth characterization." That is from a letter dated November 10, 1987, and signed by the Chairman of the Nuclear Regulatory Commission, Admiral Zech. He further says, "The Commission takes no position concerning the date for selecting a preferred site characterization."

Mr President, there it is. Every expert body or the expert body, the Nuclear Regulatory Commission, who will have to license this process, says we are ready to go, it is ready to be characterized, there is no flaw in our bill.

Mr. President, if we do not do it this way, it is going to cost billions of dollars additional without adding one wit, one jot, or one tittle to the safety of nuclear energy or the safety, should I say, of nuclear waste disposal.

There are two things that are key to being able to go from three characterizations to one. One is to keep our date of 1989 to select the site, and the other is to have an MRS in place and ready to go. Then in case, the very small chance, that in the characterization of one site it turns out not to be suitable, then you can move seriatim to the next site, and still have time to do it. But if you do not have the MRS to serve as the interim repository to, first, accept waste, and second, if you delay that date of 1989, then you put at risk the whole time sequence of selecting the one site. It can be done properly. It should be done now. It saves the Nation $3.9 billion.

Mr. President, I am glad the Department of Energy did not pick my State to put a nuclear waste facility in. I say that not because it would be bad for the State, not because in fact, it would not be probably an affirmative thing in terms of jobs, but because every State citizen reacts negatively to having what is called a nuclear waste dump put in their State. I understand that. It is human nature. It may be based upon ignorance, superstition, and emotion. But it is real, and it is a real opposition.

However, these three States that have been picked were picked fairly, according to the Nuclear Regulatory Commission, according to the National Academy of Sciences, and we ought to get on with the process and not continue to spend half a billion dollars a year wasting money on unnecessary paper studies. Let us get on with the process. Let us save the money and at the same time protect the public.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. ADAMS. I yield myself 1 minute.

Mr. President, in the letter that was included, it is flatly stated by Admiral Lando W. Zech:

It should be recognized that sequential site characterization could delay the schedule for opening a repository if the preferred site is subsequently found to be unlicensable.

In other words, they support the position.

The gentleman who was quoted by the distinguished Senator——

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ADAMS. I will yield in a moment. The Senator can use his own time.

Mr. JOHNSTON. I will ask the question for 1 minute, on my time, Mr. President.

Is the Senator taking the position that you need to characterize all three sites?

Mr. ADAMS. We need to surface characterize all three sites before a decision is made. That is the position I am taking.

Mr. JOHNSTON. Surface characterization will go on all three sites, anyway. To do the characterization at-depth with the full shaft, if that does not work, then you have to go sequentially to the next site, and that is what Admiral Zech is saying would delay the process. That is why we say we need to begin the process now. Is that not correct?

Mr. ADAMS. No. He is saying you are taking a chance by going to one site instead of surface characterization of all three.

Mr. President, I yield myself 1 more minute.

The Senator from Louisiana has just quoted from the Regulatory Commission, and I am quoting from the same letter, of September 1, 1987. It says:

We have three major comments regarding the repository siting provisions of the bill: (1) If Congress determines that DOE should complete characterization of one preferred site at a time instead of three simultaneously, we believe that at least three sites should undergo a technically sound program of surface-based testing to provide a basis for comparison of the sites and selection of one site for characterization at depth.

They are saying precisely what we are saying, that you have to technically go through all three before you choose one. They say:

(2) We recommend that the selection deadline allow at least 2 years for completion of this surface-based testing program plus 1 year for data analysis and reporting; and (3) NRC and other concerned parties should be given an opportunity to comment on DOE plans for the surface-based site characterization program at multiple sites and on the analysis and documentation for DOE's selection of a site for at-depth characterization.

All I am saying to the distinguished Senator from Louisiana is that they want to characterize all three first on the surface, before drilling one, so you do not make a mistake and then have to regret your mistake later.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ADAMS. I will have the Senator use his own time, Mr. President. I want to continue the discussion, but I have promised other Senators to yield time.

Mr. JOHNSTON. I think the Senator has made a mistake. He quoted from a letter from the Nuclear Regulatory Commission.

Mr. ADAMS. No, this is the person quoted by the Senator from Louisiana. This is September 1, 1987, to the Deputy General Counsel, through

T.A. Rehm, from Hugh L. Thompson, Jr., Director, Office of Nuclear Material Safety and Safeguards.

Mr. JOHNSTON. No. I quoted from Adm. Lando W. Zech, Chairman of the Nuclear Regulatory Commission, in his letter to me of November 10, 1987.

I think the Senator will find that he was reading from a staff report which was rejected by the Commission.

Mr. ADAMS. Mr. President, I yield 4 minutes to the Senator from North Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. President, we have heard a good deal in recent days about our troubled program for the disposal of high-level nuclear waste. The quality of the debate, I believe, has been very good. I think we all agree that there are serious problems in our nuclear waste program, though we may not completely agree on the causes of these problems.

I think all of us agree that the problem can be put back on track. We all want to put this issue behind us, however difficult that may be.

Mr. President, we all appreciate the hard work, the thoughtful effort, that has gone into the nuclear waste language approved by the Senate Energy and Appropriations Committees. My good friend, the distinguished senior Senator from Louisiana, has brought his tremendous leadership abilities to this issue. The senior Senator from Idaho, Senator MCCLURE, has made diligent efforts in helping to put together their legislation.

I am sure we all recognize the outstanding contributions of Senators JOHNSTON and MCCLURE toward solving our nuclear waste problems, and I would like to thank these gentlemen for their work toward resolving this extremely complex issue.

Mr. President, the nuclear waste language in H.R. 2700, as passed by the Senate Appropriations Committee, provides us with a good framework for the Department of Energy's program. I have previously spoken at some length about this language, and I do not want to take up a great deal of time here. The language is a good start, and the good senior Senator from Louisiana has shown additional foresight in agreeing to a few changes to strengthen it in the past few days.

But unfortunately, Mr. President, I am still troubled in particular by two aspects of the legislation we will vote on today. Although I support much of this legislation, I must again ask my colleagues to carefully reflect on whether we are doing all we can to put the program back on track.

I am troubled, Mr. President, because I am not sure that we are doing all we can to restore the essential public confidence that is so necessary to ensure a successful program. I am concerned that we may not be ensuring that the arguments of those who may question future program decisions can be answered. As my good friend, the junior Senator from Louisiana, has so ably pointed out, we may be risking a great deal later on if we are too hasty in selecting a site for characterization now.

I am also very concerned with the authorization of a Monitored Retrievable Storage facility. I think I have made clear in the past my objections to the MRS. I just do not think we have all the information we need yet. And it is of great importance—I cannot stress this point enough—that the nuclear waste language we are considering provides absolutely no safeguards against that MRS becoming a de facto permanent repository for all the Nation's nuclear waste.

In fact, Mr. President, if this language is approved as is, it could actually increase the chances that an MRS will become an unwanted solution to nuclear waste disposal—a poor solution that Congress has debated and rejected many times over the years.

My good friends, Senator BREAUX and Senator SIMPSON, have proposed retrictions on the MRS to make sure that it does not become something it is not intended to be. I would urge my colleagues to consider carefully the merits of these restrictions.

Mr. President, I must admit that I am uncomfortable with the idea of making such far-reaching legislative changes in the context of an appropriations bill. I know that such things are done in the Senate, in spite of our rules, and the Senate will decide the merits of this particular case. But I would prefer that we arrive at a consensus solution that all the relevant authorizing committees can live with.

Mr. President, I have touched on what I believe should be the most important focal points in this debate. I would now like to explore these ideas in somewhat greater depth.

Public confidence is the key to a successful program. I repeat, without public confidence we cannot have a successful nuclear waste program. The Department of Energy's nuclear waste program has no credibility. No one believes the Department can be trusted to do everything possible to assure an absolutely safe site. No one is confident they will be treated fairly. No one can be completely sure about the integrity of program decisions.

I am well aware that many Senators believe that all the problems we have experienced are political. They do not think that technical problems have been important. I disagree. I think the Senator from Washington, the Senator from Nevada, and others have done an admirable job over the past few days of pointing out some of the technical mistakes made in the program. I have mentioned a few of these. I don't want to dwell on technical matters, but some much-disputed technical issues include:

DOE's weighing of preclosure and postclosure safety factors in the Western site-selection process;

DOE's overemphasis on rock diversity as a selection criteria;

DOE's definition of the accessible environment for radiological release, which does not distinguish between high-risk and low-risk environmental media;

DOE's relative weighing of socioeconomic and safety factors, which led to the conclusion that siting a repository near a population center could be an asset; and

The straw man no-MRS system that the Department used to compare to its proposed MRS system, in deciding that an MRS would be both necessary and cost-effective.

I believe there are many more so-called technical issues that have been rendered questionable by the DOE, to say the least.

But the committee report that accompanied S. 1668—the nuclear waste legislation that has been incorporated into the bill we are discussing today stated that the problems that confront the nuclear waste program are political rather than technical. That is on page 8 of the committee report to S. 1668.

Well, Mr. President, I do not happen to agree with that statement. I know many witnesses that have testified in past months before several committees other than the Senate Energy Committee have expressed some technical concerns. I know many reputable scientists have expressed technical concerns.

I want to make myself clear. I am not saying there is any technical reason why our program cannot work, why it should not work. I just do not think it has been working very well. That is why we are all here today. We all want to make the program better. But we must consider very carefully the effects of what we are doing.

Mr. President, let us just assume the problems are political. One might say that those political problems have occurred where the Department of Energy has played politics, but let's further assume that there are other political problems. Let us assume that the public has no confidence in the DOE's program for nontechnical reasons.

If anyone doubts that this essential public confidence has collapsed, I would invite them to talk to the people of North Carolina. Let them go talk to citizens in Washington. Let them go to Nevada. Let them go to Maine, or Texas, or Tennessee. For whatever reason, it is clear that there is no trust in the Department of Energy. For whatever reason, the Department has lost its credibility.

The point is, that it does not matter why there is no public confidence in

our nuclear waste program. What matters is that our program is unlikely to succeed if we do not do all we can to restore that confidence. I think nearly all of us believe that there is no technical reason why the program cannot succeed. But that alone does not mean that the program will be successful.

If we do not do all we can to deserve the public's trust, to allay their fears, to make sure that the program is both technically sound and equitable to all parties, we run the risk of failure. I do not think that unavoidable technical problems are a risk to the program. It is only if we do not stick to the technical process in every detail that we risk failure. If we ignore the concerns of our States and our citizenry, we are bound to get into more trouble.

Mr. President, I would respectfully request that all of my colleagues ask themselves whether the pending legislation pays sufficient attention to the restoration of public confidence in our high-level nuclear waste program.

I do not want to imply that the nuclear language in H.R. 2700 is not of value. The language contains many good elements. It will keep our program moving. It will create considerable budget savings, at least in the short run. It will avoid premature action on an unnecessary second repository. It addresses many concerns about the program.

The senior Senator from Louisiana and the senior Senator from Idaho, in particular, have worked very hard on this legislation. I think we all appreciate that. The question is simply, can this legislation be improved in any degree to add to the credibility of the Department's program? Have we yet done all we can to address the lack of faith that has crippled the program in recent years? I am not certain that we have.

Mr. President, I would like to go into a little history about the Federal Government's involvement in nuclear waste disposal. This issue has been around for a long time. Many of the ideas we are pursuing at present have been around since at least the 1960's. But we still have yet to demonstrate a viable program for permanent geologic disposal of high-level waste.

If we have had these ideas for 25 years or so, why are we still struggling with this problem?

Why? Because time and time again, we have not looked at the whole picture. Time and time again, we have ignored the critical role of public confidence and the legitimate concerns of States and citizens. Time and time again, we have chosen expediency and cost considerations over technical conservatism and building credibility, with disastrous consequences.

Mr. President, I would sincerely hope that we are not turning down that road again.

Mr. President, the history of our nuclear waste programs is wroght with failure. This history includes the ill-fated early efforts to dispose of wastes in salt formations near Lyons, KS; the controversial history of the waste isolation pilot project in New Mexico; stop-and-go site selection activities for permanent disposal sites throughout the 1970's; and problems with storage of high-level wastes above ground at places such as Hanford, WA, and West Valley, NY.

I would like to read now from some comments prepared by the Office of Technology Assessment regarding nuclear waste disposal. Many of these comments were made several years ago, but I would ask my colleagues to consider whether they might still ring true today.

The following excerpts are from OTA's 1985 report entitled "Managing the Nation's High-Level Radioactive Waste":

FEDERAL CREDIBILITY

Distrust of the Federal Government, stemming from past instances of what States perceive to be low Federal competence and poor responsiveness to States' needs, forms the background against which States express fears about impacts and equity and from which States measure current Federal efforts. State opinion of Federal competence has been lowered by frequent Federal policy changes; delays in formulating a stable national radioactive waste management plan; failure to consult effectively with State officials on site investigations; several controversies about the scope of the Waste Isolation Pilot Plant near Carlsbad, N. Mex.; maintenance and funding of the contaminated Nuclear Fuel Services reprocessing plant site at West Valley, N.Y.; and the safety of the proposed site at Lyons, Kans. Problems with leaks and inadequate monitoring of military and low-level waste have also affected State perceptions of Federal management of commercial high-level radioactive waste. One State fear is that considerations other than technical criteria bearing on safety will play an unwarranted role in Federal siting decisions. Such considerations might be, for example, a perceived need for rapid siting of a repository to remove the waste problem as an obstacle to nuclear power, or a desire to save costs and time by directing site-selection efforts toward locations with already existing Federal facilities.

NWPA addresses State and Indian tribe concerns through measures in three areas: State involvement in waste management decisions, prevention and mitigation of impacts of waste management activities, and equity in siting waste facilities.

FEDERAL CREDIBILITY AND MUTUAL DISTRUST

The most formidable problem that NWPA had to address was the intense level of mutual distrust among various concerned parties, a distrust that threatened to lock the waste disposal effort in a state of virtual and continual paralysis. The single most critical factor in that distrust was the severe erosion of public confidence in the ability of the Federal Government—on the basis of its past record—to create and carry out an effective waste management program. The utilities and the nuclear industry doubted that the Federal Government would ever meet a schedule or stick to a policy. Environmentalists doubted that the Federal Government would deal adequately with safety concerns. States doubted that the Federal Government would deal openly and fairly with them.

And Thomas Cotton of OTA stated in 1982 testimony before the House Energy and Commerce Committee:

The Basic finding of our study is that, although the remaining technical uncertainties and challenges associated with high-level radioactive waste disposal are by no means trivial, they pale in comparision to the institutional challenges of developing and implementing over a period of decades a comprehensive Federal waste management policy. (The history of the high-level waste program is a history of false starts, shifts of policy, and fluctuating support. The result is a widespread erosion of confidence that the Federal Government can or will manage high-level radioactive waste safely and efficiently.)

The credibility of the Federal high-level waste management effort is questioned on three main grounds: 1) whether the Federal Government will stick to any waste policy through changes of administration; 2) whether it has the institutional capacity to carry out a technically complex and politically sensitive program over a period of decades; and 3) whether it can be trusted to respond adequately to the concerns of states and others who will be affected by the waste management program.

The questions I would like to emphasize are: Do fears about nontechnical criteria still exist? How are we addressing them?

The 1985 OTA report also included some important discussion of siting strategy in the respository program:

REPOSITORY SITING PROGRAM

The credibility of any repository loading schedule depends on the credibility of the implementation program supporting it. The major decision concerning the implementation program is the balance between the initial costs of the program and the certainty of getting the job done without major problems or delays. This is particularly important in the repository siting program.

The major issue in siting and developing the geologic repositories is the balance between: 1) the desired degree of certainty that a repository will be available without major delays; and 2) the initial costs of the program, both financial and political. It is impossible to both maximize the certainty of the repository schedule and minimize the initial costs at the same time. The implementation program in the OTA Mission Plan emphasizes certainty and places great weight on the importance of minimizing the risk of major programmatic delays. This approach increases the level of confidence in the repository schedule and perhaps reduces overall costs, but it may also increase the initial costs. The repository siting strategy is crucial to this approach.

The report includes further dicussion of so-called "strategic issues":

STRATEGIC ISSUES

Until 1978, the strategy for seeking disposal locations focused on a single site at a time; no site intercomparisons were to be made prior to site selection. Personnel at AEC and ERDA adopted this strategy of single site investigation in part because they

had to operate on tight budgets. They also saw no reasons why comparing sites offered any safety advantage. Current NRC procedural regulations, however, require some site intercomparison prior to the issuance of a repository construction permit.

A single site strategy can be politically risky. The nuclear developers must operate in a political atmosphere characterized by suspicion and skepticism. No jurisdiction is enthusiastic over the prospect of being a host for a repository. If only one site is under active consideration at a time and no alternative exists, that suspicion and skepticism becomes reinforced and local opposition intensifies.

Nontechnical considerations have played an important initial role in selecting sites to date. It is largely immaterial whether technical or nontechnical factors are considered first in choosing a potential repository site so long as both can exert an unbiased influence in the process. Tentative site selection in Kansas and in New Mexico relied heavily at the start on nontechnical factors. Concerns were raised in each case that technical considerations were not given their appropriate weight.

As the analysis got under way, the OSTP group soon concluded that the strategies which required intercomparisons possessed certain advantages over the case-by-case approach. Intercomparison of sites would likely increase public confidence, would stand a better chance of satisfying the National Environmental Policy Act and meeting regulatory requirements, and, all things being equal, would improve odds of obtaining a technical success. The case-by-case approach, in contrast, held the advantage of reducing the time it might take to develop an operating facility. That approach would also lessen logistical difficulties that might arise in transporting waste from storage, and entail lower near-term costs.

However, agreement was reached to remove the case-by-case strategy from further consideration. Without any fanfare, then, and for reasons which are still something of a mystery, DOE abandoned its traditional decision principle for repository siting, one which it had reaffirmed only 4 monhts previously.

And to return to the 1982 testimony of OTA's Thomas Cotton:

Considering the great political importance that is being attached to the first repository, the negative effects on public confidence of rejection of the first site could be severe. A cautionary example may be found in the case of the site at Lyons, Kansas that was selected in 1972 by the Atomic Energy Commission for development of the first geologic repository. This site, which was abandoned with serious political repercussions two years later because of technical problems that were discovered, was chosen in part because the investigations that would have been needed to prove out the acceptability of another site were expected to cause a delay of about two years. Twenty-twenty hindsight suggests that taking those additional two years to find other candidate sites as backups might not have been a waste of time, and might have resulted in speeding up the process of siting a repository in the long run.

Second, slippage in the schedule could occur if deadlines simply cannot be met, which could call into question the credibility of the entire schedule, and of the Federal Government's ability to manage radioactive waste—particularly if the slippages occur in the early stages of the process when it is most important to begin building confidence in the Federal waste management program. Third, contractural commitments with utilities that are based on a schedule which can only be met if everything goes right the first time will not be credible, and would not provide the utilities with the firm planning basis for interim storage that they need. In this regard, our analysis suggests that the certainty of the schedule for accepting waste from utilities is more important to the utilities than the speed. Finally, an overly optimistic mandated schedule is likely to lead to opposition, rather than support, from those who fear that a firm schedule that does not allow ample time to resolve technical uncertainties could increase the risk that premature commitments to technologies and sites would be made and defended even in the face of problems that might develop later.

I would like to ask my distinguished colleagues to reflect on whether we wish to embark on an approach that emphasizes speed and expediency, or full credibility? Which is of greater importance, cost savings in the short run, or certainty and long-run savings? And are we leaning too far toward the "single-site" type of approach I have just discussed if we enact H.R. 2700? In particular, what would be the consequences under H.R. 2700 if the first site characterized is unacceptable?

I return to the 1985 OTA report for further discussion of the long-term risks of a narrower-focused siting strategy.

OTA's analysis suggests that the additional costs of an expanded implementation program would produce offsetting benefits that are not readily quantifiable. First, it increases the credibility of the process by allaying concerns that key decisions might be compromised by lack of suitable alternatives. Second, it substantially reduces the risk that the credibility of the Federal program might be damaged by major delays in the repository program. Because of its troubled history, any major programmatic failure—real or perceived—could have grave consequences for both the waste management program and the continued use of nuclear power. The greater initial costs may thus be regarded as insurance for a program that cannot afford any major failures or delays.

NONQUANTIFIABLE COSTS AND BENEFITS

Perhaps the most important nonquantifiable benefit of the expanded siting strategy is that it reduces the risk that the credibility of the Federal waste management program would be damaged by major delays at key stages of the siting program, particularly at the crucial early step of recommending the first site for a repository. Because of its troubled history, the program does not appear to have a large reservior of goodwill left to cushion it in the event of major difficulties in the future. From this perspective, it is important to compare siting strategies in terms of the risks they involve if siting turns out to be difficult, as well as the benefits they yield if siting proves to be relatively easy.

This report builds on concerns expressed by OTA in 1982 regarding the importance of a conservative strategy:

FIRM AND CONSERVATIVE SCHEDULE

A commitment in law to a firm, conservative schedule for repository operation is the keystone of the entire integrated policy. Both charactristics—firmness and conservatism—appear necessary if the policy is to obtain broad support. If either is missing—if the schedule is optimistic rather than conservative, or flexible and open-ended rather than firm—the history of the waste management program, and testimony on the bills under consideration by this Congress, strongly suggest that some affected group or another will be left seriously dissatisfied, and will have a strong incentive to try to change the schedule in the future. This could raise the risk of yet another repetition of the speedups and slowdowns that have plagued the repository program in the past, and call into question the credibility of a Federal commitment to any schedule.

OTA recommended in 1985 that we stay on a path of comparing alternative sites, and cautioned against putting too many of our eggs in one basket. In fact, OTA felt that even comparison of three sites might be risky, and recommended further expansion. Perhaps we all agree that such excessive caution is no longer necessary, but we still should guard against the long-term risks of putting too much weight on any one site, without having adequate information about possible backups.

We must take note of what history has to tell us. In 1985, the OTA report stated:

OVERALL IMPACTS OF HISTORY

NWPA is the first Federal law that sets out an explicit national policy and schedule for the disposal of high-level radioactive waste. It also contains a number of provisions aimed at overcoming some of the major concerns that have hampered the waste disposal effort in the past. But a law alone, no matter how well framed, cannot by itself wipe out the long legacy of problems and false starts and the deep distrust it has generated among the principal parties involved and concerned with waste disposal.

A law along cannot demonstrate that the Federal Government has the capacity to deal fairly with the States in the selection and development of sites, to take the surest and safest route to waste disposal instead of the most expedient, or to demonstrate to the satisfaction of the regulatory authorities and the concerned and affected parties that an adequate waste disposal technology exists. Nor can a law alone dispel, however much it may allay, the distrust that decades have built up among the various parties.

That distrust may, indeed, be the single most complicating factor in the effort to develop a waste disposal system that is acceptable technically, politically, and socially. For, if Federal credibility—its capacity to show the various parties that it can and will do the job competently, fairly, and on schedule—remains the most critical factor in a successful waste disposal effort, it is not Federal credibility alone that is in question. States, environmentalists, and others may, indeed, fear that the Federal Government and industry will cut corners just to be able to say that the problem is solved. But there is the correlative concern that not all State forces or environmentalists are acting in good faith: that, whatever their express con-

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cerns with safety or other matters, some environmentalists seek to block and stall waste disposal efforts solely because they are opposed to the use of nuclear power, and some in the States seek only to prevent any and all waste disposal activities from occurring within their borders.

In short, some believe that no matter how well the Federal Government does its job in carrying out the Act—no matter what pains it takes to remove any legitimate grounds for opposition—there are those in the States and elsewhere who will do everything possible to slow or stop its efforts. Whatever the basis for this belief, it only makes it all the more necessary for the Federal Government to remove the legitimate grounds for opposition by carrying out the Act in ways that address the honest concerns of States and others and that seek to avoid past mistakes.

Moreover, after more than three decades of struggling with nuclear waste, there is only a limited tolerance for failures. Any major failures—real or perceived—could have grave consequences for both the waste management program and the future use of nuclear power.

The past is indeed prologue; the slate can never be wiped clean. Actions taken in the past continue to reverberate within the domain of waste management policymaking. To be sure, the impact of those actions—unless reinforced by later similar ones—becomes attenuated as they recede in time. But the impact never disappears completely. Thus, present day policymakers find themselves saddled with a not-entirely-welcome legacy. Although they may assert that the "time has come to put Lyons behind us," they are indulging themselves if they believe that can easily happen. Past problems will reside in the consciousness of many players.

The most salient consequence of this pertains to the problem of credibility. Even the most objective and scientifically responsible and competent DOE program managers will find that they will be judged not only on their own merits but on their predecessors' as well. The claim that "things will now be done right" will often appear hollow in the face of a string of past failures and incomplete successes. Altering that perspective will not be a trivial undertaking.

A second implication of the complexity and dynamism of the waste management policy domain follows from the first. At this point in time, 35 years into the nuclear age, there is only limited room for new failures in dealing with those toxic materials. Certainly, the current program is substantially improved in terms of resources, broader organizational commitment, and sophistication compared to the one in place as recently as 5 or 6 years ago. A sense prevails that progress—albeit slow progress in some people's view—is being made. Yet, the optimism is fragile. There simply is not much "slack" present. Should a glaring error arise, there will be little or no residuum of good will to buffer the program from profound shocks.

I would ask at this point, are we sure we are remaining completely true to the spirit of the 1982 act, which was designed to enhance credibility? Are we addressing legitimate State and citizen concerns? Can we afford to risk failure again?

Mr. President, I am not suggesting that the whole approach laid out in H.R. 2700 and S. 1668 is doomed to failure. I believe that the problems I have discussed can be resolved within the framework provided by these bills. The distinguished Senators from Louisiana and Idaho have given us a thoughtfully planned and responsible framework. But I would suggest that some of the following measures might help provide greater assurance that the program will stay on track, and improve public confidence:

Some type of independent review of both past DOE actions, such as siting guidelines, and ongoing review of further actions. This step would greatly enhance confidence in the program, and could be designed so as not to lead to undue delays.

OTA commented on the importance of independent review back in 1985:

Confidence in the safety of waste management activities will be increased by independent reviews of Federal plans for radioactive waste management before such activities take place. At present, there are three main levels planned for such review—internal review by DOE, licensing proceedings by NRC, and reviews by individual States of applicable parts of the plan. Additional levels of review (e.g., by bodies of independent scientific experts) might increase the confidence of observers that sites, technologies, and management systems will meet necessary levels of safety and reliability.

Additional surface-based testing, to ensure that the site first selected for characterization is unlikely to run into unforeseen problems, and to know more about alternative sites. This step could provide great insurance against large costs being incurred in the future.

Assurance that the environmental review process will not be short-circuited. This could be done, at a minimum, by requiring that an environmental impact statement for the characterized site include comparison with the two sites not selected, on the basis of surface testing results.

Ideas similar to these have been incorporated by the Environment and Public Works Committee into their budget reconciliation package. I would like to thank my good friends, Senator BREAUX and Senator SIMPSON, for their foresight in proposing several constructive refinements addressing the problems I have been talking about.

Another serious concern that I have with the nuclear waste provisions in H.R. 2700 is the authorization of a monitored retrievable storage facility. I discussed this at some length last week, but I have a few more points to make.

Mr. President, I do not think we need an MRS. I don't think it has yet been proven that an MRS will be safe or cost-effective. We need more information to make this decision, as the GAO and OTA have suggested. I believe that the amendment of my good friend, the senior Senator from Tennessee, will be very helpful in seeing that we get this information. I am pleased that Senator SASSER and the distinguished senior Senator from Louisiana have worked this amendment out.

However, even my colleagues who feel that we do need an MRS should be troubled by one aspect of H.R. 2700. H.R. 2700 provides no guarantees that an MRS will not become a de facto permanent repository for the entire Nation's supply of high-level nuclear waste. In fact, should problems occur at a Western repository, H.R. 2700 could actually encourage the establishment of a de facto permanent repository at an MRS.

Mr. President, Congress has debated and rejected many times the idea of keeping all our nuclear waste at such a facility. The Nuclear Waste Policy Act clearly specifies that nuclear waste should be permanently disposed of through deep geologic storage. Nearly all of us agree on that point.

If all our waste was kept at an MRS indefinitely, we could not guarantee that the waste could be kept isolated from future generations. The facility could be vulnerable to terrorist actions. It would be expensive to maintain. There are many, many good reasons why we must make sure this does not happen.

Yet H.R. 2700 contains absolutely no limitations on an MRS. The facility could be forced to accept unlimited amounts of waste. No time is set for the closing of the facility. No limitations on its physical size are specified. No provisions are made for demonstration of storage technology, and no loading or unloading schedules are referred to.

Let us walk through a scenario that could occur in the future. Let us assume that a permanent repository is further delayed, through court action, technical problems, or some other event. The checkered history of the program tells us we cannot discount this possibility.

Mr. President, let us assume that an MRS is in operation, smoothly accepting wastes from various locations. Let us further assume, as would be likely, that the preparation of another permanent site for licensing would take many years. And let us assume, as would be virtually certain, that political opposition in alternate repository States is intense.

Would there not be strong economic and political incentives to simply allow the MRS to keep accumulating wastes indefinitely? It would be expensive to develop a repository, and expensive to transport wastes further from the MRS. The needs of utilities would be more or less taken care of. And political pressures would make continuing to search for a permanent repository very difficult.

Under these conditions, is it not likely that we might simply decide to take the easy way out and allow an

MRS to become a de facto repository—an approach that has been deemed undesirable by Congress and several Federal agencies on many occasions.

I repeat, H.R. 2700 provides no meaningful safeguards against this possibility. None. Are we sure this is a risk we want to take? As I have stated, I believe that even a temporary MRS is not a good idea. A de facto permanent repository at an MRS site should be out of the question.

The Office of Technology Assessment has long warned against this possibility. I would like to read a few selections from a 1985 OTA report to the House Subcommittee on Energy Research and Production:

> A major concern about the I-MRS is that it could delay the respository program indefinitely. OTA's March report discussed two bases for this concern: (1) the possibility that the effort to site and construct such a facility would divert resources and energy from the repository program; and (2) the fact that, once a storage facility is available, it will be easier and less expensive to expand the storage capacity from year to year than to proceed rapidly to develop a geologic repository.
>
> In the absence of any explicit contingency plan for providing long-term alternatives if needed, the I-MRS (if constructed) will itself be seen as the default option.

This concern about long-term storage at a monitored facility existed as far back as 1974:

> A major concern in employing the RSSF concept is the possibility that economic factors could later dictate utilization of the facility as a permanent repository, contrary to the stated intent to make the RSSF interim in nature . . . [I]t is important that [environmental factors] never be allowed to become secondary to economic factors in the decision making process. Vigorous and timely pursuit of ultimate disposal techniques would assist in negating such a possibility * * *
>
> It was unacceptable to proceed with a storage system unless there were unambiguous assurances that the system would not degenerate into a final disposing spot for the waste.

As my colleagues may know, the so-called RSSF was the predecessor to the MRS concept. But the concerns pointed out by the EPA in 1974 would still seem to apply to the MRS proposal today.

Again, Mr. President, there are no provisions in H.R. 2700 to guard against the possibility. I would like my colleagues to consider the desirability of adding such safeguards, lest we find that the long-awaited goal of the Nuclear Waste Policy Act, disposal by deep geologic storage, be inadvertently put at risk.

Some simple safeguards, such as tonnage, age, or acreage restrictions, could help put some of these fears to rest.

I want to be clear on this point, again. I do not advocate an MRS. It would not be necessary, since the option of onsite dry storage is available. It would increase transportation of dangerous wastes. And it would be costly. I strongly object to the authorization of an MRS.

Mr. President, I simply want to point out that to authorize an MRS in this way, at this time, is particularly misguided. To authorize an MRS without restrictions could undermine the clear intent of the Nuclear Waste Policy Act—to dispose of high-level waste in geologic repositories—and I do not believe that the Members of this body want to to change that intent.

To summarize, this nuclear waste legislation still has at least a few serious problems. We will have the opportunity to address this issue again, either in budget reconciliation or as a freestanding measure.

I would respectfully urge my colleagues to consider well the implications of H.R. 2700, and to ask themselves if we can improve on the framework this bill has given us for redirection of the Nuclear Waste Program. And I would respectfully urge that we consider well whether this is the appropriate legislative vehicle with which to make substantive changes in our Nuclear Waste Program.

Thank you, Mr. President.

Mr. ADAMS. Mr. President, I yield 15 minutes to the distinguished Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. I thank the distinguished Senator.

Mr. President, the distinguished Senator from Louisiana and I very often see eye to eye on issues before the Senate. For many years, we shared a common concern about the need for comprehensive energy policies to protect America's vital national interests. However, on the pending issue of nuclear waste disposal, I disagree strongly with my colleague from Louisiana, and I strongly urge the defeat of this amendment.

It is important to understand that this Johnston amendment uses an appropriations bill to ratify most of the nuclear waste decisions made by DOE for the past few years. What do we have these authorizing committees for, anyway? Why do we not just disband them? Why do we not just let the Appropriations Committee go on and do this? Why do we have all that expertise on those authorizing committees, if we are going to reject it, and particularly if we are going to try to cut them out of the conference? If we are just going to see if we can mold this thing to have conferees go along with whatever the Appropriations Committee wants on this particular issue, I think that is wrong.

The more I look into what has been developed with the civilian nuclear waste disposal program, the more I am convinced that the only way to restore confidence in this program is to have DOE defend the decisions it has made to date.

Let the DOE open up its books, get out the maps, produce its experts, answer the questions. If the decisions that have been made up to now are sound, then there is no danger for them in that approach.

When it comes to matters as important as nuclear waste, I think all of the important questions deserve an answer.

By attempting here now to play legislative catchup and deal with this important issue on an appropriations bill, this amendment would cut relevant House and Senate committees out of the process.

I spent a lot of years as a member of that Environment and Public Works Committee which also has jurisdiction on this issue. I have a high regard for that committee and for its nuclear waste disposal proposals included in the budget reconciliation package. I think they deserve the careful consideration of this body.

Just 2 weeks ago Congressman UDALL's House Interior Committee passed legislation that will take us a long way toward restoring public confidence in a Nuclear Waste Program.

Among other things, it would establish a review commission to put the program back on track through reason, dispassionate discourse, and independent evaluation. That legislation has been referred to the House Energy and Commerce Committee where Chairman DINGELL has indicated he wants to act promptly.

So both here in the Senate and on the other side of the Capitol the relevant committees are giving priority attention to nuclear waste disposal.

So I just do not understand this push to address this issue on an appropriations bill. This is just another attempt to make an end run around the authorizing committees in both Houses of Congress, and we ought to reject it outright.

The time has come to stop ignoring the Senate's rules on legislating on an appropriations bill in a wholesale manner.

If the nuclear waste amendments to the energy and water appropriations bill are allowed to stand, we just ought to disband those authorizing committees and let the Appropriations Committee conduct all our business.

Further, Mr. President, it is extremely important that we stop this measure because of what it means for the procedure in conferencing with the House. If this amendment passes, it has the effect of cutting out of the conference process the major actors on nuclear waste in the House. Those participants are people like Congressmen UDALL and DINGELL, to name only two of them, who have already written the House leadership to make it plain the nuclear waste issue should not be

made negotiable during the conference on energy and water appropriations.

Thus, rather than improving our chances of correcting these problems in the Nuclear Waste Program, we run the risk of throwing ourselves right off the track. There is simply no need, no justification for addressing this issue on an appropriations bill.

Rather than rush to judgment here in the Senate on a matter that is not even addressed in the House appropriations bill—not even addressed in that bill—would much prefer to see nuclear waste disposal handled in a measured manner as a freestanding issue, and the sooner the better.

As a Senator from a State that has a great deal at stake in this debate, I want nuclear waste disposal to receive the careful attention that it so clearly deserves.

I am certain many of my colleagues would feel the same way if their States were the finalists on the repository list.

Mr. President, I have some additional specific problems with this amendment. I am troubled by the deadline for the selection of the first repository. Under the Johnston proposal, that decision must be made by January 1, 1989.

If you follow that schedule, that would mean that a suspect, lameduck Department of Energy with a nuclear waste program office dedicated to divide-and-conquer policies decides where to put that repository.

(Mr. DODD assumed the chair.)

Mr. BENTSEN. At a time when we are making wholesale changes in the Nuclear Waste Policy Act, I just do not understand why we should continue down the path that has brought us to this kind of impasse.

As far as this Senator is concerned, the Department of Energy has proven its inability to deal with the nuclear waste disposal problem. This is hardly the time to give it any pat on the back. The Senate Committee on Environment and Public Works has suggested a single site selection deadline of January 1, 1991. I find that much more reasonable and realistic.

This amendment also lacks any proposal to permit a review of the siting decisions made by DOE and the adequacy of its siting guidelines.

In the effort to step up that decisionmaking process, the Johnston amendment sacrifices important opportunities for the public to keep checks on this program. Judicial review is lodged in the temporary Emergency Court of Appeals, and an action to challenge the Secretary's decision must be undertaken—get this—must be undertaken in an incredible 30 days, the same abbreviated time period given the people of Deaf Smith County to review DOE's draft land acquisition plan.

By way of contrast, the Environment and Public Works Committee would provide up to 120 days for a challenge.

Why is that timeframe for judicial review so difficult for them to accept? Why do they think they can cut it to a mere 30 days? What is the fear of providing for an additional 90 days?

Finally, the Johnston proposal provides no opportunity for a State to volunteer to host a respository, and it would permit destruction of records of the siting decisions and other important matters after only 2 years.

For the people of Texas, nuclear waste disposal is just not an academic exercise. It is a very real issue, and it strikes close to home. I have some very strong objections to the U.S. Senate legislating this matter on an appropriations bill, grandfathering a whole series of prior decisions by the Department of Energy, short-circuiting the legislative process, and usurping committee jurisdictions on both sides of the Hill.

How and where this country decides to dispose of nuclear waste are obviously very complex, emotional, and important questions. They are matters of concern for every Member of the Senate, but, of course, they carry special significance for Senators from Texas, Washington, and Nevada since those three States have been identified as leading candidates for the location of the nuclear waste repository.

Mr. President, I understand that. But if it is inequitable and if the procedures are faulty, then those three States should not be railroaded into the acceptance.

I am confident that every Member of the Senate should share this concern and will share this kind of concern particularly if it were his State. But the point I want to emphasize is that there are important, compelling reasons for Senators from every State to oppose this amendment on nuclear waste. My concern about this matter, like Senators ADAMS' and REID'S, is, of course, intensified because the people of my State are facing the location of a repository within their midst. But regardless of where we finally decide to dispose of nuclear waste, the Johnston amendment ought cause us a lot of concern.

The first of those concerns, I repeat, is that it is bad policy and bad precedent to legislate nuclear waste disposal policy through an amendment to an appropriations bill. We are not debating some minor technical correction or pet project to be tucked away in the folds of this legislation. We are establishing the goundrules for site selection. We are endorsing a whole series of past actions by the DOE. We are putting important programs on a very short fuse, and providing very few safeguards. We are being asked to make major, precedent-setting decisions on one of the most important, complex, and emotional issues that will come before the 100th Congress.

Attempting to solve our nuclear waste disposal problems on an appropriations bill is just an abdication of responsibility. We cannot afford shortcuts and easy answers on life-or-death issues.

My friend from Louisiana is anxious to act. He wants to get the Nuclear Waste Disposal Program back on track. I know that all of us share his concern. But unfortunately, he has chosen the wrong track and the wrong locomotive.

We all know the Civilian Radioactive Waste Program is in a shambles. We have seen the slipshod, slap-dash way the Department of Energy has attempted to implement the Nuclear Waste Policy Act. We have all had firsthand experience with DOE's penchant for politics, its contempt for the public, and disregard for the mandates of Congress.

My recent experience with DOE is one reason why I oppose the Johnston amendment. Let me cite a few examples.

Deaf Smith County in Texas is the only candidate site where the land is privately owned.

In September, DOE finally completed its land acquisition plan and sent it to the officials and landowners of Deaf Smith County. DOE gave them a month to respond—a month.

The plan is quite lengthy. It is very technical. There are maps and charts, facts and figures. There are important decisions to be made, and very little guidance.

Now, the people of Deaf Smith County have absolutely no experience in nuclear waste disposal. They are God-fearing, hard-working farmers, businessmen, and women who are suddenly face to face with a potential Government offer they would like to, but cannot refuse—an offer to play host to nuclear waste.

So the people of Deaf Smith County must hire lawyers, geologists, realtors, and advisors to help them decipher the bureaucratic fine print and make sense of DOE's land acquisition plan. They have a bunch of lawyers who have been examining titles out there for years, but they sure have not had much experience in this area. Yet they have to stand up against all of the expertise that, supposedly, DOE has. DOE says, "You have got 30 days to do the job of responding to our plan," and think how long DOE has been at this.

When I wrote to the Department and asked them to extend the public comment period for an additional month—you guessed it—their initial reaction was to deny the request.

Mr. President, attitudes like that help explain why DOE is held in such low regard by Congress and the public.

Here is the Department of Energy—the very Department President Reagan swore he would abolish—telling the people of Deaf Smith County they might have to give up their land, alter their lifestyles, shoulder a major burden for the Nation, and watch the trucks roll across their roads. After all that, DOE is reluctant to give them an extra 30 days to comment on its plan for the county's and indeed the whole State's future.

Well, finally, I am pleased to report that DOE has felt the heat and seen the light, but they had to be bludgeoned into it. They have finally relented and granted an additional 30 days for public comment, but, you know, I do not believe their underlying attitudes have changed one bit. We just should not have to monitor them all the time to see that they are doing what should be right.

Members of the Senate should also be aware that a few months ago officials of the Office of Civilian Radioactive Waste testified before a congressional committee.

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

Mr. BENTSEN. Mr. President, could I have an additional 3 minutes?

Mr. ADAMS. Yes, I yield the Senator from Texas 3 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for an additional 3 minutes.

Mr. BENTSEN. Mr. President, they testified before the congressional committee and discussed a freezing technology that might be applied to the Ogallala aquifer if Deaf Smith County is chosen as the repository site. Now, here they are testifying and a similar technology is in use at a site in West Germany, and an accident occurred at that site only 6 weeks before the DOE testimony. It was a serious accident. One of the workers was killed.

Do you not think that is important; that the people of that county understand that this thing has failed, that they had a problem with it? Do they tell us? Do they tell us before the committee? No, of course they do not tell us.

Now, it is that kind of lack of candor that gives me very deep concern as to what we are facing in an agency like that.

Mr. President, I think this amendment represents bad policy in an area that demands our very best efforts. I think it ought to be done by the committees that have the jurisdiction and the authorization for it. I urge my colleagues to vote against it.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes. I hope the Senator from Texas will stay for just a moment. There may be a couple of things he is not aware of.

First of all, Mr. President, the issue of nuclear waste is addressed in the House bill. Indeed, there are $500 million provided in the House bill for implementation of the Nuclear Waste Policy Act. So unless we change the act, then that $500 million will be spent to begin the process of characterization of three sites, including the Texas site. So that when the Senator from Texas seeks to avoid the characterization of his own site in Texas, he does not do so by defeating this amendment.

Indeed, the Senator from Nevada has said that the real purpose of this amendment is to select Nevada and let off the hook Texas and Washington. That is not the purpose. The purpose is to select one site and have that site selected according to scientific characteristics.

However, it is clear that, under the present law, that $500 million will go not only to characteristics, but it will go to characterize or to begin screening of sites for a second repository, which is also opposed by many people. So that is point No. 1; it is addressed in the House bill.

Point No. 2, the committee of jurisdiction is Energy and Natural Resources, where the matter has been considered not just once, but over a period of more than 10 years. This year there have been extensive hearings. We have even taken the committee to France and to Sweden where we did on-site inspections. We have been referred all the bills on this, as the rules provide for, and we have reported legislation both as freestanding legislation, which happens to be precisely this legislation which is put on by this amendment.

So, Mr. President, it is perfectly clear, if you are from Texas, you want to change that law because you are going to be characterized under the present law for which there is $500 million provided.

Now, Mr. President, it may be that those three States want to redo the whole thing and have other States selected to share their misery with other States. If so, well, let us be perfectly clear about that. If that is the real purpose, then let us be clear about it. And, indeed, one of the problems, Mr. President, of moving back our date, the date of January 1, 1989, which is specified as the date on which you would pick one site for characterization, if you move it beyond that, you move it right smack dab into the Presidential race.

How would you, Mr. President, like to be going to Texas to politick with all of those electoral votes—how many electoral votes in Texas? A huge number—and the people say, "We have just one question, Mr. Presidential candidate: Will you take Texas off the hook?"

And I do not know what that Presidential candidate is going to say, but there is going to be an understanding, there is going to be an understanding that Texas is off the hook and that some small State, probably Nevada, maybe Washington—Washingon, I guess you could ignore with impunity, at least compared to Texas. That is what is involved with moving this date back, Mr. President.

Mr. President, just one further point on the position of the NRC. Let me make perfectly clear. I have a letter here which has been put into the RECORD, dated November 10, 1987—that is the day before yesterday—signed by the chairman of the Nuclear Regulatory Commission. It is short. Let me read the letter:

> The Commission does not oppose legislation that would require the Secretary of Energy to select one site for at-depth characterization. Simultaneous characterization of three sites is not necessary to protect the public health and safety. The Commission takes no position concerning the date for selecting a preferred site for characterization. However, it should be recognized that sequential site characterization could delay the schedule for opening a repository if the preferred site is subsequently found to be unlicensable. To mitigate this concern we have suggested that surface-based testing continue at the two sites not selected for at-depth characterization. This is the approach reflected in your amendment to S. 1668.

Which is the pending amendment.

Mr. President, this is the chairman of the Nuclear Regulatory Commission, and that is what he said.

We have had hours of testimony and arguments here about the staff of the NRC that wrote a letter that suggested something different. But it was rejected by the Commissioners of the NRC. This is what the chairman says. They have a way of acting, like the Senate does. That is like citing the argument of one Senator on the floor of the Senate as if it was a congressional act. It is not.

The Commission has taken a position. The Commission supports our position on this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Will the manager of the bill yield me 1 minute in response?

Mr. ADAMS. I will be happy to yield the Senator from Texas an additional minute.

Mr. BENTSEN. The Senator from Louisiana asked me to extend him the courtesy to stay for his remarks. I did not hear anything that would change my opinion in the slightest. As I listened to him, the $500 million in the House appropriations bill does not call for radical restructuring of the Nuclear Waste Policy Act as his amendment does. And the other part about the people from Texas: My friend, you have had Presidential candidates, one of them has been in here over 30 times

already. He has been asked this question repeatedly. I do not think it is going to change the situation at all, the fact that we wait. We understand that this is a concern and we are concerned about it now. I also understand the mathematics of 47 against 3. But I really do not believe that is the case. I think that there is a sense of fair play that will prevail in that and I am hopeful that we can beat this amendment and defeat it by a reasonable margin.

The PRESIDING OFFICER. Who yields time? Who yields time to the Senator from Nevada?

Mr. REID. Senator ADAMS and I yield 5 minutes to the senior Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 5 minutes.

Mr. HECHT. I thank the Senators from Nevada and Washington.

Mr. President, as I have already made clear, I am opposed to deep geologic disposal of spent nuclear fuel. I favor reprocessing spent fuel as a way to make more efficient use of our limited energy resources, to reduce the amount of the waste that ultimately needs to be disposed of, and to reduce the associated risk to the public safety. Naturally, even the relatively small quantity of waste left over after reprocessing will eventually have to go somewhere. I would like to take this opportunity to discuss one of the most technically promising but least understood alternatives to deep geologic disposal of high level nuclear waste.

Section 222 of the Nuclear Waste Policy Act of 1982 requires the Secretary of Energy to, and I am quoting the law now, "continue and accelerate a program of research, development, and investigation of alternative means and technologies for the disposal of high level nuclear waste," end quote. The most promising of these alternative technologies is subseabed disposal.

However, instead of carrying out the law, the Energy Department has tried to reduce research on alternatives to deep geologic disposal. In the case of subseabed disposal research, the United States has gone so far as to back out of international cooperative commitments to fund this research. Mr. President, we have a law on the books that says this sort of work should take place, we have other nations that are willing to put their money on the line and work with us in this field, we have the chance to potentially save the ratepayers of America millions, maybe billions of dollars that are going to be spent on a flawed program of deep geologic disposal, and what do we do, we just walk away from the table.

Mr. President, I will have a lot more to say about what research needs to be done in this area, and what possibilities are presented by this promising research, but let me take a few moments now to explain to my colleagues the concept of subseabed disposal in some detail.

First of all, let me put to rest the worst misconception about subseabed disposal: It is most definitely not ocean dumping. The subseabed disposal concept involves the burial of high-level radioactive waste deep in the ocean sediments. It would work like this. The waste would be collected at a central packaging facility in the United States. Quite possibly at a monitored retrievable storage facility. This facility would probably not be located at a port, because ports tend to be densely populated areas.

At the packaging facility, the waste would be placed in specially designed canisters that are built to prevent the waste from leaking out into the environment. These canisters would probably be very similar in design to the packages that would be used in a land-based repository.

The canisters, in turn, would be placed inside a container called a penetrator. The penetrator would be shaped roughly like a torpedo, and would be the package that actually carries the waste down into the seabed. But I'm getting ahead of the story.

The penetrators would be placed inside a transportation cask at the packaging facility, and then transported to a port where they would be placed on a specially designed disposal ship. The transportation cask would be kept on the canisters, to safely shield the ship's crew from exposure to the waste. Many ports on America's Atlantic, gulf, and Pacific coasts have the facilities that would be required to safely load these materials onto the disposal ship. If there was one monitored retrievable storage facility in the East, and another in the Western United States, then our Nation could take advantage of internationally approved subseabed disposal areas in both the Atlantic and Pacific Oceans.

Potential subseabed disposal areas lie in international waters where the ocean is 2 to 4 miles deep, and the bottom sediments consist of very fine grained muds. When the ship had arrived at a predesignated disposal area, the transportation cask would be removed and a penetrator would be released into the water through an opening in the bottom of the ship's hull.

The penetrator would fall through the water and imbed itself into a preselected spot in the deep ocean muds by the force of its own momentum. A sonar device would be attached to the end of the penetrator so it could be continuously monitored as it moved down through the water toward the sea bottom, and so its location under the sediments could be pinpointed in future years. We have the technology to aim these penetrators through miles of water and position them in the seafloor as we like. We also have the technology to go down to the bottom of the ocean and retrieve these penetrators from the deep ocean muds, if we need to. This capability was most dramatically and most recently demonstrated by the exploration work on the ocean liner *Titanic*. These penetrators have already been tested. They work. The necessary instrumentation and monitoring equipment are well within the capability of existing technology.

The key to permanent disposal of nuclear waste is finding a geologically stable place to put it. Scientists have known for many years that the deep ocean sediments in the middle of the oceanic plates are the most geologically stable environments on Earth. Scientists have ample proof that these areas have not undergone any changes in tens of millions of years, and are not likely to undergo any changes for tens of millions of years in the future. This is in stark contrast to the land, where erosion, glaciation, volcanic activity, and earthquakes actively shape the land surface over much shorter periods of time.

To appreciate just how active the geology of the continents can be, all we have to do is to think back a few weeks to the tremendously damaging earthquake that just shook Los Angeles and other areas in southern California. For those who are eager to see a repository in Nevada, I would point out that the proposed site of this repository is only about 250 miles from Los Angeles. In fact, it is closer to Los Angeles than it is to Reno, NV.

The Environmental Protection Agency has published environmental standards that the Nuclear Regulatory Commission is supposed to use in evaluating whether a repository should be licensed. Ironically, some of these standards have recently been thrown out by the U.S. Court of Appeals in Boston, but they still provide useful insight into the timeframes we need to consider when we discuss nuclear waste. The key standard puts strict limits on the cumulative releases of nuclear waste into the accessible environment for a period of 10,000 years after the waste is put in a repository.

A lot has happened geologically in Nevada, Washington, and Texas over the last 10,000 years. Volcanos have come and gone, earthquakes have moved large masses of land for significant distances. Lakes have flooded the land and then dried up. Water and wind have cut deeply into the surface of the land. In contrast, the deep ocean sediments have been a very dull place over the past 10,000 years. In fact, scientific studies suggest they have been geologically stable for more than 100 million years.

There is another geologic factor to consider in comparing land-based disposal with subseabed disposal. On land, the dominant geologic forces are erosion and mountain building, both of which are more likely to bring buried waste closer to the surface than they are to keep it buried where it is. In the deep ocean, the dominant geological activity is the continued accumulation of sediments on top of the existing sediments. So, in contrast to a land-based respository, a subseabed repository would tend to get buried deeper and deeper over time.

Putting aside the issue of geologic stability for a minute, some people have argued that it is better to put waste 1,000 or more feet underground, than it is to put it about 100 feet under the ocean bottom, because there is so much more rock between the waste and the human environment with the land-based system. This sounds good but ignores the differences in the ability of the various geologic settings to keep the waste from migrating out of the respository.

Whether a repository is on land, or under the sea, sooner or later the canisters surrounding the waste are going to corrode. This could take anywhere from a century to thousands of years to happen, depending on the design of the canisters, but sooner or later the only thing that is going to prevent the waste from moving into the environment is the geology of the area where the waste is located. The deep ocean clays are a far more effective and reliable geologic barrier than salt, welded tuff, or basalt, where the Energy Department is so eager to put waste in a land-based repository.

These sediments have physical properties that allow them to very tightly bind to the radioactive chemicals found in nuclear waste. The geologic settings being considered for a waste repository on land do not offer anywhere near the same ability to tie up these radioactive chemicals. I would point out, that in the case of the proposed repository site in Nevada, when the waste does eventually leak out of its containers, and all the experts agree it is a question of when, and not if, then the ground water flow is going to carry that waste toward the Southwest, toward southern California.

Mr. President, I would now like to describe what has taken place with subseabed disposal research in the past, and why it should be continued.

American research on subseabed disposal began in 1973 but ended abruptly in 1986. More than 20 universities and research organizations have participated. Ten other countries are involved in this research. They are Belgium, Canada, France, West Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, and the United Kingdom. In 1985, the United States was picking up about 42 percent of the tab for this international research effort. Clearly, if there are so many nations willing to put their own money on the line for this research, it must have some merit to it.

Notwithstanding all this international interest, cooperation, and cost-sharing, the Energy Department decided not to include funding for this research in its fiscal year 1987 budget. Regrettably, the Congress went along with this decision. However, a group of 17 Senators did voice their objections to Energy Secretary Herrington concerning the Department's intentions to eliminate funding for this research.

Mr. President, I ask unanimous consent that the text of the letter to Secretary Herrington from Senators TRIBLE, HUMPHREY, BOSCHWITZ, CHAFEE, GORE, MCCLURE, WARNER, RUDMAN, KASTEN, PELL, THURMOND, NUNN, DOMENICI, myself, and others, be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. HECHT. Mr. President, earlier this year, the National Association of Regulatory Utility Commissioners also went on record expressing concern about the need for continued research or subseabed disposal. Commissioner Anderson of the Michigan Public Service Commission expressed the association's view to Energy Secretary Herrington. Commissioner Andersons's letter said, in part, "The Nuclear Waste Policy Act and the National Environmental Policy Act, as well as good sense, require reasonable evaluation of all potential alternatives." I ask unanimous consent that the text of the letter from Commissioner Anderson be printed in the RECORD immediately following my statement.

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

(See exhibit 2.)

Mr. HECHT. Mr. President, despite these protests from the States and the Congress, the Energy Department persisted in its blind and single-minded dedication to deep geologic disposal on land. One of the characteristics of a bureaucracy is that it cannot tolerate any idea that conflicts with what it sees to be its primary activity. True to form, the bureaucrats at DOE decided they had to try to kill this small subseabed research program, even though its annual budget came to less than 3 percent of the budget for the Land-Based Repository Program.

Mr. President, I would consider an amount equal to 3 percent of the nuclear waste budget to be a very small price to pay to find a safe alternative to the land-based repository, but the Department has its blinders on. This tunnel vision is certainly one reason the current program is plagued with so many lawsuits, and has deteriorated to the point where the Senate is being asked to fix it on an appropriations bill.

The utility industry is also on record in support of continued research and subseabed disposal. At a recent hearing before the Senate Energy Committee, representatives of the Edison Electric Institute testified that they support continued research in this area. The benefits of continuing subseabed disposal research are numerous.

First, as pointed out by Commissioner Anderson, continued research constitutes compliance with section 222 of the Nuclear Waste Policy Act, and failure to follow through on this work could leave the Energy Department open to further lawsuits charging the Department with violation of both the Nuclear Waste Policy Act and the National Environmental Policy Act.

Second, if the land-based repository system eventually fails because it becomes overwhelmed with legal and political challenges, then the subseabed option could provide backup technology. We would have something else to turn to.

Third, not all nations have the space or the underlying geology to permit a land-based repository system. Yet nuclear energy is a worldwide technology, and an accident or a poor environmental policy in one country will eventually affect us all. It, therefore, makes sense for us to work with other nations to together develop international solutions to nuclear waste disposal that will protect the natural environment on which we all depend.

Fourth, the United States leads the world in oceanographic research. Subseabed research and the technology associated with it are increasing both our scientific knowledge and our technological expertise. The United States needs to stay competitive in terms of high technology. By continuing to participate in this research, we preserve our technological edge in the ocean sciences.

Mr. President, in addition to these four good reasons why we should continue to support subseabed disposal research, it is important to point out that the cost of subseabed disposal, at this point at least, seems to be very modest in comparison to the cost of a land-based repository. Site characterization of three subseabed sites, the engineering design of a subseabed disposal system, the construction of the necessary hardware, and the initiation of a pilot program would together amount to an estimated $1.5 billion. In contrast, accomplishing an equivalent amount of progress for the land-based repository would cost more like $40 billion.

Even if the real cost of subseabed disposal is 10 times as great as the current estimates suggest, the cost still turns out to be less than half of our current cost estimates for a land-based

repository. I think that with potential cost differences of this magnitude, we should at least continue research that will allow us to fully evaluate this option at a later time.

Mr. President, there are two things this Congress needs to do to get this promising research back on track, to live up to our international commitments, and to carry out the obligation in the law to pursue alternatives to deep geologic disposal. The first thing we need to do is to take this research out from under the thumb of the part of DOE that runs the Nuclear Waste Program. We need to reassign responsibility for this work to the Energy Department's Office of Energy Research, where it can receive fair and unbiased consideration. Second, we need to appropriate some money to conduct the research. An American contribution of about $5 million in fiscal year 1988 would keep the international team together, and reassure the international community that the United States will, after all, make good on its international commitment.

Mr. President, at an appropriate time during this debate I will offer amendments to provide funding for this subseabed work, and to have it carried out in a part of the Energy Department that will not be so overtly hostile to sensible alternatives to deep geologic disposal of nuclear waste.

I thank the distinguished Senator from Washington.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 17, 1986.

Hon. JOHN S. HERRINGTON,
Secretary, U.S. Department of Energy, Washington, DC.

DEAR JOHN: We are concerned about the Department's announced intention to terminate the U.S. contribution to the international research and development project for the subseabed disposal alternative for permanent disposal of spent fuel and high-level nuclear wastes (HLW). This important study has been pursued since 1974, with the assistance and participation of nine other countries and the Commission of the European Communities.

Section 222 of the Nuclear Waste Policy Act of 1982 (NWPA) requires DOE to continue and accelerate study of alternative means and technologies for permanent HLW disposal. From all indications, the subseabed option offers many attractive features, including environmental, economic, political and national security benefits. In addition, the prospect of sharing the cost of this alternative with our international cooperators makes it a very cost-effective use of Federal funds. To cancel our modest $10-12 million annual investment at a time when this research is nearing maturity would be a mistake. Termination of the U.S. contribution is likely to lead to the collapse of the international project, leaving the U.S. and all other countries using nuclear power completely dependent upon the success of land-based geological disposal as a solution to the high-level waste problem.

We feel it is premature for DOE to make any absolute representation to members of the International Seabed Working Group to the effect that the U.S. portion of the funding will not be provided for the fiscal year 1987 hopefully leading to feasibility determination in 1991.

We thank you for your kind attention to this important matter and look forward to working with you to develop safe, cost-effective options for high-level nuclear waste disposal.

Sincerely,

PAUL TRIBLE.
GORDON J. HUMPHREY.
RUDY BOSCHWITZ.
JOHN H. CHAFEE.
ALBERT GORE, Jr.
CHIC HECHT.
JIM MCCLURE.
SLADE GORTON.
JIM ABDNOR.
JOHN WARNER.
WARREN B. RUDMAN.
BOB KASTEN.
CLAIBORNE PELL.
STROM THURMOND.
SAM NUNN.
PETE V. DOMENICI.
MACK MATTINGLY.

EXHIBIT 2

STATE OF MICHIGAN,
DEPARTMENT OF COMMERCE,
Lansing, MI, February 4, 1987

Hon. JOHN HERRINGTON,
Secretary, Department of Energy, Washington, DC.

DEAR SECRETARY HERRINGTON: As Chair of the National Association of Regulatory Utility Commissioners Committee on Electricity and its Subcommittee on Nuclear Waste Disposal, I am writing to express our concern regarding the Department of Energy's elimination of funding for subseabed waste disposal research. We are concerned for two reasons:

1. The extent of the continuing controversy surrounding various proposals for nuclear waste storage in the continental United States raises serious questions as to when and at what cost a politically acceptable solution in the country will be found. Under these circumstances, the termination of research into a potentially viable alternative seems premature.

The total anticipated cost for this research—$6 to $8 million—seems cheap in relationship to other facets of the total project and in light of the integrated, cooperative international program. What does the United States abandonment of its piece of the program do to the entire international project?

Since we must regulate the utilities at whose sites the spent fuel is accumulating and since the public expects that the nuclear waste problem will be resolved without due disruption of the power plant operations, the absence of a workable solution consistent with the deadlines in the Nuclear Waste Policy Act poses major difficulties for us as well as for you. Meanwhile, the costs to ratepayers continue to mount, not only for onsite storage but for forty years of fruitless effort and because of major slippage in meeting the currently mandated program deadlines.

2. The Nuclear Waste Policy act and the National Environmental Policy Act, as well as good sense, require reasonable evaluation of all potential alternatives. If the Department of Energy's proposals for storage in the U.S. are ultimately rejected because the alternative of subseabed disposal has been inadequately evaluated, costs, safety risks and the embarrassment sustained no doubt will be of major proportions. This issue will inevitably be raised by potential host states, with the possibility that a court review would result in rejection of a license because the alternatives had not been adequately evaluated. It is hard to imagine a scenario in which such a court decision would not set the program back at least 10 more years, with unacceptable consequences in terms of continuing onsite storage of spent fuel and severely escalated costs.

We urge that you reconsider this decision before the potential for joint international action is completely dissipated.

Sincerely,

EDWYNA G. ANDERSON,
Commissioner.

Mr. RUDMAN. Mr. President, I rise is support of the nuclear waste provision in H.R. 2700, the fiscal year 1988 energy and water appropriations bill.

This amendment, on which we are about to vote, was approved overwhelmingly by two committees of the Senate—the Energy and Natural Resources Committee, and the Appropriations Committee.

The amendment reduces the appropriation for the Nuclear Waste Program by $139 million below the President's request. It does this by eliminating the Second Repository Program and calling for detailed site characterization work at one of the Western repository sites, rather than at all three sites.

I supported this provision in the Appropriations Committee, and I will vote for it today. If this language is not included in this legislation, I am convinced we will lose our best chance to bring about much-needed changes in the Nuclear Waste Program. The most important change, from the perspective of my State, is the elimination of the Second Repository Program.

There is absolutely no need to go to the immense expense of proceeding with a second repository at this time. Circumstances have changed since 1982 when the Nuclear Wage Policy Act was passed. In 1982, the Department of Energy estimated that about 184,000 metric tons of waste would be generated by the year 2020. Now, all estimates of the waste to be generated in the next quarter century are much lower; some say we will generate less than half the waste we thought we would 5 years ago. It makes good sense to stop the Second Repository Program at this time, particularly in light of the need to curb Federal spending.

The argument has been made that this matter is not appropriately dealt with on an appropriation bill. The record should show that the Senators from Louisiana and Idaho resisted efforts to change the Nuclear Waste Program through the appropriations process. The fact is that numerous Senators, including this one, were planning to raise this issue on the first possible vehicle, and the Senators from Louisiana and Idaho simply re-

sponded to that. Futhermore, the authorizing committee, the Senate Committee on Energy and Natural Resources, has approved this proposal.

I believe this legislation is in the best interest not only of my State, but of the Nation as a whole. It is essential that we keep on course in dealing with this difficult, but critical problem—the safe, responsible handling of nuclear waste. This is the best vehicle we have for bringing these much-needed changes in the law into being.

Mr. HELMS. Mr. President, the modified Johnston-McClure amendment to the energy and water development appropriation bill represents a responsible Federal policy to deal with the nuclear waste issue. As a supporter of nuclear power, I recognize the need to develop an efficient nuclear waste disposal program that ensures the safety of the public and the environment.

Mr. President, the Johnston-McClure amendment provides for the continued implementation and the necessary correction of the Nuclear Waste Policy Act in three ways. First, the amendment requires the Department of Energy to select one of the three Western sites for the first permanent repository. Second, the amendment indefinitely suspends the search and all testing for a second permanent repository. Third, it includes a provision to establish a three-member commission to reassess the need for a temporary monitored retrievable storage [MRS] facility.

Mr. President, in 1982 Congress passed the Nuclear Waste Policy Act in which we stated that the best way to dispose of nuclear waste was to bury it in deep geological repositories. I believed then, as I believe now, that deep permanent repositories are the safest and most efficient method of disposing of nuclear waste. I agree with Senators JOHNSTON and MCCLURE that we need to select a specific site for the first repository without further delay. We are at the stage now where we need to characterize one site. It would take tremendous amounts of time and money to conduct such testing at all three sites simultaneously.

The Department of Energy, which has the responsibility of conducting the search for the first repository, must follow specific requirements during the search. The Department of Energy developed guidelines for the selection process and spent many years studying nine different sites. As required by the act, the Department of Energy then recommended three sites to the President for characterization. These sites are located in Washington, Nevada, and Texas.

There has already been a 5-year delay in the program. The Department of Energy originally said that a first repository could be operational by 1998. Now, they say that the earliest possible date is 2003. If we do not select one of the three sites for characterization, who knows how much longer the program will be delayed—2 years, 10 years, or forever?

Each delay costs the taxpayers more money. What are the utility companies supposed to do while the opponents of the program keep delaying the selection of a deep repository? The waste just keeps accumulating at onsite storage facilities. Since these onsite storage facilities are not designed for permanent storage, it is imperative that we move expeditiously to develop a permanent site.

The studies have been thorough and exhaustive. There is no need for any further delay in the selection of the first repository.

The second aspect of the Johnston-McClure amendment is the indefinite suspension of the search for a second permanent repository. I concur with the opinion of most experts that we do not need to continue the search for a second repository. The National Academy of Sciences, the Nuclear Regulatory Commission and the Department of Energy all agree that new evidence shows that a second repository will not be necessary anytime in the near future. In 1982, the view was that two repositories would be necessary. That view was based on the estimate that there would be around 65,000 metric tons of waste by the year 2000. However, new technologies and new data have caused experts to revise their estimates downward to 40,000 metric tons.

Mr. President, I see no reason to proceed with plans for a second repository if it will not be needed. However, if current law remains unchanged, the search for a second repository will continue. The Department of Energy will have to concentrate tremendous amounts of resources in order to conduct this search. This could cost anywhere from $4 to $8 billion.

Mr. President, why should we spend billions of dollars on something that we are not even sure that we will ever need? I know that many folks in my home State of North Carolina feel that Congress already wastes billions of dollars on things that we do not need—and I agree with them. That is how I feel about this second repository—I think that it only makes sense to save those billions of dollars by suspending the search for a second repository until it becomes clear that a second site will be necessary.

Third, the Johnston-McClure amendment authorizes the Secretary of Energy to construction of an MRS. The amendment was modified to include a provision to establish a three-member commission to reassess the need for a MRS facility. But, whether or not we like the idea of a MRS, the fact is that the delays in selecting a first repository have created a need for a temporary storage facility. If there had not been such delays, we would not need to consider a MRS facility. On the other hand, we cannot just leave the waste in the utility companies' onsite storage facilities. These facilities are above ground and they are not designed for permanent storage. We must continue the process of developing a deep geological repository.

Mr. President, my only reservation about this amendment is the absence of restrictions that would ensure that any future MRS will not become a de facto permanent repository. For example, there should be a limit on the amount of waste that could be temporarily stored at a MRS. Second, a MRS should not be allowed to receive waste until the first repository is licensed. Finally, the acreage for the MRS facility and the lifetime of the facility should be appropriately restricted.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, how much time do we have remaining and how much time is remaining for the distinguished Senator from Louisiana?

The PRESIDING OFFICER. The Senator from Washington and the Senator from Nevada have 14 minutes and 50 seconds; the Senator from Louisiana has 17 minutes and 54 seconds.

Mr. ADAMS. We reserve the balance of our time and let the other side yield since our side has just spoken.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes.

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

Mr. JOHNSTON. Mr. President, this amendment, as I have stated before, saves $3.9 billion because you go from three characterizations to one characterization. GAO says that three characterizations costs you $5.8 billion.

Can that be done, Mr. President? Can it be done safely?

Admiral Zech on behalf of the Nuclear Regulatory Commission, says it can be done.

He said:

> Simultaneous characterization of the three sites is not necessary to protect the public health and safety. The Commission takes no position concerning the date for selecting a preferred site for characterization.

Mr. President, the National Academy of Sciences states that the act has been followed in selecting the three sites.

First of all, Mr. President, Mr. Hugh Thompson, who is Director of Nuclear Safety and Safeguards for the Nuclear Regulatory Commission, states in answer to my question as follows:

> Now your statement, as I understand it, very clearly states that there is no reason

why we should not proceed to characterize the three sites?

Mr. THOMPSON. That is correct. We have identified issues. We have identified range of concerns in licensing issues which we believe in fact can only be resolved by proceeding with characterization. We see no technical reason that would disqualify any of these sites, based on the information we have to date.

So that, in effect, from a technical standpoint, the Department of Energy's work on the three sites has been adequate and has been technically sufficient to proceed with the process?

Mr. THOMPSON. That is correct.

Mr. President, it is perfectly clear, not only on the basis of the Nuclear Regulatory Commission but from the National Academy of Sciences.

Dr. Frank Parker, Chairman of the Board on Radioactive Waste Management, National Academy of Sciences, said it is his opinion that there is no technical reason at the present time why we should not proceed under the act.

The PRESIDING OFFICER. The time of the Senator has expired.

If neither side will yield, the time runs equally.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

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

Mr. JOHNSTON. Mr. President, I would like to make it perfectly clear that in our amendment the one site after characterization, before any nuclear waste can be put into any site, must be licensed by NRC. There must be a full-blown, full-fledged environmental impact statement, and the right of a State to veto the selection is preserved.

The essential thing of what this amendment does in addition to canceling the second repository until the year 2010, by which time a study will be done, is to go from a simultaneous characterization of three sites to a characterization of one site which can be done, according to the experts, with safety and with technical assurance.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, I yield 4 minutes to the Senator from Texas, Senator GRAMM.

The PRESIDING OFFICER. The Senator from Texas is recognized for 4 minutes.

Mr. GRAMM. Mr. President, I rise in opposition to the Johnston-McClure provision. I would like to say to begin with that there is much in the provision that I do support. I think the bottom line problem is, however, that by January 1, 1989, the Secretary of Energy is not going to be in a position to make a final determination as to the single site that should be characterized. I think that is the first and the major problem of this provision.

Mr. President, I do believe that this provision has some elements in it that, in some form, should be adopted. I think it makes absolutely no sense for us to go out and spend $3 billion digging three different holes with no guarantee that any one of the three States in which the shafts are sunk where site characterization occurs will allow us to build the repository in their State.

In a very real sense, while this provision at least off the top would save us $2 billion by forcing us to focus on one State, it does not give us a guarantee that that State will willingly accept the project. It simply puts that individual State under the gun.

It does give that State the ability, through its elected officials, through its citizens, to have an input. It preserves that State Governor's ability to veto the project. But it puts that State in a very difficult position by being the only State that has been characterized. I believe that what we need is a change in the law to eliminate the sinking of three separate shafts, the expenditure of $3 billion, without any guarantee that a site is going to be built in any one of the locations.

I think this is a step in the right direction as far as it goes, but I do not believe it goes far enough. I think what we need is a provision that allows the Federal Government to provide inducements and that a State should choose to have the site before the shaft is ever sunk.

I believe if we are willing basically to reward a recipient State by giving that State funds and giving that State the infrastructure that would be required to make it something on the basis of which some State in the Union that had the geological features that would be necessary to build the site would be willing to take it, I believe if we did that, if we got a State, in essence, to sign a contract that if geologically their site characterization proved adequate for it to be built there, if that provision were in the Johnston-McClure amendment, I would support it because then we would have a guarantee that the site would not be built in a State that did not want it.

But we do not have that provision in this bill. Simply, this bill requires that the Secretary of Energy make a decision by January 1, 1989, a decision that I do not believe the Secretary is going to be in a position to make. We put a single State under the gun. We do not give that State the protections that I believe it needs.

If this provision were in the form of an inducement that would induce any one of 20 States that might be potential hosts for this site to choose to be the site, if no characterization took place until that State was chosen and had agreed to be the recipient site, I would support this proposal.

Obviously, if you want somebody to take a garbage heap that society has to have, you have to compensate them to do it. I believe that the compensation idea is correct. May I have 1 additional minute?

Mr. ADAMS. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. ADAMS. And how much the other side?

The PRESIDING OFFICER. Twelve minutes forty-six seconds.

Mr. ADAMS. I yield 1 more minute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. If you want some State to take this project, you ought to reward them for doing it, but you ought to sign a contract with that State on a willing basis before you go out and spend $1 billion on a site characterization there because under this provision, under this amendment, even if you spend the $1 billion, you do not have a guarantee that that State will willingly take the project. I do not believe it should be built in a State that does not want it. I believe we can provide sufficient inducements to induce 1 of the 20 or so States that could technically be the host to choose to be the host. We are never going to get this project built as long as the host State opposes it. There are simply too many avenues of resistance.

I think the sooner we recognize that, the sooner we are going to get on with the business of building this repository. You cannot build it where the people do not want it. Until we recognize that, we are not going to make real progress.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute. Mr. President, I am reminded of the old hymn, "Almost Persuaded." The Senator from Texas is almost persuaded that this is the right direction. He recognizes that the benefits package is very important. The fact is you have to have the benefits package enacted into law before it means anything. To say, "If you agree to come on in and volunteer for the site, then we will come back to the Congress," is a pig in a poke. No State is going to buy that. You have to put the benefits up front. That is what this legislation does.

But, Mr. President, to say that we cannot put this waste in a State that objects I think is wrong because we must. We are generating waste at the rate of 3,000 metric tons a year. That waste will not go away. It is mounting up as over 100 nuclear reactors around the country continue to generate thousands and thousands of megawatts of electricity. Unless we want to make 68 separate nuclear repositories in almost every State of the Nation and make those permanent re-

positories in your State, we have to find a place, and the law provides for that now. All this amendment does is save money in the process of building that site, and it does so technically correctly according to all the experts and it does so in a manner wholly consistent with health and safety.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired. Who yields time?

Mr. ADAMS. How much time is remaining for each side, Mr. President?

The PRESIDING OFFICER. The time of the Senator from Washington and the Senator from Nevada is 8 minutes 48 seconds; the time of the Senator from Louisiana is 10 minutes and 57 seconds.

Mr. ADAMS. We would defer to the Senator from Louisiana until two more Senators arrive.

The PRESIDING OFFICER. If neither side yields time, the time runs equally.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

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

Mr. JOHNSTON. Mr. President, this amendment is not made in a vacuum. It is made against the Nuclear Waste Policy Act, which is the law of the land. It is extraordinarily difficult to amend the Nuclear Waste Policy Act, but that is what we propose here. If we fail, then we proceed with the present law, which provides for selecting a site in the Northeast, and it also provides for characterizing three sites—in Texas, in Washington, and in Nevada.

Now, as I have said repeatedly, Mr. President, the experts say you can go from three sites to one site, save $3.9 billion, and do so consistent with technological expertise and public health and safety. I have read the statement of the Chairman of the Nuclear Regulatory Commission to that effect. I have read the statement of Hugh Thompson, Director of NRC's Office of Nuclear Material Safety and Safeguards, and the statement of Frank Parker, Chairman of the National Academy of Sciences' Board on Radioactive Waste Management. All the experts say this can be done. The question is, does this Senate want to proceed with the screening of sites for a second repository. If you do, vote down this amendment.

The second question: Do you want to spend an extra $3.9 billion? By the way, that is not in a fund waiting to be spent. There is a fund out of which that comes. But the present fee on nuclear generation paid by utility ratepayers is not going to be nearly sufficient to cover three characterizations. So if we let the present act run its course, then the ratepayers in this country are going to be asked to make a huge new contribution to fund two additional characterizations—in effect, pay an unnecessary $3.9 billion. There will be in effect a raise in the rates.

So I hope Senators understand that as we try not only to save money for the taxpayers but to cancel a Northeast repostitory, which is unnecessary, we believe, and to avoid tremendous increases in the nuclear generation tax.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. How much time do we have remaining?

The PRESIDING OFFICER. The time of the Senator from Washington and the Senator from Nevada is 7 minutes 57 seconds, the time of the Senator from Louisiana is 7 minutes 20 seconds.

Mr. ADAMS. I yield 3 minutes to the Senator from Wyoming, Senator SIMPSON.

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

Mr. SIMPSON. I thank the Senator from Washington very much. I know how hard he and the Senator from Nevada have worked on this issue.

Mr. President, we are just about to vote on a matter of serious significance for this country and for this body. What we are being asked to do in the pending amendment is to make major modifications in this country's program for the disposal of nuclear waste—and to do so on an appropriations bill! I think that is absurd.

I have the greatest reservations, Mr. President, about the wisdom of this course of action—and it is not because I have been one of those seeking to delay this program. Nor is it because I want to "shut the nuclear industry down" by forcing it to choke on its own nuclear waste, and there are a lot of people who would like to do that. My record speaks for itself on both of those issues—and in virtually every instance right up to now, I have been side by side with my good colleagues from Idaho and Louisiana, the floor managers of this amendment.

And so it is not a turf thing with me either, but I think there are some real distortions going on about the work of the Energy and Natural Resources Committee and the Environment and Public Works Committee. That is too bad. I thought we had resolved that once but apparently we did not. But now it surfaces and it surfaces on an appropriations bill and it is not too becoming.

But the course of action proposed in this amendment is imprudent—and it reflects a view that the way to solve this country's nuclear waste problem is to rush headlong into sinking an exploratory shaft somewhere—anywhere so that we can point to this as a sign of progress in solving our problem. I think that is too bad.

Unfortunately, the history of this program is littered with the remnants of our mistakes, because we have adopted overly optimistic schedules and because a scientifically credible program has taken a back seat to those schedules. One need only look at the experiences with the Lyons, KS, site or the Hanford site—both of which were on the top of everybody's list—to see where we have failed. Or better yet, look at the schedules that we adopted in the Senate-passed bill in 1982—when we required DOE to recommend a site to the President by January 1, 1986 for characterization!

We have heard clear and convincing warnings over the past 2 months that the technical information will simply not be available by January 1, 1989 to permit us to select a preferred site from among the three candidates. How can we possibly say that we will, when we don't even have access to one site and when surface-based testing at another—Hanford—will still be going on at this time?

Why is it that we need to make this decision by January 1, 1989, rather than take the more prudent 2 or 3 years that the NRC staff has recommended to conduct the necessary surface tests? Why is it, when this facility will be designed to isolate wastes for a period of time longer than human civilization has existed to date—for tens of thousands of years—that we cannot take 2 additional years to make sure that we do it right? Why is it that we are going to select a site before the applicable EPA standards are promulgated? Why is it that we are going to select a site before DOE completes its most critical hydrologic test at the Hanford site? And why is it that we are being asked to do this on an appropriations bill?

It beats me. People are getting beat up in the process. I think there are some things going on which I may not quite understand.

Mr. President, I urge my fellow colleagues to reflect carefully on the vote that they are about to cast—and to reflect upon whether a program of this magnitude should be addressed in the hasty manner that is being proposed. Because each of you—whether you come from a State with granite formations, whether you come from a State with an operating nuclear powerplant, whether you come from a potential host State for an MRS, or whether you come from a State through which nuclear waste will be transported to an MRS—have an enormous stake in this program if we are making the wrong decision in this amendment.

And make no mistake about it, Mr. President, we are selecting the State of Nevada—the Yucca Mountain site—in this bill. We have abandoned the objective criteria established in the 1982 act.

There is a lot of code language here. This is going to be a Nevada site. That is what you have here. We have already written into this amendment provisions which legislate both Washington and Texas right out of consideration, whether it be through the language requiring consideration of the "cost of characterization"—which is "code language" for not selecting Hanford—or the language which requires consideration of "groundwater impacts."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMPSON. I ask for an additional 30 seconds, if I may.

Mr. ADAMS. How much time do we have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Washington has 3 minutes and 20 seconds.

Mr. SIMPSON. I will relinquish the time.

Mr. ADAMS. I yield 20 seconds.

Mr. SIMPSON. I thank my friend from Washington. I spoke of this as the code language for not selecting the Texas site because it is above the Ogalalla aquifer. So there you have it. I think it is very unfortunate.

I think this is a very unwise course of action, Mr. President, and we all have an immense interest in ensuring that this program succeed. Unfortunately, Mr. President, I fear that we are headed for an immense failure—a real floppo—both in terms of public confidence and from a technical standpoint—with the approach proposed in the pending amendment. For these reasons, Mr. President, I would urge my colleagues to reject the pending amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Maine.

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

Mr. MITCHELL. Mr. President, on January 16, 1986, the Department of Energy [DOE] identified two sites in Maine as being potentially acceptable sites for a second high-level nuclear waste repository. The comments I and other representatives of Maine submitted on this proposal demonstrated that the sites are unacceptable to store nuclear waste. Today, DOE is still considering second-round sites. Congress must act to terminate this search.

A second site is not necessary at all. Even Secretary Herrington has stated that a second site is not technically necessary.

The Maine sites are unacceptable for several reasons: One of them is too near major drinking water supplies, and has great fluctuations in population in the summer; the other is too close to the Canadian border and is located on lands held by Indian tribes; both are not stable enough to store highly radioactive nuclear waste; both have faults running through them that make long-term storage unreliable. These are points I have made repeatedly to DOE officials since they first announced their interest in Maine.

Since one site is repugnant to many States, as the recent filibuster on this issue demonstrates, it makes less sense to require two sites, and ask two communities to be exposed to this risk. This is particularly true since the search for an additional repository, its construction and operation, will cost the country's ratepayers billions—I repeat, billions of dollars that need not be spent.

DOE agreed with this assessment. On May 27, 1986, it announced that it was suspending the search for a second repository, primarily due to cost considerations. DOE also noted that it would be decades before a second repository would be needed, based on their estimates of nuclear waste generation.

In January of this year, DOE announced it was reversing the earlier decision and that it would resume the search of a second site unless Congress acted before the end of September, which is the end of the fiscal year. Many of us strenuously objected to the arbitrary imposition of a deadline we knew Congress could not realistically keep.

In hearings and meetings this year, I have pressed DOE officials to not restart the search for a second site since the agency continues to claim that such a search is not now necessary.

The Senate should understand the position of the Department of Energy. They say a real repository is unnecessary. They urge Congress to suspend the search for a second site. But, they say, if Congress does ratify legislation directing them to suspend the search for a second site, they will be forced to continue that search, even though they believe it to be unnecessary.

Thus, failure of the Congress to legislatively direct DOE to stop the search for a second site would mean that we are permitting them to go forward on a course of action that is unnecessary and enormously expensive. Surely no prudent or responsible official should want or tolerate that result.

Due to pending litigation in the Ninth Circuit, DOE insisted on retaining its unrealistic deadline and on October 1, 1986, the agency announced it would resume its review of the 60,000 comments received by the agency regarding the second site. This is the next step in the selection process. DOE insists that only enactment of amendments to the Nuclear Waste Policy Act can alter its course now.

I and other Members of Congress who support termination of a second site search can stop DOE from reviewing these comments if we enact legislation directing DOE to terminate this program. DOE will not stop its search until both the House and Senate have agreed on legislation and the President signs it.

The Senate is now considering legislation that will suspend DOE's authority to perform any site-specific work in a search for a second site. This legislation is S. 1668, incorporated by reference in H.R. 2700, the Energy and Water Development appropriations bill. Like the Nuclear Waste Policy Act itself, S. 1668 is not perfect. But it has this critical provision—it stops the second site search.

S. 1668 directs DOE to terminate the site-specific work related to a second site. It requires DOE to submit a report to Congress between 2007 and 2010 on the need for a second repository. According to Senate Report 100-152 accompanying S. 1668, the relevant provision "takes away the Secretary's authorization to conduct site-specific activities. A subsequent act of Congress would be required before site-specific activities could be conducted."

This legislation stops the search for a second site for at least 20 years. Should DOE ever attempt to resume the search for a second site, it will have to start the process all over again from the beginning. And it would require another, subsequent act of Congress for it to conduct any site-specific activities in connection with that search.

There are other changes affecting the second site I would have preferred to see in this legislation. For example, removal of the 70,000 metric ton cap, which is not a technical judgment, is warranted.

This legislation is not perfect, but it is a significant improvement over current law. House Members are considering a moratorium bill significantly different from the moratorium legislation I support. The current House version takes no position on the need for a second repository, that is a mistake.

We must act quickly to terminate DOE's activities regarding a second site. The only option DOE has left Congress is for us to enact legislation terminating the second site search. I urge my colleagues to support this proposal.

Mr. President, on May 27, 1986, the Secretary of Energy announced that he was suspending the search for a second site for a nuclear waste repository. He said he was doing so because he concluded that a second site was unnecessary and that it was, therefore, wasteful to spend money at this time on a search for a facility that was not now necessary.

Recently, however, the Secretary has indicated that he feels compelled by law to resume the search for a second site even though he still feels it is technically unnecessary, unless Congress acts to change the law to legislatively direct him to suspend that search.

Mr. President, this is not a perfect bill. Few bills are. But from my standpoint, and from my standpoint of those of us in the Eastern United States, it has one critical provision. It suspends the search for a second repository site for a minimum of 20 years. It directs the Secretary to report to the Congress between the year 2007 and the year 2010 on the possible need for a second repository, but it would require a subsequent act of Congress if there were ever to be a resumption of the search for a second site.

That is of critical importance to those in the eastern part of the United States because it is clear that a second repository is not necessary. If one accepts that, then it makes absolutely no sense to spend millions, perhaps billions, of dollars to seek out and characterize a location for a facility that everyone agrees is not necessary.

Adoption of this pending legislation would legislatively direct the Secretary to stop the search for a second site for a minimum of 20 years.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mr. MITCHELL. That makes it desirable legislation.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. I thank the Chair.

Mr. ADAMS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Washington has 3 minutes remaining. The Senator from Louisiana has 4 minutes and 17 seconds.

Mr. ADAMS. The Senator from Washington yields to the Senator from Louisiana, Senator BREAUX, the remaining amount of our time.

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

Mr. BREAUX. I thank the Senator from Washington.

As I said on this issue when I spoke previously on one occasion those Members who are not on the Environment and Public Works Committee or the Energy Committee must be terribly confused about which way to go. I would say to those Members who are trying to make up their minds that the difference between the Energy Committee bill and the Environment Committee bill is not a great deal of difference but it is significant. It is significant in a number of ways. It is similar because it says pick one site and drill a shaft into that site, do the detailed work that is going to cost hundreds of millions of dollars, and do the testing of that particular site. Both committees make that decision. We both can argue that we will save the country major amounts of money if the first site is a successful one.

So what is the difference? The difference is very simple. The Energy Committee tells the Department of Energy to go out and pick that site right now, drill that shaft, and make that critical decision. Our committee, on the other hand, says look at the three sites that are on the table, do some surface work, do some geological work, do some hydrologic work, and determine what are the characteristics of those three sites. Then when you have that at hand, when you have that critical information, then pick the one that you are going to spend hundreds of millions of dollars on and evaluate it by drilling a shaft and hopefully you will have the correct decision. If you do not, you will have the information in place on the other two, and you can go drill the shaft on the second or on the third. You will be ready to do it at that time.

Let us make no mistake about it. This decision is one of the most critically important environmental decisions in the history of our Nation. The Energy Committee waives the National Environmental Policy Act on the selection of that first site—waives the National Environmental Policy Act. Is this not an environmentally important decision when they decide to make that hundreds-of-millions-of-dollars commitment to pick the first site? We require an environmental impact statement on something as simple as dredging a canal or digging a channel or locating where we are going to have a garbage dump in some particular location. We require that an environmental impact statement be made. Certainly any decision that is as critically important to this issue as selection of a site for radioactive waste should be subject to an environmental impact statement.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BREAUX. I ask for a no vote on the amendment.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 4 minutes and 17 seconds.

Mr. JOHNSTON. Mr. President, I would like to make perfectly clear that my amendment does not disturb the requirement of the National Environmental Policy Act that a full environmental impact statement be done on the repository. Moreover, the act requires that the repository before it is put in use be licensed by the Nuclear Regulatory Commission. To be sure, my amendment does not require still another environmental policy assessment on top of an environmental policy assessment that is ready provided for in the law.

That is the problem with nuclear waste, Mr. President. There are never enough studies. There are never enough billions of dollars spent to suit some people. They want more and more delay, they want more and more studies, they want more environmental policy assessments and Environmental Policy Act implementations.

Well, ours provides a full environmental impact statement, Mr. President. That is provided for in the present law and licensing by the NRC. And that is all that health and safety requires. That is all the present law requires. Who says so? Dr. Lando Zech, Chairman of the Nuclear Regulatory Commission in his letter to me of November 10, 1987. It says it right there. I have read it into the RECORD a number of times.

Who else says so? Dr. Hugh Thompson, Director of Nuclear Safety and Safeguards from the Nuclear Regulatory Commission, and Dr. Frank Parker, from the National Academy of Sciences.

Mr. President, we are told over and over again we are somehow taking some great risk, that there is something technically deficient. Why, sure if you are in one of these States and you do not want the waste, you can think of all kinds of reasons why you should not put the waste in that State. I understand that. And I guess any of us would be up here defending our States if we had been selected.

But, Mr. President, the scientists say it is consistent with health and safety, it is consistent with the Nuclear Waste Policy Act, it is consistent with the requirement of licensing, in fact licensing by the Nuclear Regulatory Commission is required, and a full NEPA statement is required.

I submit that that is enough. We do not need another 3.9 billion dollars' worth of unnecessary characterizations. As I have said over and over, we are putting money down that nuclear rat hole at the rate of $500 million a year for paper studies. That is the amount of money in the House bill, the bill we are amending, for additional studies—$500 million.

If you want that to go on ad infinitum, let us require some other regulations and a new set of environmental policy assessments and a new set of environmental policy statements. We already have them in the act, but put more in there, because that is a sure way to make some of these contractors happy. How would you like to be a nuclear contractor, with hundreds of millions of dollars of Federal money to be spent for paper studies? You would love additional delay.

There has to be an end to this unnecessary spending of money. All the experts say we can do so. I say let us

do what the experts say. Let us adopt this amendment.

The PRESIDING OFFICER. All time has expired.

THE OLDER AMERICANS ACT AMENDMENTS OF 1987

Mr. BINGAMAN. Mr. President, I rise today to urge my colleagues to vote in favor of final passage of the Older Americans Act Amendments of 1987 and to commend my friends and distinguished colleagues, Senator MATSUNAGA, the Chairman of the Subcommittee on Aging, and Senator KENNEDY, the chairman of the Committee on Labor and Human Resources, and their staff for their diligent and comprehensive work in completing action on the reauthorization of the Older Americans Act. Not only does the bill reauthorize this important act, but it significantly strengthens several of its provisions.

This Senator is pleased to have played a small role in shaping this legislation through the addition of key provisions of the Older American Indian Services Improvement Act, S. 1069, a bill I introduced earlier this year.

By enacting the Older Americans Indian Services Improvement Act, we will strengthen, expand, and clarify pertinent titles of the Older Americans Act to help ensure better access and delivery of vital services to "those who are in the greatest economic and social need." As you know, Mr. President, this was Congress' intent when it enacted the Older Americans Act in 1965. And as we all know, older American Indians remain among our country's most impoverished and needy citizens. They have a life expectancy between 3 and 4 years less than the general population; they lack sufficient and accessible health care; they live in poverty at a rate estimated to be as high as 61 percent; they suffer from high unemployment; and they often live in substandard and overcrowded housing. Additionally, the rural environment of most reservations adds to the already difficult way of life for many older Indians.

Realizing these inequities, in 1978 we added title VI, Indian grants, to the Older Americans Act to provide a mechanism for delivering vital services to our older American Indian population. Two years later, title VI grants were awarded to 85 eligible Indian organizations. Since that time, the program has been expanded to include 124 grantees, but a number of problems have become evident. We discovered that the act, to the detriment of older American Indians, fails to fully coordinate title VI with other titles of the act and that these titles are often ambiguous about tribal eligibility. Further, we have heard many times that the Federal Office on State and Tribal Aging is largely inattentive to the needs of Indian grantees.

The amendments before us today will address most of these problems. In particular, the existing Indian Grant Program under title VI will be strengthened and better coordinated with other portions of the Older Americans Act.

One of the major stumbling blocks facing American Indians as they attempt to gain access to services provided under the Older Americans Act has been the lack of coordination between title III, State grants, and title VI. Congress' desire to prevent "double dipping" led to inconsistent language in both titles and restrictive regulations that preclude unserved or underserved older Native Americans from receiving vital title III services if tribal programs are available under title VI for those services.

The problem is that many of the tribal programs, although available to some of the older Indians who live on reservations, are not accessible, either because of location or low funding levels, to all, or even most, needy older Indians. With the Indian population fairly evenly divided between reservations and urban areas—studies indicate that about 52 percent of our Indian population live on reservations and about 48 percent live in urban areas—we in Congress and the service providers in the field need to appreciate the fact that not all the intended beneficiaries can benefit from a tribe's reservation program and that many older Indians who desperately need services live in off-reservation service areas. This legislation, by repealing several provisions of the existing law, clarifies that Indians are eligible for services under both titles III and VI. Also, changes such as the creation of an improved monitoring system and provisions for outreach activities will assist tribal organizations and area agencies in broadening the scope of their cooperative efforts to develop more comprehensive service programs.

Significantly, this legislation establishes within the Administration on Aging an Office for native American, Alaska Native and native Hawaiian programs and creates the position of Associate Commissioner for Native American, Alaska Native and Native Hawaiian Aging to head the Office. This is a major advancement toward improving the quality of life for all members of our older population and is a vital component of the legislation before us. It is our intent that the Associate Commissioner will act as an advocate for native Americans within the Department and other agencies on issues affecting older native Americans. In addition, the Associate Commissioner will lead a new interagency task force on the needs and services of our older native American, Alaska Native and native Hawaiian population.

Unless the Office and the Associate Commissioner position are mandated by Congress, the improvements to the title VI program most likely will not take place. The AOA was given the opportunity to establish this office and to make corrections without legislative mandates, but it has yet to do so. When we last reauthorized the Older Americans Act, I offered an amendment that would have created an office on Indian aging, but I agreed to withdraw that amendment based on assurance by AOA that it would create such a position with advice and support from Indian tribes. Much to my dismay and despite what I understood to be a firm agreement, this did not happen. For this reason, I believe that Congress must designate this Office and this position so that we are assured greater accountability from AOA to the Indian grantees.

Because older native Americans suffer from chronic unemployment, this legislation amends title V, community service employment, to provide for the targeting of employment services to older native Americans. A recent survey conducted by the National Indian Council on Aging revealed that only 1.6 percent of all positions available through national contractors and State agencies on aging were filled by older Indians and that, among all ethnic groups, older American Indians have the least access to employment services under title V. This legislation mandates that at the next available opportunity for national grants or contracts, older native Americans should be emphasized.

This legislation also amends title IV, training and research, to make grants and contracts more readily available to agencies and organizations representing minorities. Adequate in-service training and instruction on the needs particular to older Americans of diverse ethnic backgrounds remains a priority that hopefully will be addressed through a more equitable distribution of title IV funding.

Mr. President, I would be remiss if I did not point out what I perceive to be a problematic aspect of this legislation. Although the bill I introduced early this year was directed solely at our older American Indian population, several of its provisions were expanded in the bill reported out of committee to provide coverage to Alaska Natives and native Hawaiians. To be consistent with action taken by the committee on several similar statutes, the committee primarily sought to include native Hawaiians within the scope of title VI programs. I am deeply concerned about the implications this expansion will have upon title VI in general and to older Indians in particular.

Please understand, I fully agree with committee members who believe that the special needs of the native Hawaiian elderly should be addressed. However, I have serious reservations about doing so under title VI. Title VI was originally included by Congress solely to address the problems facing the American Indian elderly and was added only after national meetings on the problems concluded that:

Among racial and ethnic minorities in this country, Indians are unique in that the Constitution, numerous court decisions, and Federal law clearly reserve to federally recognize Indian tribes powers of self government.

Only based upon this recognition did Congress approve of a specific grant program for Indian tribes under title VI.

The trust relationship between the Federal Government and Indian tribes is unique and well defined, and I do not believe it is so broad as to include all the groups that might seek inclusion. I believe that protections for native Hawaiians more appropriately should come under programs available for the States, as has been the consistent practice in the past, or under a new and separate title. I am sorry one of these suggestions could not have been accommodated, but I am confident the legislation we pass today has been drafted in a way that is a significant and positive step toward accomplishing our goal of improving the quality of life for native Americans and all members of our elderly population.

Thank you, Mr. President,

A RENEWED OLDER AMERICANS ACT

Mr. LAUTENBERG. Mr. President, I rise to speak in favor of the conference report on the reauthorization of the Older Americans Act. This law has been a valuable resource for senior citizens all over the country. For over 20 years, older Americans have received community and social services through OAA funding. I was pleased to cosponsor this bill to reauthorize the OAA for another 4 years.

The conference report includes two provisions that I introduced and testified about before the Aging Subcommittee of the Labor and Human Resources Committee. One proposal is for in-home services for frail older individuals. It would authorize grants for in-home services, such as homemaker aides, visiting and telephone reassurance, chore maintenance, or in-home respite care for families.

My second proposal authorizes periodic preventive health services, to be offered at senior centers or other convenient locations. There preventive services would be those not covered by Medicare, such as routine physical examinations, vision and hearing screening, and counseling and referral for followup health services.

These relatively modest proposals would make a start in dealing with some important unmet needs of our older constituents. We all know that people are living longer lives. Men reaching age 85 now can expect to live 15 percent longer than an 85-year-old man in 1960. For women the increase is twice as much—33 percent longer.

The question to ask is whether longer lives mean better lives. Are people staying healthy and vigorous as they live longer? A Canadian study covering 1951 to 1978 found that life expectancy increased by an average of 6 years, but for almost 5 of those years a person's activity was limited.

But that does not mean an older person needs to be in a nursing home or other institution. Often people can stay in their own homes if they receive some assistance. They may have chronic conditions which threaten their independence, but not their lives. Many of these people could remain independent with some assistance. Researchers have found that nearly 10 percent of the over 65 population needs help at home and is not receiving it.

Mr. President, my proposal, which has been incorporated into this Older Americans Act bill, authorizes a program of grants to provide these much-needed in-home services. The services will help many older Americans to continue living in their homes or in the homes of others without having to give up their independence by going into a nursing home. The services also will assist the family and friends who already provide much of this help, giving them a deserved respite or helping hand.

Many of the health problems of senior citizens, as well as all the rest of us, can be avoided or kept in check by early detection. Preventive medicine is the most cost-effective medicine. However, many people do not have regular checkups and health screenings. There are a variety of explanations for this, including the fact that Medicare and many other health insurance plans do not pay for these routine services. Also physicians are not readily accessible in many areas.

I was pleased that my other proposal was also included in the conference report. This authorizes grants for preventive health services to be provided at senior centers or other sites. These services would be provided periodically, perhaps three or four times a year. Perhaps a health fair format would be used, providing informal health education as well as examinations and screening. The proposal specifically excludes services which would be paid for by Medicare.

Mr. President, I commend the sponsor of this bill, the distinguished Senator from Hawaii, Senator MATSUNAGA, for his leadership in the field of services for older Americans. I thank him for including my proposals in this reauthorization of the Older Americans Act and I urge adoption of the conference report.

Mr. PELL. Mr. President, I am extremely pleased that the conference report to the Older Americans Act, H.R. 1451, will be passed by the Senate today. For over 20 years now, the Older Americans Act has been an invaluable source of community and social support for our Nation's most precious resource—senior citizens. Under the able leadership of the chairman of the Subcommittee on Aging, Mr. MATSUNAGA, the act has been reauthorized until 1991 and expanded to serve the seniors of this Nation in new and better ways.

The chairman has already done a fine job in describing the many provisions of the bill. However, I would like to briefly mention a few of the provisions that I have a particular interest in. The subcommittee paid special attention to the needs and concerns of frail older Americans. The changes that have been made regarding day care and home care will be most appreciated by the seniors as well as their families who often have their lives turned up-side-down just to keep their loved ones in familiar, loving surroundings and out of nursing homes. I have felt for some time that home care is an underused but highly important type of health care and am glad that the conferees shared my view.

Section 18 of the bill, which I originally introduced before the Senate as S. 997, gives a congressional mandate and funding to a fast track clinical study of new and promising drugs for the treatment of Alzheimer's disease. As I have said before, Alzheimer's disease and related dementias are probably the most cruel of diseases threatening our elderly and their families. It is a disease that takes the minds of its victims while leaving their bodies intact.

At the present time, the National Institute of Aging, the Alzheimer's Disease and Related Disorders Association of America, and the Food and Drug Administration have joined together to design and run a fast-track clinical study into the efficacy of the drug Tetrahydroaminoacridine, or THA. At this time, THA appears to be the only hope for any type of relief for Alzheimer's disease patients and their families. The study is already in its first phase, the best-dose phase. At this time, researchers are attempting to determine how much of the drug each of the patients under study can receive without having harmful side effects. There have been some patients that have shown signs of receiving too big of a dose. This information is the first important step on the road to approval of THA. Contrary to recent

news reports, the study is progressing on track and right on time.

I am also pleased that the final bill will provide local communities with the means and the guidance to conduct health promotion and prevention activities for seniors. I have long supported an increase in emphasis on health prevention for all ages but in particular, for the elderly. These activities, such as hypertension screening, exercise, and nutrition guidance are important but often overlooked segments of health care.

We have also made it easier for seniors to serve their community and continue to receive food stamps and subsidized housing. Older Americans that wish to continue to contribute to their community should not be denied the services that were originally designed for them.

Mr. President, let me again commend and thank the chairman of the Aging Subcommittee as well as his able staff for the fine work that has been done both on the Senate version of this bill and in conference on H.R. 1451 with the other body. Millions of senior citizens are very appreciative of their efforts.

Mr. WEICKER. Mr. President, I am pleased that the Senate will now turn to adoption of the conference report to accompany H.R. 1451, the reauthorization of the Older Americans Act. This legislation demonstrates our Nation's commitment to programs which assist elderly individuals to lead independent and productive lives. I am pleased to join Senator MATSUNAGA, chairman of the Subcommittee on Aging and Senator COCHRAN, the ranking minority member, and other members in a conference agreement which reflects a dedication to enhancing programs and services that perpetuate the self-sufficiency of our Nation's elderly citizens.

With passage of the Older Americans Act in 1965, Congress created several new Federal programs specifically designed to meet the social service needs of elderly Americans in such areas as transportation, employment, home health care, counseling, adult day care, information and referral, and nutritional services.

To address these needs, the programs authorized by the Older Americans Act to assist elderly individuals to preserve their independence and thus avoid reliance on costly out-of-home residential care were strengthened in this reauthorization.

In particular, I am pleased that provisions have been included to address the needs of a growing population of elderly individuals with disabilities to ensure that programs and services carried out under this act can be better coordinated and expanded to meet the unique needs of this population. In order to foster greater interaction between professionals in both the developmental disabilities system and the aging network, authority has been added to enhance research and training regarding the needs of elderly individuals with disabilities. In addition, the Ombudsman Program, created to facilitate the resolution of complaints made by or on behalf of residents of long-term care facilities, and the protection and advocacy agencies which exist to advocate for clients' rights and to investigate incidents of abuse and neglect will now begin to interact with both the developmental disability and aging systems to assure that quality services are provided to those residing in long-term care facilities.

I believe we have a responsibility to the elderly of this Nation to ensure that they are not deprived of their dignity and independence by unnecessary and costly reliance on institutional care. To meet this responsibility Congress has expanded the availability of needed health, social and nutritional services, and creating a new emphasis on meeting the needs of the disabled elderly. The Older Americans Act programs have provided the foundation for a partnership among Federal, State, and local governments and communities to meet the needs of the elderly. This reauthorization is a credit to both Senator MATSUNAGA and Senator COCHRAN, I believe the conference report before the Senate today will enhance the ability of elderly Americans to continue to live independently, and I therefore urge its passage.

OLDER AMERICANS ACT AMENDMENTS OF 1987—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to vote on the conference report on H.R. 1451, the Older Americans Act.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. LUGAR], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—93

Adams	Fowler	Moynihan
Armstrong	Garn	Murkowski
Baucus	Glenn	Nickles
Bentsen	Graham	Nunn
Biden	Gramm	Packwood
Bingaman	Grassley	Pell
Boren	Harkin	Pressler
Boschwitz	Hatch	Proxmire
Bradley	Hatfield	Pryor
Breaux	Hecht	Quayle
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Johnston	Sanford
Cohen	Karnes	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kennedy	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stafford
DeConcini	Levin	Stennis
Dixon	Matsunaga	Stevens
Dodd	McCain	Symms
Dole	McClure	Thurmond
Domenici	McConnell	Trible
Durenberger	Melcher	Wallop
Evans	Metzenbaum	Warner
Exon	Mikulski	Weicker
Ford	Mitchell	Wirth

NAYS—0

NOT VOTING—7

Bond	Kerry	Wilson
Gore	Lugar	
Inouye	Simon	

So the conference report was agreed to.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The Senate continued with the consideration of the bill (H.R. 2700).

The PRESIDING OFFICER. Under the previous order, the Senate will now vote en bloc on the excepted committee amendments.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing en bloc to the excepted committee amendments. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DODD (after having voted in the affirmative). Madam President, on this vote I have a live pair with the Senator from Massachusetts [Mr. KERRY]. Were he present and voting, he would vote "nay." I have voted "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], and the Senator

from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. LUGAR], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

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

The result was announced—yeas 63, nays 30, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—63

Armstrong	Grassley	Murkowski
Bingaman	Harkin	Nickles
Boren	Hatch	Nunn
Boschwitz	Hatfield	Packwood
Bradley	Heflin	Pressler
Bumpers	Heinz	Proxmire
Chiles	Helms	Pryor
Cochran	Humphrey	Quayle
Cohen	Inouye	Roth
Conrad	Johnston	Rudman
D'Amato	Karnes	Sasser
Danforth	Kassebaum	Shelby
Dixon	Kasten	Specter
Dole	Lautenberg	Stennis
Domenici	Matsunaga	Stevens
Durenberger	McCain	Symms
Evans	McClure	Trible
Exon	McConnell	Wallop
Ford	Melcher	Warner
Fowler	Mitchell	Weicker
Garn	Moynihan	Wirth

NAYS—30

Adams	DeConcini	Mikulski
Baucus	Glenn	Pell
Bentsen	Graham	Reid
Biden	Gramm	Riegle
Breaux	Hecht	Rockefeller
Burdick	Hollings	Sanford
Byrd	Kennedy	Sarbanes
Chafee	Leahy	Simpson
Cranston	Levin	Stafford
Daschle	Metzenbaum	Thurmond

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Dodd, for.

NOT VOTING—6

Bond	Kerry	Simon
Gore	Lugar	Wilson

So the excepted committee amendments were agreed to.

Mr. JOHNSTON. Madam President, I move to reconsider the vote by which the excepted committee amendments were agreed to en bloc.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1157

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. MITCHELL, Mr. COHEN, Mr. SASSER, Mr. GRAMM, Mr. BENTSEN, and Mr. KASTEN, proposes an amendment numbered 1157.

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

Mr. ADAMS. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington will withhold without losing his right to object. The Chair notes that the Senate is not in order. It is difficult to hear either the manager of the bill or those who wish to participate.

The Senator from Washington.

Mr. ADAMS. Madam President, I reserve the right to object. I could not hear and did not know that the manager of the bill was presenting. May I inquire of the Senator, Madam President, the Academy of Sciences oversight board to evaluate DOE activities, terminate U.S. funding for research on granite, and crystalline rock sites, are those the three that are en bloc now?

Mr. JOHNSTON. The Senator is correct.

Mr. ADAMS. I have no objection.

The PRESIDING OFFICER. Is there any objection to the unanimous-consent request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

The amendment is as follows:

On page 40, line 20: After the words, "S.1668, Nuclear Waste Policy Act Amendments Act of 1987, as reported to the Senate on September 1, 1987, is included herein and shall be effective as if it had been enacted into law", insert the following: "with the following amendments included:

"(2) On page 25, after line 21, add a new subsection as follows:

'(d) Upon the date of the enactment of this section the Secretary shall phaseout in an orderly manner within 6 months funding for all existing research programs designed to evaluate the suitability of crystalline rock as a potential repository host medium.'

"(4) On page 27, strike lines 21 and 22 and insert in lieu thereof the following:

'OVERSIGHT BOARD

'(a) Within 30 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences (hereinafter in this section referred to as 'the Academy') for the purpose of establishing an oversight board under the auspices of the Academy to review and evaluate the scientific and technical adequacy of the Secretary's programs under this Act.

'(b) The oversight board established under this section shall consist of an appropriate number of scientists, engineers, and other individuals determined to be qualified by the Academy.

'(c) Activities of the Secretary to be reviewed by the oversight board under this section include—

'(1) activities under section 402(a)(2) relating to the information useful in selecting a preferred site;

'(2) activities under section 402(b)(2) relating to surface based testing at candidate sites that are not selected as the preferred site;

'(3) the site characterization program at the preferred site; and

'(4) such other activities involving significant scientific or technical issues as the Academy finds appropriate.

'(d) The oversight board shall establish procedures for the appropriate involvement in the work of the board by the Secretary, the Commission, affected states and affected Indian tribes. In addition to other reports deemed appropriate by the Academy, the board shall provide an annual report on the status of the programs of the Secretary under this Act that have been reviewed by the board. All reports of the board shall be available to the Secretary, the Commission, and the public.

'(e) The expenses of the oversight board under this section shall be paid from the Waste Fund.

'AUTHORIZATION OF APPROPRIATIONS

'SEC. 411. There is authorized to be appropriated from'.

"(5) On page 33, the last line of the table of contents is amended to read as follows:

'SEC. 410. Oversight Board.

'SEC. 411. Authorization of Appropriations.'

"(6) On page 25, after line 21, insert the following new subsection:

'(d) In the event that the Secretary at any future time considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall give consideration as a supplement to the siting guidelines under section 112 to potentially disqualifying factors such as—

'(1) seasonal increases in population;

'(2) proximity to public drinking water supplies, including those of metropolitan areas; and

'(3) the impact characterization or siting decisions would have on lands owned or placed in trust by the Federal government for Indian tribes.'

"(8) on page 13, line 5, strike the word 'If' and insert in lieu thereof the phrase 'Except as provided in subsection (1), if'; and

"(9) On page 18, after line 17, insert the following new subsection (1):

'(1)(1)(A) There is established a MRS Review Commission (hereinafter in this subsection referred to as the 'MRS Commission'), which shall consist of three members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

'(B)(i) Members of the MRS Commission shall be appointed not later than thirty days after the date of the enactment of this subsection from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the nation's nuclear waste management system.

'(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this paragraph, the MRS Commission shall—

'(i) review the status and adequacy of the Department's evaluation of the systems advantages and disadvantages of bringing such a facility into the national radioactive waste disposal system;

'(ii) obtain comment and available data on the subject from affected parties, including states containing potentially acceptable sites;

'(iii) evaluate the utility of such a facility from a technical perspective; and

'(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

'(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

'(A) repository design and construction;

'(B) waste package design, fabrication and standardization;

'(C) waste preparation;

'(D) the waste transportation system;

'(E) the reliability of the national system for the disposal of a radioactive waste;

'(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

'(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the nation's electric utilities in building and operating such a facility.

'(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress between January 1, 1989 and January 20, 1989.

'(4)(A)(i) If the recommendation of the MRS Commission under paragraph (1)(D) is that the national nuclear waste management system should not contain a monitored retrievable storage facility, the Secretary may exercise his authority under subsection (d)(2) unless Congress, within 90 calendar days of continuous session of Congress (as computed for purposes of section 115) after transmission of the recommendation of the MRS Commission under paragraph (3), passes, and there is enacted into law, a resolution disapproving the deployment of a monitored retrievable storage facility as a part of the national nuclear waste management system.

'(ii) Any resolution under this subparagraph shall be introduced within 30 days after the date of transmission of the recommendation of the MRS Commission under paragraph (3). Such a resolution shall be expedited and considered by Congress in accordance with the procedures for consideration of a resolution of repository siting approval under subsections 115(d) through (g), except the 60-day period in section 115(d)(3) shall be shortened to 30 days.

'(B) In all other cases, the Secretary may exercise his authority under subsection (d)(2), after the report and recommendation of the MRS Commission has been transmitted to Congress.

'(5)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistance in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

'(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

'(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

'(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

'(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

'(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

'(C) The MRS Commission shall cease to exist sixty days after the submission to Congress of the report required under this subsection.

'(D) There are authorized to be appropriated to the MRS Commission to carry out the purposes of this subsection such sums as may be necessary.'. and

(10) "section 402 is amended by adding the following new subsection:

'(m)(1) The Secretary, or his designee, shall value land for leasehold or ownership title for purposes of site characterization and repository development in a manner that, in the opinion of the Secretary or such designee, addresses the unique geophysical attributes causing such land to be selected as a candidate site for deep geologic disposal for high-level radioactive waste and spent nuclear fuel.

'(2)(A) The Secretary, in acquiring private land for site characterization and repository development under this Act, shall, to the extent practicable—

'(i) acquire such private land only after a site characterization plan has been issued under section 113; and

'(ii) minimize the disruption of private use of lands in the vicinity of those acquired.

'(B) Nothing in subparagraph (A) affects the authority of the Secretary to secure a leasehold interest, easement, or right of way that the Secretary determines is necessary to carry out the purposes of subsection (a)(2).

'(3) The Secretary shall offer any landowner, or his heirs, first right to repurchase any land previously secured from such landowner for site characterization or repository development, should the site be found unsuitable, and after the site has been fully reclaimed as required under section 113.'.".

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, this amendment is similar to the amendment which was originally a part of the Johnston amendment but which, for the purpose of this vote and in order to get the previous unanimous-consent agreement which terminated the filibuster, we deleted. We now put the amendment back with a further modification of the amendment. What the amendment does is provide for a modified Mitchell-Cohen amendment which phases out research—indeed, I think it was Cohen-Mitchell—on crystalline rock as a potential repository host medium and establishes an oversight board of the National Academy of Sciences to establish potentially disqualifying factors for crystalline rock repositories.

Second, a Sasser modification which provides for a commission to study the need for an MRS and grants an expedited means of dealing with those findings when they are finally presented to the Senate. And an amendment suggested by Mr. Gramm of Texas dealing with landowners' rights. In the case of the Deaf Smith County, TX, site, if the Department of Energy acquires certain lands, it provides for suggestions on how to value that land and for the right of landowners to recoup their property should that property, once acquired, not be used for a host site.

I do not think there is any objection to these amendments, Madam President, but I know both Senators from Maine had a word to say on them, so I will yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Madam President, the pending amendment provides needed additional safeguards to all States under consideration by the Department of Energy—DOE—for a nuclear waste repository. The amendment has three provisions.

The amendment requires DOE to contract with the National Academy of Sciences to create an oversight board to restore confidence in the site selection process. This board, made up of individuals with technical competence in the nuclear waste fields, will review DOE's implementation of nuclear waste legislation and provide annual reports to Congress. As part of this process, it is expected that public hearings and other opportunities for public participation will be provided.

The oversight board's reports and other activities should provide what is now badly needed: an independent, technical assessment of DOE's actions. Public confidence dissipated largely because DOE failed to take into account factors the public believes are relevant.

DOE also appeared to disregard factors that would have argued against the course of action it was pursuing. The oversight board should provide additional needed commentary on these factors.

Taken as a whole, I believe this amendment substantially inproves the legislation that the Senate has just adopted. It provides additional assurances that implementation of this country's nuclear waste program will be responsible and more protective of the environment.

The amendment also addresses concerns of the second round States. S. 1668 terminates the search for a second site for at least 20 years. This is a dramatic improvement over current law, and is sound policy. However, the bill does not terminate the granite research.

In its budget request for the next 3 years, DOE requested $30 million for participation in international research on granite as a potential site for nuclear waste. While termination of U.S. funding may not terminate all international research, there is no reason that this country should be spending $30 million to investigate granite when it is not intended that a respository be located in granite.

The last provision directs DOE to consider additional factors, in the unlikely event that the agency ever again considers a second site.

DOE is to give consideration to potentially disqualifying factors such as seasonal population increases, proximity to public drinking water supplies—particularly metropolitan area water supplies—and the impact siting and characterization decisions would have on lands owned by Indian tribes or held in trust for such tribes by the Federal Government.

These are factors DOE should have taken into account in the normal course of implementing the Nuclear Waste Policy Act. For example, the act disqualifies high population density areas from consideration. This is to protect people who might live near a waste repository from potential exposure to radioactive waste.

In Maine, DOE has considered the Sebago Lake area. As is commonly known, hundreds of thousands of visitors vacation in the area each summer. There are 52 youth camps that lie along the many lakes and streams in the region. In addition, many people are moving to the area to live year-round.

DOE's estimate of the region's population was based n the 1980 census. DOE chose to ignore the dramatic seasonal fluctuations in population and it chose a dated census figure.

It is common sense that such seasonal variations should be considered because the underlying purpose is to consider risk to people. There is no assurance that exposure would occur after the summer vacation season. All persons must be protected, not just those counted in the 1980 census, not just those who happen to be in the area during the winter months.

Had these factors been properly taken into account by DOE, as they should have been, sites in Maine and other areas similarly situated would have been disqualified.

These changes are important for all affected States. They improve the legislation the Senate has adopted by providing greater assurance of more sound technical judgments by DOE.

They will improve the process involved in our search for a nuclear waste repository. I urge my colleagues to support the amendment.

Madam President, I see my distinguished colleague on the floor, and I will now yield to him.

Mr. COHEN. Madam President, I am pleased that the Appropriations and Energy Committees have voted to put off a search for a second repository in the East for at least 20 years. The legislation before us today requires that, between the years 2007 and 2010, the DOE is to report to Congress on the need for a second repository, and Congress will then take the Department's recommendations under consideration. This is the most sensible course, and I strongly support these provisions of the committee's bill.

It has been clear for the past 2 years that the waste generation projections upon which the 1982 Nuclear Waste Policy Act was based are no longer accurate. The DOE has revised the waste generation estimates and now states that we will not need a second repository, even with the 70,000 metric ton cap on the first repository, until at least the year 2020. While I still question the need for the 70,000 ton cap, I believe the determination that a second site is not now necessary and in fact should be studied is a good one that reflects a realistic assessment of our waste projections.

The additional modifications included in the pending amendment address the need to improve the oversight of DOE activities during the site selection and characterization process, as well as to ensure that the DOE will take into account important factors that affect the health and safety of our citizens.

First, we require the phaseout, within a 6-month period, of DOE's research into granite formations. Since the second site search, which is investigating granite-based sites only, has been suspended in this legislation, we see no need for the DOE to conduct this research at this time.

Second, we require the establishment of a National Academy of Sciences oversight body that is authorized to review DOE decisions and actions in characterizing and selecting a site for the waste repository. This oversight capability is essential to ensure that the DOE does not act with no regard for legitimate public concerns. In Maine, we have not had a good experience with the DOE, and I feel that the entire waste repository program needs continuous monitoring by an independent board.

Finally, we proposed that, should the DOE return to a search in Maine or other Eastern States, the agency should take into account factors which is appears to have previously ignored. These important factors are: first, the proximity of the site to public drinking water supplies, second, the seasonal fluctuations in population that might occur in an area surrounding a site, and third, the impact that site characterization and selection will have on the trust relationship that exists between the Federal Government and Indian tribes.

I believe that our revisions result in a more reasonable approach to the waste repository selection program.

I hope our efforts lead to a DOE that is more accountable to the public as it carries out its waste program.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, we are indebted to the two Senators from Maine who are really up to speed on this matter of crystalline rock, which is spelled Maine, M-a-i-n-e. Frankly, the study of crystalline rock was not part of the Nuclear Waste Policy Act. It came about because of negotiations between the United States and Canada, and so consequently it escaped our view not being in the act, and we are indebted to the two Senators from Maine for stopping, first, the waste of many millions of taxpayers' dollars, and, second, to ease the minds of people in Maine that the unnecessary studies will not go forward. So we thank them for it.

Mr. COHEN. If the Senator will yield, I wish to express my own thanks to the Senator's receptivity to the arguments advanced by my colleague from Maine, Senator MITCHELL, and myself not only in trying to approach this from a fiscally responsible basis but also taking into account the concerns that he and I and others in Maine have been raising about the entire process under which the Department of Energy has conducted itself. So I thank the Senator for being open and responsive and most reasonable in listening to and accepting our arguments.

(By request of Mr. BYRD the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, I rise today in support of the amendment which would establish a review commission to examine whether or not we

need a monitored retrievable storage [MRS] facility as part of our national nuclear waste disposal program. I have consistently opposed the MRS. This amendment will create a commission to determine definitively the need for an MRS and alternatives to one.

In failing to address fundamental problems in the nuclear waste disposal program, the Department of Energy [DOE] has increased tensions among concerned parties and has damaged its ability to negotiate credibly a nuclear waste disposal policy. This amendment helps rebuild a consensus for attacking the critical problem of how to handle nuclear waste.

I would like to thank my distinguished colleague, the senior Senator from Tennessee, who has worked tirelessly to dissolve this deadlock over the MRS. Throughout the debate over nuclear waste disposal policy, he has worked to help forge a coherent policy that would allow Congress to implement a credible program to handle waste disposal needs. Senator SASSER's willingness to approach this issue with candor has successfully overcome a significant obstacle to a realistic solution to the nuclear waste disposal program.

However, while the MRS amendment goes to a long way toward resolving that problem, I still have reservations about legislation which would unwisely accelerate the siting of a permanent repository. We must be certain that any effort to redirect the high-level waste disposal program ensure public safety and the equity and thoroughness of the selection process. Senator REID and ADAMS' have carefully crafted amendments to guarantee a more equitable selection process for the high-level nuclear waste repository would also provide for the safe and efficient disposal of this waste—with less divisiveness. For example, providing for surface testing, adequate environmental impact statements, and adequate consultation with the affected States and Indian tribes would ensure a more equitable solution to the obstacles in the nuclear waste disposal program. Without such strong protections, the Senate must continue to scrutinize any bill which might rush to judgment on a final site.

Mr. President, both Congress and the American people have lost confidence that the Department of Energy can find a safe and efficient way to dispose of the Nation's nuclear waste. For the MRS, a review commission, shielded from political crossfire by an impartial panel, would allow us to step back from the extremely divisive controversy and develop an environmentally safe, technically sound, and politically palatable solution to a national problem. The permanent repository controversy demands a similar approach.

What we can not afford is to settle for short-term solutions designed to meet artificial deadlines. For some, the MRS was the means for DOE to begin taking title to nuclear waste well before the geologic repository would be ready. However, stopgap solutions will not overcome long-term problems. Rather, we must reassess DOE's view of the MRS. Through cooperation and nonpartisan review, we can achieve a satisfactory solution. I want to underscore my desire to solve these problems. Obstructing the Nuclear Waste Program for the sake of delay is no solution; but delaying the program while we review, reassess, and revise is needed. It is time for a midcourse correction.

I would like to read a paragraph from a recent Senate Energy and Natural Resources Committee report—Senate Report 100-152, page 5:

> In addition to cost and schedule considerations, a number of other circumstances have changed since passage of the NWPA. Since that time, it has become clear that rates of spent fuel generation are much lower than anticipated. It has also become clear that as we approach major decision points in the nuclear waste program, there will be great potential for political opposition unless substantial efforts are made to mitigate any perceived adverse impact.

Mr. President, DOE is obligated to accept waste by January 31, 1998. However, the Department has shattered its credibility and sharpened divisions in an already tense situation. The States' and Indian tribes' distrust of DOE is borne out by the tremendous amount of litigation. We need to review the institutional record and see what can be done to enhance cooperation between DOE, States, and Indian tribes. Institutional relationships need improvement, and far-reaching institutional revisions are called for. In briefly delaying the MRS for a careful study, we get off the costly course that DOE had charted. Artificial deadlines generate intense pressure on the Congress to authorize the MRS without debate.

How DOE has continued to advocate the MRS, despite solid evidence that it is unnecessary, illustrates my point. The people of Tennessee have not been saying "not in my backyard," but rather "not in anyone's backyard." I agree. I unequivocally oppose the authorization of a monitored retrievable storage facility [MRS]. When DOE put forward its plan to build an MRS, I expressed strong doubts about the need to spend billions of dollars on a facility that could ultimately derail our commitment to build a permanent repository. Although given many opportunities to prove its case, DOE failed to convince me that the MRS would benefit the national repository program or Tennessee. When we combine DOE's failure to show a need for an MRS with the additional cost of building an MRS—estimated to be in excess of $1½ billion—an MRS makes no sense at all.

Nonetheless, I am pleased with the proposal for an impartial panel that could arrive at an unbiased, technically sound verdict on the MRS and more viable alternatives. At the same time, I would like to describe further some of the previous evidence against the MRS.

A May 1986 General Accounting Office [GAO] report lists several problems with the proposed MRS. GAO pointed out that the MRS would increase duplication in facilities or operations in the overall system since the repository must have the capability to receive and package western reactors' spent fuel. There would be increased system complexity. There would be a shift in transportation patterns. In addition, a 1985 Office of Technology [OTA] study commented that heavy reliance on the MRS is a bad way to compensate for problems in the repository program. DOE sees the MRS as the only hope of meeting the 1998 deadline, but the pressure on the MRS to accept spent fuel even without the repository and the cost to the system of the MRS forces me to conclude that we should reexamine this view.

The Nuclear Waste Policy Act—NWPA title I, subtitle C, section 141b—requires that:

> The Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of * * * monitored retrievable storage facilities.

The question of need is the one that must be most thoroughly explored before an MRS is authorized and funded. Not only is there doubt about the need for prepackaging spent fuel, there is also doubt about whether a facility expressly dedicated to repackaging is either prudent or necessary. GAO reports—June 1987—that:

> DOE does not maintain that an MRS facility is essential for the safe handling and disposal of nuclear wastes.

We cannot accept a justification of the need of the MRS based on DOE's inability to meet the act's deadlines for the completion of a permanent repository. This road leads to a de facto final repository in Oak Ridge, TN.

In that same June report, GAO said that DOE's proposal does not supply sufficient information on the MRS:

> DOE's proposal does not identify the most effective configuration of the authorized waste management system for the Congress to use as a basis for comparison in deciding if the benefits of the proposed MRS facility are worth its added cost to the waste program.

In addition, the report continues:

> DOE has not fully developed important MRS cost elements, such as payments for State and local taxes and aid to mitigate MRS' impacts.

GAO's report makes it clear that Congress does not have enough infor-

mation for an informed decision and highlights the need to review the current state of the Nuclear Waste Disposal Program. The proposed commission intends to answer the question of need, something DOE should have done already.

There are alternatives to the MRS, and I believe that we need to explore these fully and determine the likelihood of their success. As the GAO June 1987 report notes:

DOE's proposal does not analyze potential alternatives for improving the waste management system other than an MRS—such as expanding storage at reactor sites or the repository or improving the transportation system—to the same extent as the MRS.

With severe doubts as to the need, feasibility, cost, and transportation impacts of the MRS, we must explore other alternatives.

In the meantime, no immediate crisis looms. At-reactor storage of spent fuel is a viable alternative to the MRS. Rod consolidation and dry cask storage can provide needed storage capacity even if the Repository Program is delayed. And we need to examine more closely the risk to communities along transportation routes. Sites identified in the initial DOE screening for the MRS were located in Alabama, South Carolina, North Carolina, Kentucky, and Mississippi.

The Federal Government must work with the utilities to encourage on-site storage of spent fuel, including extending credits for on-site storage. Work done at the University of Tennessee Waste Management Institute has shown that utilities will not have to shut down due to lack of storage space. In fact, some utilities already have individual storage programs in place now for on-site storage.

In May 1986, GAO published, as part of a report on the MRS, the results of its survey of nuclear power utilities. Almost all the companies that responded believed that they would provide for their own spent fuel storage needs until 1998. Most responded that they believed that they would arrange for the functions of an MRS—rod consolidation, standardized packaging, cask decontamination, and centralized transportation—without an MRS facility. More utilities—44 percent—would prefer a waste management system with only a repository to one with both a repository and an MRS—39 percent. Of course, this was before DOE postponed the repository.

The MRS is not the solution to the problems of the nuclear waste program. This amendment will curb DOE's efforts to turn the MRS into a quick-fix political solution to the real problem of final nuclear waste storage. Four and a half years after its passage, the Nuclear Waste Policy Act, created to address the problems of nuclear waste disposal, has generated controversy and deserves review. I urge my colleagues to join in the effort to find a technologically and environmentally sound approach to the flaws in the nuclear waste disposal program. We should not push forward blindly simply for the sake of taking some action to get the program back on track. Instead, we should take this opportunity to review the evidence and rebuild the program on a sound platform. I urge my colleagues to support this amendment to rebuild the consensus.●

Mr. LEVIN. Mr. President, I support the Cohen-Mitchell amendment which eliminates funding for research into the second waste repository. I do so, in part, because there is nothing in this amendment or in the Johnston amendment previously adopted which suggests that there were procedural flaws in the manner by which the pool of States for the second repository was chosen. Furthermore, there is nothing in the debate on either of these amendments which gives rise to such an implication. The purpose of the Cohen-Mitchell amendment is simply to eliminate the funding for research on the second repository in light of the delay mandated by the Johnston amendment in analysis of the second repository.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Madam President, I take this time only to indicate it would be my hope that we can adopt this amendment very quickly. I wonder if the Senator from Louisiana would also ask—I know of no objection to the amendments—that we might be able to get them adopted and treated as original text.

Mr. JOHNSTON. I see no problem with that.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1157) was agreed to.

Mr. JOHNSTON. Madam President, parliamentary inquiry. Do there remain two amendments yet to be adopted? Those were taken care of by the unanimous-consent request, I believe.

The PRESIDING OFFICER. There are no amendments pending at the desk.

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

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the amendments just adopted be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, the request is agreed to.

Mr. HUMPHREY. Mr. President, the nuclear waste problem facing the Nation has changed significantly since January 1983, when the Nuclear Waste Policy Act was enacted. It is only logical, therefore, that we revise the act. The nuclear waste language under consideration, introduced by the chairman of the Energy Committee, Senator JOHNSTON, would make needed revisions to the Nuclear Waste Program.

Importantly, these amendments rescind the requirement that the Department of Energy find a second repository site. Such a rescission makes sense, inasmuch as the Secretary of Energy has determined there is no need for two repositories in the foreseeable future.

According to the Department of Energy, since 1982, estimates of the inventory of spent fuel have decreased by over 40 percent. No nuclear plant ordered after 1973 is either under construction or operating. No new nuclear plants have been ordered since 1978. And, since passage of the NWPA, 34 nuclear plants have been canceled. These facts, combined with the increasing use of extended burnup, a technology where utilities extend the use of their fuel rods, have led to the steep decline in DOE's estimates of spent-fuel discharges.

We are simply not generating the amount of waste anticipated when the act was passed in 1982. Faulty predictions yielded faulty legislation.

Mr. President, I believe we should go further than elimination of the second site, we should also remove the arbitrary and unscientific limit on the amount of waste which could be disposed of in a first repository. The 70,000 metric ton limit contained in the existing law is without technological basis whatsoever. It is a purely political figure.

Another major reason for revision of the Nuclear Waste Policy Act is cost. Since 1982, estimated costs of the program have mushroomed. A recent General Accounting Office Report estimates that site characterization for three sites, originally thought to cost between $180 and $240 million, could cost as much as $5.8 billion. A recent DOE analysis projects that the total cost of site characterization and construction of two repositories could be as high as $36.6 billion. This figure stands in sharp contrast to DOE's July 1983 estimate for a two repository system of $19.6 billion.

It simply does not make sense to waste money on expensive activities and facilities which we do not need.

Senator JOHNSTON's amendment No. 1157, provides some important improvements to the language contained in S. 1668.

Clearly, DOE made an egregious error in choosing a site in New Hampshire for a potentially acceptable site for a high level nuclear waste repository. Upon review of New Hampshire's Cardigan pluton site, it is readily apparent that the site is unfavorable for a nuclear waste repository. The New Hampshire site, spewed forth from DOE's site selection process, is located in a populated area full of environmental and historical value.

This amendment provides additional safeguards to prevent the selection of flawed sites including a requirement that, should the Secretary ever consider crystalline rock sites in the future, criteria such as seasonal population be taken into consideration. This requirement should serve to eliminate any consideration of a New Hampshire site. The State is thick with second homes and seasonal influxes of tourists. In fact, tourism is the second largest industry in New Hampshire.

According to the New Hampshire Office of State Planning, there are approximately 2,000 seasonal housing units within the seven towns contained in the New Hampshire site. Thus, at certain times, peak daily use of the area increases by two of three times its estimated population.

Not only are the seasonal tourism activities essential to this area of New Hampshire, but also, this area is thriving and growing. By the year 2010, the population of the Hillsborough area is projected to increase by 60 percent. A booming residential and vacation area is clearly not a wise spot for the Nation's nuclear waste dump.

Another new siting criterion included in Senator Johnston's amendment is proximity to public drinking water supplies. More than 600,000 gallons of ground water are pumped out of the Cardigan pluton rock wells each day. Within a 6-mile radius of the New Hampshire site, there are 6 municipal water supplies, 12 small community water systems and 133 other public water supply systems. The provision instructing DOE to give priority consideration to public drinking water supplies is intended to disqualify sites, such as that in New Hampshire, which contain an abundance of water supply systems.

This amendment provides for the termination of all research on the suitability of crystalline rock within 6 months. This measure corresponds with the suspension of the second repository program. There is simply no reason to continue expensive granite research when there are no plans for locating a site in crystalline rock.

Mr. President, I understand why citizens in the Hillsborough area of New Hampshire lack confidence in an agency which chose an inadequate and unfavorable site in New Hampshire as a potential site for a repository. I believe that the provision establishing a National Academy of Sciences Review Board will increase confidence in DOE's program by providing a necessary independent review of the technical and scientific aspects of DOE's work.

Mr. President, the inclusion of this amendment has improved significantly upon the earlier proposals offered by the chairman of the Energy Committee, Senator JOHNSTON and the ranking member, Senator MCCLURE, to amend the Nuclear Waste Policy Act.

Mr. HUMPHREY. Mr. President, I have a few inquiries which I would like to make to the manager of the energy and water appropriations bill regarding amendment No. 1157.

First, I understand that under this amendment all existing research programs on granite as a host medium for a nuclear waste repository will be phased out within 6 months of enactment. Although this provision will result in a significant reduction in research expenditures, am I correct in my assessment that the basis for this provision is simply that there is no reason to continue expensive granite research when all plans regarding locating a site in crystalline rock have been suspended?

Mr. JOHNSTON. The Senator from New Hampshire is correct in his assessment of the provision.

Mr. HUMPHREY. The manager's amendment includes additional siting criteria which the Secretary of Energy shall consider in the event that, at any future time, crystalline rock is considered as a potential host medium. New Hampshire's Cardigan pluton site is located in a well populated and rapidly growing area dependent upon seasonal influxes of tourists. Is it the manager's understanding that in establishing seasonal increases in population as a potentially disqualifying factor, the Secretary of Energy shall consider the effect of temporary population increases due to tourism as well as the effect of second homes and other seasonal housing units?

Mr. JOHNSTON. Yes, that is my understanding.

Mr. HUMPHREY. The inclusion of the proximity to public drinking water supplies as a potentially disqualifying factor is particularly important to the small State of New Hampshire. I interpret that this provision would lead to the potential disqualification of sites in close proximity to significant municipal, community, and other public water supply systems.

Mr. JOHNSTON. The Senator from New Hampshire is correct in his interpretation.

Mr. HUMPHREY. I thank the Senator from Louisiana for taking the time to clarify his amendment.

AMENDMENT NO. 1158

(Purpose: To make consideration of public health and safety of primary importance in selecting a permanent nuclear waste repository)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1158.

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

"Sec. . IMPORTANCE OF PUBLIC HEALTH AND SAFETY IN SITE CHARACTERIZATION.

(a) Notwithstanding any other provision of law or this Act, the Secretary of Energy, in selecting the preferred site for characterization as a permanent nuclear waste repository shall give primary consideration to potentially adverse impacts on the public health and safety of locating a repository at such site.

(b) All other considerations shall be subordinate to that in paragraph (a) above.

Mr. REID. Madam President, the amendment I have just offered is aimed at correcting what may be the most serious flaw in the Nuclear Waste Repository Program—a flaw that is compounded by the inclusion of S. 1668 in this energy and water appropriations development bill which is now before this body.

My amendment makes it abundantly clear that public health and safety is the single most important criteria for selecting the site of the Nation's first permanent nuclear waste repository. It directs the Secretary of Energy to make public health and safety the most important criteria for selection of the preferred site for characterization as a permanent geologic high-level radioactive waste repository. It also makes very clear that all other considerations must be secondary to the preservation and future protection of public health and safety.

I have talked at length over the past several days about how the Department of Energy has subverted the site selection process since enactment of the 1982 legislation. Others here have echoed that sentiment based on the facts at hand and on their own dealings with the Department. One of the most grievous of their acts has been to "create" a set of site selection criteria that has put such qualities as "aesthetics" and "environmental concerns" on an equal footing with public health and safety.

S. 1668, as presented, not only does not correct the problem, it further compounds the error by adding such considerations as ease of licensing and cost, and making them just as important as public health and safety.

Madam President, I cannot agree to that criteria being used to select the Nation's first high-level radioactive waste repository. We are not making a

business decision to select a site for a new resort from among uninhabited islands in the Caribbean. We are, in essence, selecting the Nation's first repository. This repository, for example, if it comes to Nevada, will be located about 20 miles from the California border. I think public health and safety should be a consideration. Cost should not even enter the conversation. Safety, especially as it pertains to the people of this country over a timespan of 10,000 years, cannot be given a monetary value.

The distinguished floor manager, my friend from Louisiana, has made numerous references to the cost savings his approach provides and with that argument has questioned the motives of those who have opposed his legislation. I would like to state unequivocally that cost is not a factor to this Senator when it comes to protection of the public. That is why I am proud to serve on the Environment and Public Works Committee. That is why both committees share jurisdiction over the nuclear waste issue. Each committee brings a different perspective to the problem.

If we must continue down the perilous path that we have chosen for obviously political reasons, we must retain basic safeguards to ensure that public health and safety are protected. This body cannot allow the political decisionmakers to ignore the technicians and those who will ultimately license the facility.

The decision to select the site for the nuclear waste repository must not be reduced to dollars and cents. Should a future nuclear waste disaster occur, I do not believe that our ancestors in the year 3000 A.D., not to mention much longer than that, will understand the delicate budget negotiations that my good friend the Senator is now involved in with the White House that resulted in the saving of a few 1988 dollars. I would encourage all Members of this body to not let the temporary monetary difficulties that face this body, and the other body, or this country to overshadow the decision that we are now making dealing with the most poisonous substance known to man.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Washington such time as he may require.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Washington.

Mr. EVANS. Thank you, Mr. President.

This amendment appears on the surface to be a motherhood amendment, one that everyone could agree to but it very cleverly distorts what has been a carefully put together bill, one which I believe has as I said earlier this morning added to the provisos in the original act of 1982 a number of considerations which should be given primary concern. There is no question, there is absolutely no question, that this Nation is going to place a deep repository in a place where the public health and safety will be adversely affected. That is what a lot of this debate is all about. But, Mr. President, that is not the only consideration. All of these elements have to be taken into account. Potentially adverse impacts on the public health and safety are simply an absolute. No one is going to put a repository, this Congress would not allow the siting of a repository, where it was felt that public health and safety would be adversely affected.

It is an attempt merely to advance one element over others in a way which I suspect my distinguished colleague from Nevada feels might be of benefit to his own State in his own area. We are beyond that, Mr. President. This is not a case of one State versus another. It is a case of taking into account the elements which are of importance in trying to find a site for a deep repository.

Those include the prospects for successfully licensing a repository. Successfully licensing a repository includes within it, it is inherent in the whole licensing process, that the public health and safety be an important concern. Potentially disqualifying factors at the site; that, too, would take into account the potential disqualification of a site because of well-understood problems of health and safety.

Certainly, if we are going to suggest that, having taken into account all of these other elements, that cost should be ignored, it is simply ludicrous. That is what we are all about right now, trying to figure out how to carry on the business of the Nation, carry it on effectively and safely, for the benefit of our citizens, and do it in the most efficient and cost-effective manner possible. To say that, even in an issue as important as this, we should ignore cost is, as I said, simply ludicrous.

Mr. President, I think that the bill as it has originally been presented and as it has been amended as part of the original text is a good bill. It is carefully calculated to take into account the broad interests that we take into account on virtually every other thing we do, whether it is nuclear waste, national defense, a number of very important and sometimes quite dangerous projects which we construct. We always take into account health and safety, the public interest. We take into account all these other issues as well.

I think it is inappropriate at this point to attempt to lift one beyond the other and say again to the Department of Energy: "You have to consider one thing but not all these other elements in trying to come up with the best answer"—which, I reiterate, never would include a successful characterization of a site that would adversely affect the public health and safety of our citizens.

Mr. REID. I yield myself whatever time I require.

Mr. President, I state to the manager of the bill and the senior Senator from Washington that if the Senator misunderstood my statement, I am sorry about that. I want it understood that what we are saying is that public health and safety should be the No. 1 consideration, that the other factors certainly should enter into the picture. It is a motherhood amendment.

I ask the senior Senator from Washington a question: If Washington is selected, would the Senator from Washington want cost put ahead of the public health and safety?

Mr. EVANS. Of course not. And I would not want a site to be chosen—whether it was Washington, Nevada, or any other place in the country—to be chosen where there was an equivalent for the public health and safety and ignore cost. Of course, you have to take all these things into consideration.

Inherent in at least two of the other listed elements to which we give primary consideration are elements which embed in them the whole nature of public health and safety.

So I think it is unnecessary and unwise to attempt to distort what are already very calculated elements, all of which are to be taken into account.

Mr. REID. I agree with the Senator from Washington that cost should not be ignored.

This amendment says that public health and safety should be the No. 1 criteria. Of course, cost is important. Of course, the ability to license is important. But the No. 1 criteria should be the public health and safety.

The reason is quite basic: We have talked a lot about nuclear waste, and there was even one Senator this morning who said nuclear waste was safe. Nuclear waste, of course, is not safe, and nuclear waste is something that is all over the country.

Mr. President, I bring to the attention of the Senate a book that was recently published, written by Bartlett and Steele. The beginning paragraph of this book, I think, is quite descriptive of why public health and safety should be the No. 1 criteria. I quote from the prolog of this book:

> The turtles that creep along the banks of the Savannah River, near Aiken, South Carolina, are radioactive. So is the water in a well that serves the borough of Lodi, New Jersey. So, too, a drainage ditch that runs along a street in an industrial park in southeast Houston. The turtles, the water, and the soil were once free of radioactivity.

They are now contaminated because of the ignorant and careless handling of radioactive materials. More important, they are a symptom of the inability of government and industry to control nuclear waste, a catchall phrase for scores of the most deadly and long-lived toxic substances ever manufactured.

The evidence of that failure, spanning more than forty years, can be found in hundreds of places where radioactive waste has been stored or dumped.

Mr. President, we are simply saying that the No. 1 criteria of the nuclear waste policy of this country should be public health and safety. The other things are important, but they are certainly not as important as public health and safety. This is the intent of this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, there is absolutely no difference between the managers of the bill and the distinguished Senator from Nevada in putting safety first.

The present amendment, which is the pending legislation he is trying to amend, puts safety as a primary matter. The way it reads in section 402 of S. 1668 is this:

In selecting the preferred site under this subsection, the Secretary shall give primary consideration to—

"(A) prospects for successfully licensing a repository at such site;

"(B) potentially disqualifying factors at the site;

"(C) potentially adverse impacts on the public health and safety and the environment of locating a repository at such site; and

"(D) the estimated cost of characterization, development and operation of repository at such site.

All four factors are primary. In one sense, some of the factors are redundant. The prospects for successfully licensing a repository and potentially disqualifying factors, I guess, are probably redundant. But obviously you want to give primary consideration to the prospects of licensing a site; because you could have the safest site in the world, but if you could not license that site, then it would be a monumental waste of money and, I guess, in the long run, probably adverse to public health and safety, by not solving the problem of nuclear waste.

So, surely, all of us would agree that the prospects of licensing that site ought to be important. As I say, we put in, as a primary factor, public health and safety. We also put in the question of cost.

So what our legislation does is make clear the public health and safety is considered as a primary factor. It is a factor sine qua non, without which you cannot get selected. You must cross that threshold, but we want to cross more than just the health and safety threshold. We also want to make sure that we do not waste money by picking a safe site which cannot be licensed, and we also want to take into consideration the cost.

This is not one of those cost-benefit ratios, where you surender safety for the purpose of cost. That is not the intent at all.

Rather, we require as a primary factor that health and safety be satisfied and that you also consider licensability and costs. All of those factors ought to be considered, and that is why all of the factors are put in the legislation.

Mr. EVANS. Mr. President, I wonder if the Senator will yield for a question?

Mr. JOHNSTON. I yield myself an additional minute and will yield for a question.

Mr. EVANS. If the chairman would, is it not true that these elements which have been listed and which the Senator from Nevada would wish to change really have to do with the selection of a site to be further characterized, that is all, and that once that site is selected for characterization, then all of the mechanisms of the act of 1982 go into effect? Absolute assurance of public health and safety become at this point paramount as they always would and do in the current act as it now sits and these other factors of licensability and costs would be taken into account. But what we are talking about here is merely to look at all of these factors to choose a site to be characterized. It in no way will affect the ultimate decisions on safety and health at a particular site once it is chosen.

Mr. JOHNSTON. Mr. President, the Senator from Washington makes an excellent point and it is very true. All of the factors built into the Nuclear Waste Policy Act regarding NEPA statements, licensing by NRC, and all of that myriad and complicated matrix of regulations leading to an eventual license to be issued to the repository are still in place.

Mr. EVANS. Right.

Mr. JOHNSTON. All we are dealing with, as the Senator from Washington points out, is the selection of the one site for characterization, and the reason it is so important to consider ultimate licensability is, if that site turns out not to be suitable after you dig this 3,000-foot shaft down into the ground, then you would have to go to an alternate site and with the delay and expense that that would entail. So we want to be sure that we pick a safe site which is also licensable which is also cost effective. That is why all the factors were built in.

I hope with that assurance the Senator from Nevada will understand that or will be reassured relative to the safety importance and primary consideration given to safety in the amendment that is now pending.

Mr. REID. Mr. President, this started out as an amendment to apple pie and motherhood. It appeared for some unknown reason that public health and safety for whatever reason should not be the primary consideration in the minds of those who are opposed to our pushing S. 1668.

I repeat, I do not believe the American people want public health and safety to be of lesser importance than any other consideration; licensing, cost, environmental concerns should be secondary. Public health and safety should be primary.

We all know that the chairman has said that there is, and correct me if I am not right, but I am quite certain he said 90 percent of sites chosen for characterization will be acceptable. Why can we not have public health and safety the primary consideration? I think we would have listened to what has gone on in this body for the past couple of weeks. I am convinced that nuclear waste and things nuclear generally have not been handled well by the Federal Government. We have a series of episodes that start way back in the early part of this century, clear through the atomic atmospheric tests to present day handling of low-level waste and now high-level waste.

I think it is wrong to have people say the Government is going to take care of us, do not worry, public health and safety is not an important consideration. I say it should be the primary consideration. That is all this amendment does.

Mr. JOHNSTON. Will the Senator yield?

Mr. REID. I am happy to yield to my friend from Louisiana.

Mr. JOHNSTON. Let me put my objection to the Senator's amendment in context and maybe we can understand if there is a difference between us.

What the present legislation says is that you have to have a safe site before it can be picked but you also want to get a licensable site. What we want to avoid is having a choice of two sites, both of which are totally safe but one of which might rank a whisper ahead of the other in terms of safety but not be licensable and require DOE to pick a safe site which is unlicensable with the probability that you are going to waste years and billions of dollars, when a site virtually as safe, totally safe, which could be licensed would be available. In that given a choice between a safe unlicensable site and a safe licensable site, I think my friend would agree, would he not, that you ought to pick the safe licensable site?

Mr. REID. Mr. President, in response to my friend from Louisiana, we can have all the formulas we want, and the DOE has done a good job of juggling the formulas based upon the 1982 act. We are saying in this amend-

ment that licensing is important, cost is important, environmental concerns are important. They even talk about esthetics as being important. I will throw that in as being important. But I say the number one consideration should be public health and safety. I think that this body should send a message to the rest of the country that if there is a site being chosen public health and safety will be the number one criteria.

What protects us against a cheap unsafe site being picked over a safe more expensive site? I think that we are really getting ourselves into a tunnel that we might not be able to get ourselves out of it if we put the consideration of health and safety on a secondary basis. I repeat for the third time, we are not saying do not consider licensability. We are not saying do not consider cost, do not consider esthetics, do not consider environmental concerns. Of course, we do. But we are saying they should not be of primary importance. The public health and safety should be the number one criteria and, based upon what the Department of Energy has done with the 1982 act, I think that is a reasonable approach to this legislation.

The PRESIDING OFFICER. Does the Senator from Nevada yield the floor?

Mr. REID. The Senator from Nevada does yield, reserving his time.

Mr. LEVIN. Mr. President, although I am sympathetic to the goals of the Reid amendment, the committee bill already provides for health and safety to be a primary consideration, among other primary considerations, in the location of a high level nuclear waste repository.

Also, the Reid amendment could be counterproductive in the choosing of such a site. It would be possible under the Reid amendment to have a site selected on grounds that it 100 percent met the health and safety requirement, even though it might not be able to be licensed, whereas a site that 99 percent met the health and safety requirement and could be licensed would, nevertheless, not be selected. Such a resolution would guarantee that no high level nuclear waste repository be selected.

Mr. JOHNSTON. Mr. President, I think the issue is a simple one. If the Senator from Nevada is ready to yield back his time, we will be ready to do the same.

Mr. REID. I ask for the yeas and nays and yield the remainder of my time.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Nevada yield back the remainder of his time?

Mr. REID. Yes.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. JOHNSTON. I yield back the time.

The PRESIDING OFFICER. All time has been yielded.

The question is on agreeing to the amendment of the Senator from Nevada. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee, [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] and the Senator from Massachusetts [Mr. KERRY] would each vote yea.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from California [Mr. WILSON], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON], would vote nay.

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

The result was announced—yeas 37, nays 56, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—37

Adams	Graham	Nickles
Baucus	Gramm	Packwood
Bentsen	Harkin	Pryor
Biden	Hecht	Reid
Bradley	Inouye	Riegle
Breaux	Kennedy	Rockefeller
Bumpers	Lautenberg	Sanford
Burdick	Leahy	Sarbanes
Cohen	Matsunaga	Sasser
Dixon	Metzenbaum	Specter
Dole	Mikulski	Stevens
Fowler	Mitchell	
Glenn	Moynihan	

NAYS—56

Armstrong	Ford	Nunn
Bingaman	Garn	Pell
Bond	Grassley	Pressler
Boren	Hatch	Proxmire
Boschwitz	Hatfield	Quayle
Byrd	Heflin	Roth
Chafee	Heinz	Rudman
Chiles	Helms	Shelby
Cochran	Hollings	Simpson
Conrad	Humphrey	Stafford
Cranston	Johnston	Stennis
D'Amato	Karnes	Symms
Danforth	Kassebaum	Thurmond
Daschle	Kasten	Trible
Dodd	Levin	Wallop
Domenici	McCain	Warner
Durenberger	McClure	Weicker
Evans	Melcher	Wirth
Exon	Murkowski	

NOT VOTING—7

DeConcini	Lugar	Wilson
Gore	McConnell	
Kerry	Simon	

So the amendment (No. 1158) was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 1159

(Purpose: To clarify that judicial review of prior administrative or executive actions or decisions rendered under the Nuclear Waste Policy Act of 1982 is preserved and that any judicial decision concerning such prior actions or decisions will affect the eligibility of a site or sites for selection as the preferred site under any provision in this Act)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1159.

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

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

The amendment is as follows:

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

"SEC. . Nothing in this act shall ratify or exempt from judicial review prior administrative or executive actions or decisions related to the repository site selection process under the Nuclear Waste Policy Act of 1982. In the event that any action of the Secretary of Energy, President, the Administrator of the Environmental Protection Agency or the Nuclear Regulatory Commission under any provision of the Nuclear Waste Policy Act of 1982 prior to the date of enactment of this act is by judicial decision invalidated or affected in such a way as to modify or render invalid the candidate status of any or all candidate sites recommended for site characterization, such site or sites shall not be eligible for selection as the preferred site for sequential characterization as a permanent nuclear waste repository."

Mr. REID. Mr. President, my second amendment, like the first, is simple and straightforward. It is to preserve existing court cases that have been filed by the States and other interested parties. It is not meant to provide a mechanism upon which new lawsuits can be brought.

I do not believe that S. 1668 provides adequate assurances to protect those lawsuits now in litigation in courts around the Nation. My State, Nevada, like other States, has spent many thousands of dollars in lawsuits that are now pending. These are not nuisance suits, the various State attorneys general have filed suits based on

valid and specific instances where the rights of the State and of its citizens have been infringed upon. Many of the speakers in the past few days have recounted their personal experiences with the Department of Energy. We all know that they have played fast and loose with the Nuclear Waste Policy Act of 1982. S. 1668 exonerates them of their unethical and illegal activities. If the Congress cannot or will not provide a remedy through legislation, we cannot foreclose judicial remedies from those who have been wronged.

Mr. President, if the courts sustain the legal challenges of the States and other parties, as they—and I—are confident they will, those lawsuits should not be nullified. I believe that my amendment is necessary to clarify S. 1668 so that the right of due process guaranteed by our Constitution and laws promulgated by this body, are not foreclosed.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in discussing this matter with the distinguished Senator from Nevada, I believe that the provision in our bill, that is, subsection (g) on page 8 of S. 1668—I do not know what page it is now in the bill as amended—fully provides, and I think perhaps even broader than the Senator's amendment, preserving the right of judicial review. It says:

(g) Nothing in this section affects judicial review of actions of the Secretary, the President, or the Commission taken under titles I or III prior to or subsequent to a decision of the Secretary under subsection (a), paragraph (b)(2), or subsection (c).

Our amendment is intended to and does provide that the remedy of the court follows the review. In other words, the preservation of the right of judicial review includes the appropriate remedy that the court might render so that if the court found that there were a flaw in the selection process, for example, then the right of the court to take appropriate action, whether it is to completely invalidate, amend, or revoke that selection process, or to order a resubmission, or for whatever reason, the court's remedies that go with that right of review are fully preserved.

I am wondering with that explanation if the Senator would be satisfied or if there is some other question he has concerning subsection (g) in the pending legislation.

Mr. REID. If I may respond to the Senator from Louisiana, I want the legislative intent to be clear that any actions that are pending prior to the passage of this legislation will be protected under the process that is now in force, that is, the 1982 act, and that whatever we do as a body, and the other body concurring, we do not somehow wipe out actions which are now in existence.

Mr. JOHNSTON. Mr. President, I can assure the Senator that subsection (g) does exactly that. That is its purpose and that is its intent. We had a full discussion on that matter while it was pending in the Energy and Natural Resources Committee. The record fully supports what I have just said about the language and I think the language does as well. That was our full intent, to have that right of judicial review fully and completely protected.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. There might be one exception to that, and I will ask the Senator from Louisiana if that is correct. This bill now, in effect, suspends the action relative to a second repository and there might be an action pending at this time dealing with that selection process. The fact that we extended the time for the second process would nullify the basis for a court action. But I think in a general sense, with perhaps that exception, I would agree with the statement of the Senator from Louisiana.

Mr. REID. This Senator has no concern about the second site.

Mr. President, I ask unanimous consent that the name of the junior Senator from Washington [Mr. ADAMS] be added as a cosponsor of this amendment.

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

Mr. REID. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has withdrawn his amendment.

Mr. JOHNSTON. I thank the Senator from Nevada and the Senator from Washington.

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

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

Mr. JOHNSTON. Mr. President, I am now advised that the Senator from Washington [Mr. ADAMS] who has a reservation of three amendments under the unanimous-consent request, each being an hour and a half in total length, 45 minutes on each side, is now willing to shrink that request to one amendment to be offered at some later time with the same time constraints. And I now ask the Senator from Washington, is that correct?

Mr. ADAMS. The manager of the bill is correct. I would have only one amendment, and I would offer it at a later time, probably at the end of the bill so there would be time available now for the manager to move to whatever other amendments he may have.

The PRESIDING OFFICER. Is there objection? if not, it is so ordered.

Mr. JOHNSTON. Mr. President, is the unanimous consent so modified to reflect that?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes.

Mr. McCLURE. Mr. President, if I understand the situation correctly, the Senator from Washington has reduced the number of amendments that he would offer under the previously entered into unanimous-consent agreement. Then we would have the amendment to be offered by the Senator from Washington to the nuclear waste section, the motion to recommit that has already been reserved under the unanimous-consent agreement of the Senator from Louisiana [Mr. BREAUX], the six, five or six, amendments that may be offered by Senator HECHT from Nevada, and I know of no other amendments at this time to be offered to the nuclear waste section. The unanimous-consent agreement, however, as entered into at this time does not preclude other amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. The reason I ask the question of the Senator from Louisiana at this time is because it might expedite the handling of this bill, if after notifying people on both sides of the aisle that this indeed might be the case we might attempt to close the nuclear waste section with the exception of those identified amendments and motions. Would the Senator from Louisiana concur that we might at some future time not too far from now hopefully ask for that modification of the unanimous-consent agreement and all Members who therefore have an interest in the nuclear waste section might be advised if they have amendments that they should identify them so we can know whether we can get such a unanimous-consent agreement.

Mr. JOHNSTON. Mr. President, the Senator makes a good suggestion. I would say at this time, however, that the bill is open to amendment, and I have been advised of only one or two amendments. There may be a number. But I have not personally given any Senator nor has any Senator asked me for a time certain to hold the bill open.

So I urge Senators, if they have amendments, now is the time to come and do them, because we will not be in quorum calls indefinitely, waiting for amendments to be offered. In other words, we are ready to do business, and we are ready to go to third read-

ing shortly after, which I hope will not be too late tonight.

So I urge Senators to please come and offer amendments.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

I think that under the original unanimous-consent agreement, the Senator from Washington had the opportunity to offer several amendments, and he has now reduced that to one. The original unanimous-consent agreement also preserved the right for second-degree amendments to be offered to the amendment if they were germane to the amendment. That would apply to the one that remains, would it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

AMENDMENT NO. 1160

(Purpose: To provide for a reconnaissance study with respect to the Androscoggin River Basin and its tributaries, Maine)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON, for Mr. MITCHELL (for himself and Mr. COHEN), proposes an amendment numbered 1160.

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

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

The amendment is as follows:

On page 5, after line 20, add the following new paragraph:

"The Secretary of the Army, acting through the Chief of Engineers, is directed to use not to exceed $300,000 to conduct a reconnaissance level study with respect to the Androscoggin River Basin and its tributaries, Maine."

Mr. JOHNSTON. Mr. President, this is an amendment which does not add money to the bill—let me make that clear—but provides for a $300,000 study, within available funds, of the Androscoggin River in Maine, which has been the subject of a tremendously difficult flood this year. It simply requires the Corps, within available funds, to study that river and its flood effect. This amendment is offered on behalf of the Senators from Maine [Mr. MITCHELL and COHEN].

Mr. MITCHELL. Mr. President, I am pleased that both sides have agreed to an amendment to enable the Corps of Engineers to conduct a reconnaissance study concerning the Androscoggin River basin in Maine.

On April 9, 1987, the State of Maine was declared a Federal disaster area. Flooding in central and southern Maine far exceeded the previous record flood in 1936 and caused more than $60 million in damage. It was the worst flood in Maine since the inception of flood records.

Homes were washed off foundations, fuel storage tanks were washed above ground and downstream, and hundreds of individuals and businesses incurred major and minor damage.

A particularly great loss for the State was the destruction of the Fort Halifax blockhouse located in Winslow. A national historic landmark, the blockhouse was constructed in 1754 during the French and Indian War and was the oldest surviving blockhouse in the United States. Funds alone will not compensate for this historic site that was swept away and broken apart.

In May, the Environment and Public Works Committee authorized a resolution directing the corps to prepare a reconnaissance report to determine possible methods of preventing future flood damage in the Saco River, Kennebec River, and Penobscot River basins, and their tributaries. At that time, the corps' estimate of damage to the Androscoggin River basin was incomplete and inadequate.

More recent estimates from the corps indicate that the Androscoggin River basin also incurred substantial damage. While the damage estimates are not final, it is now estimated by the Maine Emergency Management Agency and the Maine State Planning Office that Androscoggin River basin incurred between $12 and $25 million in damage. In view of these estimates, in October, the Environment and Public Works Committee authorized an additional reconnaissance study to examine the Androscoggin River basin and its tributaries.

The resolution is not controversial and will be subject to the cost-sharing requirements of the Water Resources Development Act of 1986, Public Law 99-662: The first reconnaissance study will be conducted at full Federal expense. The corps has estimated this to cost $300,000. If the reconnaissance study indicates that a viable project exists, the cost of additional feasibility studies must be cost-shared 50-50 by the non-Federal sponsor.

Since the corps cannot assist the Androscoggin River communities in preventing future flood damage without the initial reconnaissance study, and since the second phase study that will be cost-shared cannot be undertaken without completion of the initial reconnaissance study, my colleague Senator COHEN and I request approval of the initial study of the Androscoggin River basin.

Mr. COHEN. Mr. President, my good friend and colleague from the State of Maine, Senator MITCHELL, and I are offering an amendment to the energy and water development appropriations bill for fiscal year 1988 that will appropriate $300,000 for an Army Corps of Engineers study of flood problems in the Androscoggin River Basin and its tributaries in Maine.

In April of this year, the State of Maine experienced the worst flood in the State's history. It was not until I actually saw boats in the streets, inaccessible houses, washed out bridges, flooded fields and impassable roads that I understood the true extent of the disaster. The picture I saw was one of complete devastation.

Mr. President, cleanup efforts are well underway, and the study we are requesting is designed to determine what steps can be taken to avoid such problems in the future. It will look at the severity of the flood, how probable it would be for a similar flood to occur again as well as hydrological changes that may have happened gradually in the last 100 years and changed the circulation of the waters.

I urge my colleagues to join Senator MITCHELL and me in supporting this important amendment.

Mr. McCLURE. Mr. President, we have no objection to the amendment on this side.

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

The amendment (No. 1160) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1161

(Purpose: Technical amendment to make changes to the bill to reflect budget amendments received after completion of committee action)

Mr. JOHNSTON. Mr. President, I send four amendments to the desk and ask unanimous consent that they be considered en bloc.

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

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes amendments en bloc numbered 1161.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 13, line 18 insert the following before the colon: "Conservationist.".

On page 15 line 1 strike "$1,404,738,000" and insert "$1,400,000,000".

On page 15 line 10 insert the following before the period: *"Provided further,* That none of the funds made available under "Operation and Maintenance, General" shall be used to pay the expenses of the Department of the Army regulatory activities"

On page 15 line 22 strike "$55,262,000" and insert "$60,000,000".

On page 15 line 23 insert the following before the period: *"Provided,* That $5,000,000 shall be available for obligation only after the Secretary of the Army in consultation with the U.S. Army Corps of Engineers has submitted to the appropriate Congressional committees concurrently with transmission of the fiscal year 1989 budget, a legislative proposal, including fee schedules, to recover all actual costs of Department of the Army-Civil regulatory programs: Provided further, That the Secretary of the Army shall work with the General Accounting Office to ensure that effective auditing and cost accounting procedures which meet standards acceptable to the Comptroller General are established at the earliest possible time"

On page 18 after line 19 insert the following new section.

"SEC. . None of the funds made available under "Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil", except as provided for under "General Regulatory Functions", shall be used to pay the expenses of the Department of the Army/Civil regulatory activities."

On page 55 line 7 insert the following before the colon: "or Public Law 100-119".

On page 25 line 12 strike "$30,809,000" and insert in lieu thereof: "$29,809,000".

On page 25 line 19 strike "$29,472,000" and insert in lieu thereof: "$28,472,000".

On page 25 line 25 insert the following before the period: ": *Provided further,* That not to exceed $1,009,000 shall be available for the Hidalgo County Irrigation District No. 1 supplemental loan".

On page 21 line 4 insert the following before the colon: ": *Provided further,* That within available funds $18,400,000 shall be for continuing the clean-up and related activities of the Kesterson Reservoir and the San Luis Drain of the Central Valley Project in California".

Mr. JOHNSTON. Mr. President, these are technical amendments to correct a printing error in the bill and to incorporate budget amendments submitted by the President subsequent to the committee completing its action on the energy and water bill.

The amendments are, first, adjustments to reflect budget amendment to increase general regulatory activities of the corps from $55 million to $60 million. Those funds were shifted within the bill.

Second, adjustments to reflect the budget amendments to provide $18.4 million for the continued cleanup of Kesterson Reservoir in California.

Third, to amend section 503 to include the new Gramm-Rudman-Hollings law provisions;

And, fourth, an amendment to correct a printing error in the bill made during printing.

The amendments do not add funds to the bill, contain no budgetary impact and, of course, are jointly submitted on behalf of myself and the Senator from Idaho [Mr. McCLURE].

Mr. McCLURE. Mr. President, we have no objection to the amendments. We urge their adoption en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1161) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1162

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. WILSON and Mr. CRANSTON proposes an amendment numbered 1162.

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

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

The amendment is as follows:

On page 6 after line 8 add the following new paragraph:

The Secretary of the Army, acting through the Chief of Engineers, is directed to use not to exceed $450,000 to conduct reconnaissance level feasibility studies for raising Pine Flat Dam on the Kings River, California, for the purposes of providing additional water storage capacity and other related purposes.

Mr. JOHNSTON. Mr. President, this amendment is proposed on behalf of Senator WILSON and Senator CRANSTON and regards a Pine Flat Dam amendment to provide for a reconnaissance or study to help determine the feasibility of raising the Pine Flat Dam on Kings River in California for the purpose of creating additional water storage capacity. It is within available funds and therefore adds no money to the bill.

Mr. McCLURE. Mr. President, we urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1162) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1163

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. STAFFORD and Mr. LEAHY proposes an amendment numbered 1163.

On page 12, line 10, strike the period and insert a semicolon and the following: "Shelburne Bay, Vermont."

Mr. JOHNSTON. Mr. President, this amendment simply puts a citation of money for Shelburne Bay Dam in Vermont, which in the bill the administration had indicated they would not proceed unless it is in the bill. It was already in the report and is within available funds so, therefore, does not have any budgetary impact.

Mr. McCLURE. Mr. President, this amendment is on behalf of Senator STAFFORD and Senator LEAHY as I understand it.

We urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

SHELBURNE BAY, VT

Mr. STAFFORD. Mr. President, the amendment being offered by my good friend Senator LEAHY and myself adds no new money to the bill but is merely intended to ensure that the Corps of Engineers carries out the intent of the Appropriations Committee with respect to Shelburne Bay, VT.

The small $250,000 navigation project for Shelburne Bay, VT, has been before the Corps of Engineers for several years now. Despite the fact that this project has strong local support and despite the fact that the corps has determined this project to be both economically and environmentally sound, the administration has refused to let the corps begin construction.

Administration opposition to the project is based on their relatively recent policy of not starting any new projects which are primarily recreational in nature. However, even though the Shelburne Bay project is primarily recreational in nature, its construction is critically important to the economy of nearby local communities.

The intent of the Appropriations Committee to have this project constructed is shown clearly by the committee's report on H.R. 2700.

Regrettably however, recent experience has demonstrated that unless a project is supported by the administration, committee report language is insufficient to ensure the performance of that project by the Corps of Engineers.

Therefore, this amendment simply places the Shelburne Bay project in the language of the bill itself.

I ask that the Senate give this amendment favorable consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1163) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1164

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. SPECTER and Mr. HEINZ proposes an amendment numbered 1164.

On page 12 between lines 9 and 10 add the following: "Presque Isle Peninsula, Erie, Pennsylvania;"

Mr. JOHNSTON. Mr. President, this amendment relates to Presque Isle Peninsula, Erie, PA. It provides for work to be done on the recreation area there within available funds. It was already in the bill, but was in report language and not in the statutory language. This simply moves it to the statutory language, but is within available funds and, therefore, has no budgetary impact. It is proposed on behalf of Senators SPECTER and HEINZ, from Pennsylvania.

Mr. HEINZ. Mr. President, I rise in strong support of the amendment offered by my colleague, Senator JOHNSTON, the manager of the bill, on behalf of myself and Senator SPECTER. Let me first express my deep appreciation to Senator JOHNSTON for agreeing to include this amendment in the fiscal year 1988 energy and water development appropriations bill.

The amendment would direct the Secretary of the Army to initiate construction of the Presque Isle Peninsula permanent project in Erie, PA. The project was authorized in the Water Resources Development Act, Public Law 99-662. In addition, the Appropriations Committee has recommended in its report that the Army provide $2.5 million in fiscal year 1988 to initiate construction of the project.

This amendment will provide specific authority that the Army has requested in order to proceed with construction on this project.

Construction of the Presque Isle permanent project consists of building 58 offshore breakwalls in Lake Erie that will prevent beach erosion. Initiation of this project in fiscal year 1988 is important for two reasons. First, the Army is currently spending $1.25 million per year on a temporary beach nourishment program until these permanent structures are in place. Indeed, this year's appropriations bill includes these funds, which were included in the Army's fiscal year 1988 budget request. These expenditures will be cut by 90 percent once the breakwalls have been built. Simply put, the sooner the breakwalls are constructed, the earlier the Federal Government will realize savings in its temporary program.

Second, construction of the breakwalls will provide a permanent solution to the erosion problem. The Corps of Engineers stated in its June, 1985 report on the project that no action on this problem would result in the reduction of the productive ecosystem, reduce the protection of Erie Harbor, and diminish the recreational benefits Presque Isle currently provides. I would point out that annual attendance at the Presque Isle State Park ranges between 4 and 5 million visitors each year, second only to the Great Smoky Mountains in our national park system.

By moving forward with construction of this project, the Army will enable Presque Isle to provide these significant benefits. This amendment provides the necessary direction to initiate the construction, and I would like to express my deep appreciation to the chairman, Senator JOHNSTON, for agreeing to include it in the energy and water appropriations bill for fiscal year 1988. I urge adoption of the amendment.

Once again, I express my deep appreciation to the chairman of the committee, Senator JOHNSTON, for agreeing to include this particular language in the energy and water appropriation bill for fiscal year 1988.

Mr. McCLURE. Mr. President, we urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1164) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1165

(Purpose: To provide for a DOE acquisition strategy for replacement nuclear materials production reactors)

Mr. McCLURE. Mr. President, on behalf of myself and my colleague from Idaho, Senator SYMMS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself and Mr. SYMMS, proposes an amendment numbered 1165.

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

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

The amendment is as follows:

On page 41, insert on line 20 before the period the following:

": *Provided*, That within the funds available within materials production activities, the Secretary of Energy shall prepare and submit to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, not later than May 1, 1988, an acquisition strategy report for replacement production reactors. Such report shall provide the rationale and description of the recommended acquisition strategy for replacement nuclear materials production capacity that would fulfill the long-term requirements of the United States for tritium and plutonium, including the recommendation of the Nuclear Weapons Council with respect to matters within the responsibility of the Council. Such report also shall include an analysis of whether or not the acquisition strategy should provide for the procurement and construction of two or more replacement production reactors, either concurrently or sequentially. Such report also shall include, but not be limited to, an analysis of the use of alternative reactor technologies at one or more sites based on the most current information including overall program costs and schedules; safety, environmental and licensing features; strategic and national security benefits; and amortization of reactor capital and operating costs through the sale of byproduct steam. Such report shall include a comprehensive comparative financial analysis and cost estimate including annual and life cycle costs for research, development, design, construction, operating expenses and revenues and the levelized unit products costs relating to the replacement production reactor alternatives considered. The recommendations of the Secretary shall include a recommendation with respect to the preferred alternatives for achieving replacement nuclear materials production capacity, including the number of production reactors required, the preferred technologies, and the preferred sites, and a time schedule for their acquisition, construction, and operation. The provision of the National Environmental Policy Act (43 U.S.C. 4321, et seq) shall not apply to any actions taken by the Secretary in the conduct of activities associated with the preparation of such report, including, but not limited to, the formulation of an acquisition strategy or the selection of alternative technologies and sites for replacement production reactors."

Mr. McCLURE. Mr. President, the Committee on Energy and Natural Resources has just recently completed a set of hearings that revealed all too graphically the need to immediately begin planning for the replacement of our aging materials production reactor complex.

These hearings made it very clear to the members of our committee that our present set of production reactors are extremely vulnerable to aging and safety concerns. They are so vulnerable that they may not last the 10 years needed to bring on replacement production capacity. This causes me great concern, because we could have taken these steps 4 years ago and been that much ahead of the game. Four years ago, the Department of Energy was, in fact, proceeding with the initial planning and design of a new production reactor [NPR]. But that plan was abandoned just 2 years ago, due to budgetary constraints. The cancellation did not seem all that imprudent at the time, because we had five reactors running quite well, with no identifiable, insurmountable, life-limiting safety issues that would indicate they would not be around well into the 1990's.

Things didn't work out that way at all. First, the C-reactor in Savannah River, GA, was shut down due to irreparable cracks in the reactor vessel. Then the N-reactor in Hanford, WA, was shut down due to post-Chernobyl safety issues. Finally, the remaining three reactors at Savannah River were derated to 50-percent power level due to deficiencies identified in their emergency core cooling systems. So our complex of five reactors is now limited to one-and-one-half reactors' worth of production capacity.

Add to that the disturbing findings of the recently released National Academy of Sciences report, and we have what I consider a near crisis situation in terms of our Nation's security and our public's well-being.

We need to get back on track, by immediately resurrecting the process for planning, design, and construction of replacement reactor capacity. While we can't buy back the 4 years lost, we can utilize some of the basic framework under which those decisions were to have been made back then. Borrowing from the advice offered by Herm Roser, who was the Assistant Secretary of Defense programs at the time the NPR was contemplated, and who has since seen those decisions undone, he said, in part, "In choosing our options for replacement production capacity, we should base our decisions on four guiding principles: First, the reactor should be capable of supplying byproduct steam to conserve energy and reduce costs; second, the reactor should enhance existing reactor design technologies, and thereby broaden our technology base; third, the reactor should be licensable and be able to withstand vigorous safety reviews; and fourth, the reactor should be sited apart from existing production facilities, so we don't put all our eggs in one basket." Mr. Roser went on to say that, even if we have to sacrifice some of these principles to a "fast-track" first reactor effort, the program should include a second reactor which can meet all of them.

I agree wholeheartedly with Mr. Roser's advice. More and more people who follow this issue are now realizing the need for more than one reactor (including the Roddis Commission that looked into N-reactor safety issues). More and more people are realizing that safety criteria and advanced technology are key ingredients in the technology selection. And everyone agrees that minimizing the budget impacts, via sale of byproduct steam, and via the selection of the most efficient technology, is the only feasible course in today's rigid budget climate.

The amendment that Senator SYMMS and I are offering today will lay the kind of groundwork that reflects all of these considerations. Under the amendment, the approach that the Department of Energy would take in preparing its acquisition strategy for replacement production reactors would include a thorough analysis of the technologies available, the need for more than one reactor, the overall costs, the safety considerations, and the preferred siting, so that the crucial decisions that the Department will ultimately make will stand the test of time.

This amendment is meant to enhance, rather than dilute, the Department's already difficult task of selecting the appropriate technology and siting for its future materials production capacity. I would expect the Department to do no less for our Nation and its people.

Mr. SYMMS. Mr. President, I am happy to join Senator McCLURE in offering this amendment. It is similar to a provision in the Senate Defense authorization bill that addresses the need for new nuclear material production capability.

Mr. President, conditions at the Department of Energy's material production facilities are a matter of grave concern to a number of us here in Congress. Two years ago, there were five production reactors producing the necessary tritium and plutonium needed for our national defense. Today, we have the production of roughly one and a half reactors from three operating reactors. First, an irreparable crack was discovered in the C-reactor at the Savannah River Plant in South Carolina, then the N-reactor was shut down temporarily due to concerns about its similarity to the Soviet reactor at Chernobyl, and it is still down. Finally, the three remaining Savannah River reactors had to reduce their power to less than 50 percent as a result of inadequate emergency core cooling systems.

At the time of Chernobyl, the Secretary of Energy asked the National Academy of Sciences to study the safety of the reactors in the production complex. Last week, the NAS issued its report on the safety of these reactors. The report said, "These reactors are experiencing aging effects caused by long-term irradiation and corrosion that could affect the safety of the reactors and are likely to limit their remaining useful operating lives."

The report added that "if the United States finds it necessary to have a reliable and safe capacity for production of plutonium and tritium for nuclear weapons, then planning for new production reactors or other alternatives should be accelerated."

The amendment we are offering to the energy and water appropriations for fiscal year 1988 bill provides for that accelerated planning—planning that was begun in 1981 and stopped 2 years ago, when then Secretary of Energy Hodel deferred indefinitely the decision to build a new production reactor in Idaho.

This Nation must have nuclear materials, particularly tritium, if the United States is not to be forced into nuclear disarmament by default. Plutonium is necessary, but tritium is critical. With a half life of 12.5 years, it must be replenished frequently in our weapons stockpile. Plutonium lasts forever, and we have several sources for it, although some question if these sources are adequate. But our only source of tritium is the Savannah River Plant, at two reactors suffering, according to the NAS report, from acute aging.

Many of the aging problems noted by the NAS Committee that produced the report are inevitable and cannot be remedied. However, it pointed out that if repairs cannot be made, the Department would face a choice between retiring the reactors or operating them in circumstances in which safety is compromised. I read with alarm that "within the next decade, that failure could result in the Nation having to rely upon a small number of aged production reactors that demonstrate serious safety problems without adequate alternative plutonium or tritium sources available."

It seems clear to me that two things must be done. We must immediately begin to repair the reactors at Savannah River so that they can operate until they can be phased out by new production reactors. And we must begin immediately to plan for replacements. One reactor cannot replace the production of five. In addition we must have redundancy and not put all

our eggs in one basket. It is also most important that advanced reactor technologies receive an adequate and thorough evaluation. We must not overlook the potential safety and cost benefits associated with these advanced technologies. In light of the NAS report, it is quite apparent that the issue of safety cannot be downplayed and the advanced technologies certainly seem to offer greater safety than existing technologies.

The amendment Senator McCLURE and I are offering today directs the Secretary of Energy to develop an acquisition strategy report that includes an analysis of whether the Department should procure and construct two or more reactors, either concurrently or sequentially. This amendment also requires DOE to analyze the use of alternative reactor technologies at one or more sites based on the most current information including overall program costs and schedules, safety, environmental and licensing features; strategic and national security benefits and amortization of reactor capital and operating costs through the sale of byproduct steam. The life-cycle costs and benefits derived from power sales should be given special attention in that new production reactors could cost from $3 to $5 billion each. If it is possible this up-front money could be repaid over the life of the plant then this possibility must be carefully explored.

I am convinced this legislation is necessary to guarantee that the crucial questions of safety and cost are addressed now by all of us: Congress, the Department of Defense, and the Department of Energy. We have responsibility to be fiscally strong as well as national security conscious. We are late—I hope we are not too late—in assuming responsibilities we have avoided so long.

Mr. McCLURE. Mr. President, I think this amendment has been cleared on the other side.

Mr. JOHNSTON. Mr. President, we have studied this amendment and cleared it.

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

The amendment (No. 1165) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1166

(Purpose: To complete a plan for deploying the AVLIS technology)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. GLENN, proposes an amendment numbered 1166.

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

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

The amendment is as follows:

On page 39, line 4, strike the period and insert in lieu thereof: ": Provided further, That within six months from the date of enactment of this act the Department is directed to complete a plan for deploying an Atomic Vapor Laser Isotope Separation production facility which is co-located with the existing enrichment facilities near Portsmouth, Ohio.".

Mr. METZENBAUM. Mr. President, this is a very straightforward amendment. It directs the Department of Energy to begin developing a plan for deployment of the new atomic vapor laser isotope separation [AVLIS] nuclear enrichment process.

Congress has appropriated over $500 million toward the development of AVLIS since 1973, and this appropriation bill would provide another $80 million in 1988.

According to the Department of Energy, AVLIS will be ready to be put into production on a demonstration basis by 1991. But, the Department is dragging its feet. Every year, the Office of Management and Budget zeros out the program. And every year, Congress has to put the money back in the budget.

AVLIS is important.

It is the key to maintaining a viable and competitive U.S. nuclear enrichment program. The Europeans and the Soviets are using technologies that are newer and cheaper than ours. They are cutting into the U.S. enrichment market. The entire U.S. enrichment program is losing money hand over fist. It is really in trouble.

In 1985, the Department of Energy canceled an enrichment technology that it had been developing since the mid-1960's. A brand new, $3 billion production facility in Portsmouth, OH, was abandoned as a result of that decision.

The so-called GCEP facility is 90 percent complete.

I have been there. It is an unbelievably magnificant structure. It has every detail that you want in a building of that kind.

It is the largest, most technologically advanced industrial park in the country. It has five major buildings with over 2 million square feet of floor space for every conceivable production activity.

I was told when I was there that they have air conditioning that is equal on the floor of one part of the building and thousands of feet away with the top of the building, and at the very end of the building. That is how well constructed, how well designed that facility is.

Yet the complex is completely empty.

Over the past 2 years, the Department of Energy has made a half-hearted attempt to find another use for it. They have had no success whatsoever.

Figuring out what to do with this plant has become a major problem.

I quote from the Appropriations Committee report on this bill, "The committee is concerned that the Department continues to procrastinate on the orderly disposition of the Gaseous Centrifuge Enrichment Plant [GCEP]."

My amendment puts these two problems together. It directs the Department of Energy to develop a plan for deploying the new AVLIS enrichment technology at the GCEP Plant.

This amendment could save the taxpayers billions of dollars by obviating the need to build a new AVLIS production facility.

It may also be the use for GCEP for which the Department has been searching.

It makes sense, and I urge my colleagues to support it.

I think this amendment is totally acceptable, though I am not certain.

Mr. JOHNSTON. Mr. President, I have just now seen the amendment. I have one suggested modification and one clarification I want to be sure about.

First of all, it uses the word "plan" and I think the Senator really means to complete a "study."

Mr. METZENBAUM. That is correct.

Mr. JOHNSTON. I would want to modify the word "plan" by putting in the word "study."

Mr. METZENBAUM. Mr. President, I modify my amendment at the desk by changing the word "plan" to "study."

The PRESIDING OFFICER (Mr. CONRAD). The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 39, line 4, strike the period and insert in lieu thereof: ": *Provided further,*

That within six months from the date of enactment of this act the Department is directed to complete a study for deploying an Atomic Vapor Laser Isotope Separation production facility which is co-located with the existing enrichment facilities near Portsmouth, Ohio.".

Mr. JOHNSTON. Second, I want to be sure that the Senator, by this legislation, is not trying to locate the new AVLIS plant at Portsmouth but rather a study of a location for an AVLIS plant.

Mr. METZENBAUM. The Senator and I are in total agreement. I would like to do the former. I realize that is unrealistic. I do not believe it would be appropriate to make that determination on the floor of the Senate, and so I am calling for the study to be made because if it can be done, then it will, indeed, be saved $1 billion because it is a magnificent facility. But if it is not usable, then I would be the last to press for it.

Mr. JOHNSTON. Mr. President, with the modification and with that understanding, we approve the amendment.

The staff on the minority side tells me it is approved. I see a smile and an affirmative head shake, so I think that is probably good enough. So we approve the amendment, Mr. President.

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

The amendment (No. 1166), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM. I thank the manager of the bill.

Mr. BUMPERS. Mr. President, Senator PRYOR and I would like to discuss briefly the Helena Harbor project with the chairman of the subcommittee and manager of the bill, Senator JOHNSTON. It is not an overstatement to say that this project is critical to eastern Arkansas. I thank Senator JOHNSTON for his support in this important effort.

Mr. PRYOR. The Senator from Louisiana has been most helpful to us, and we greatly appreciate his efforts.

Mr. JOHNSTON. I thank the Senators. I know how important this project is to the delta area in Arkansas. Both Arkansas Senators have worked tirelessly on its behalf.

Mr. BUMPERS. I would like to clarify one point, with the help of the Senator from Louisiana. With respect to the Helena Harbor project, the Senate-reported bill clearly retains the House-passed level of $443,000 for operation and maintenance, but the report accompanying the Senate-reported bill contradicts itself about how much is appropriated for preconstruction engineering, design, and construction of the new project. The chart in the report entitled "Flood Control, Mississippi River and Tributaries" says the "House allowance" is $1.1 million and that the "Senate allowance" is only $500,000, but one of the paragraphs describing the projects set out in the chart has this to say:

The bill contains $1,100,000 for preconstruction engineering and design and initiation of construction on the Helena, AR project. The Corps of Engineers is directed to complete the engineering and design on this project before the end of fiscal year 1988.

Can the Senator from Louisiana clarify this contradiction.

Mr. JOHNSTON. Yes, I can. The chart is correct, and the paragraph is in error. The Senate-reported bill contains $500,000 for preconstruction engineering and design and initiation of construction. But, Mr. President, let me make one other point clear: The subcommittee is committed to this project. It has strong support both in the House and in the Senate, and this project will be built. It is one of only 18 new starts in the Senate bill.

Mr. BUMPERS. I strongly urge the Senator from Louisiana to recede to the House-passed level in conference. We really need the full $1.1 million to start this project.

Mr. PRYOR. Mr. President, let me also encourage the Senator from Louisiana to bring this project out of conference at the $1.1 million level. The people in the Helena/West Helena area are counting on the Arkansas congressional delegation to get this project going as soon as possible, and we need full funding.

Mr. JOHNSTON. Mr. President, the two Arkansas Senators have always made persuasive arguments for Helena Harbor. I know how important this project is, and let me say that I will do what I can, given the budgetary constraints we will face, to retain the House amount.

Mr. BUMPERS. I thank the Senator for his cooperation and his graciousness. I know he faces a difficult job given our current budget restraints.

Mr. PRYOR. Let me add my sincere thank you as well. The Senator from Louisiana has been most helpful.

AMENDMENT NO. 1167

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1167.

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

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

The amendment is as follows:

At the appropriate place in the bill add the following:

SEC. . The McClellan-Kerr Arkansas River navigation project authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes," approved June 28, 1938 (52 Stat. 1218), and section 10 of the Flood Control Act of 1946 (60 Stat. 647), is modified to include municipal, industrial and agricultural water supply as authorized project purposes. Withdrawals of water for such purposes may be permitted to the extent that such withdrawals are consistent with applicable State laws and do not interfere with the other authorized purposes.

STATEMENT OF SENATOR BUMPERS ON AMENDMENT TO MCCLELLAN-KERR PROJECT

Mr. BUMPERS. Mr. President, the principal reason for this proposed change in authorized purposes for the McClellan-Kerr navigation project is to provide relief to the many farmers along the 70-mile length of Plum Bayou in Lonoke and Jefferson Counties who have experienced extreme difficulties in coordinating farming decisions with corps policy concerning streamflow. Other agricultural areas that will be affected are the Fourche River near pool 9 and Bayou Meto along pool 2, both in Arkansas. Also, the expansion of recognized corps purposes will allow for the use of water in the McClellan-Kerr Arkansas River navigation project for municipal and industrial purposes.

Plum Bayou is a unique waterway in that its principal functions are for irrigation during the summer irrigation season and for drainage at other times. When water is flowing into Plum Bayou, the intake is, interestingly, in the middle of its course just west of Wright, AR. A low-water weir is located on the southern end of the intake, and because Plum Bayou is perfectly flat to the north, water backs up to the northern end of the bayou. When the water in pool 5 is above 213.3 feet above sea level, water is backed up north while still at a level that will allow a significant amount to go over the top of the low-water weir to flow south. When the water level in pool 5, of the Arkansas River is below 213.3 feet above sea level, water is still backed up north, however, the low-water weir prevents the water from flowing south. Since the southern users are riparians with superior rights, the low-water weir must be torn down and rebuilt with every significant change in the water level.

It should be noted that a significant change amounts to less than one/half of 1 foot. This amount above 213.3 will allow farmers on the northern end to irrigate their soybean, rice, and now, cotton crops and producers on the

southern end to have a continuous, uninterrupted flow. This amount does not exceed the corps' easement levels nor will it cause any damaging flooding.

From 1982, the first year I encouraged the corps to raise the pool level, until 1985, the Little Rock corps acted favorably to help the farmers along Plum Bayou. The division command disapproved of requests in 1985, 1986, and 1987 to provide assistance, but in each case the corps in Little Rock found authority within their authorized purposes to raise the pool level during irrigation season. By letter of July 30, 1987, Colonel Nida of the Little Rock corps office informed me that the district studies that allowed it to raise the level were nearly complete, and only a change in the authorized purposes will be sufficient in getting the pool raised in the future.

For this reason, I am pursuing this very important expansion of the authorized purposes of the corps along the McClellan-Kerr Arkansas River navigation system. Let me state that the language of the amendment clearly states that the new purposes shall not interfere with the principal purposes of flood control and navigation.

This is an important amendment, and I urge its adoption.

Mr. PRYOR. Mr. President, as a cosponsor of Senator BUMPERS' amendment to this appropriations legislation, I rise to thank the committee members and Chairman JOHNSTON for their consideration in accepting this language.

Last July 30 Senator BUMPERS and I introduced this amendment as a separate bill, S. 1571, which was referred to the Committee on Environment and Public Works. It is a very simple piece of legislation that will permit the U.S. Army Corps of Engineers to expand the beneficial uses of the McClellan-Kerr Arkansas River navigation system to include, as a part of their overall mission, consideration of agricultural, industrial and municipal needs.

As I said last July, this bill would not cost the Government 1 red penny. It would not interfere in any way with the other authorized purposes of the McClellan-Kerr system, and it would not adversely affect the interests of any other State.

It would simply give the Army Engineers statutory authority to manipulate navigation pool levels on the Arkansas River to the extent practicable to benefit other potential users of the water. I don't think that anyone can argue against multiple usage of the river.

For years now summer droughts have been the bane of Arkansas farmers in our agriculture based delta lands. The levels of the Arkansas River at the different segments of the navigation system affect the levels of water in the tributaries that flow into and out of the Arkansas River. Experience has proven that pool levels can be controlled to a certain extent, and that raising the level of some pools, even by 1 foot, can raise the levels of tributary high enough to allow irrigation of drought stricken farm lands. We have seen it happen, Mr. President.

The Army Engineers insist that statutory authorization is the only way this can be done as a purposeful action. This legislation will simply increase the problem solving capability of this great navigation system, and allow it to become an even greater asset to the taxpayers who support it. Again, I thank the committee members and Chairman JOHNSTON, for working with us on this problem, and helping to solve it.

Mr. JOHNSTON. Mr. President, this amendment was informally cleared by the committee. As a matter of fact, we were waiting in the committee for Senator BUMPERS, who was called away temporarily from the Appropriations Committee, but we stated at the time that we wanted to close the bill and were prepared to take the amendment on the floor. The Senator does correctly describe it and we will therefore accept the amendment.

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

The amendment (No. 1167) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1168

Mr. BUMPERS. Mr. President, I have a second amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas, Mr. BUMPERS, proposes an amendment numbered 1168.

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

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

The amendment is as follows:

On page 12, between lines 8 and 9 insert "Mill Creek, Fort Smith, Arkansas;"

Mr. BUMPERS. Mr. President, this involves a much needed Corps of Engineers flood control project in Fort Smith, AR, on a tributary to the Poteau River called Mill Creek. This provision is in the House bill. It is nearly a 50-percent cost-sharing project with the city of Fort Smith putting up 44 percent and the Corps of Engineers putting up the rest. One million dollars, is in the House bill to start the project and my amendment will provide the money from available funds within this bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have discussed this amendment with the Senator from Arkansas. I am sympathetic with it. It is in the House bill but, Mr. President, we have set a policy of not accepting amendments that are in the House bill for obvious reasons. With the explanation that we like the Senator's project, think it has merit, I hope the Senator will not insist on this matter so that when we go to conference, we will be able to consider it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. Mr. President, I further discussed this project with the Senator from Arkansas. The problem with this project was in the House bill. As I understand it the city fathers at Fort Smith did not bring this matter to the attention of the Senator from Arkansas at the time the committee met. Had they done so, the merits of the project would indicate that we could take it. However, there are something like 150 to 200 projects in the House bill that are not included in the Senate bill. So we have to make a rule that we cannot accept those projects on the floor of the Senate. Otherwise, we would simply be beseiged and we are already up to our allocation although this is within available funds.

But we are very familiar with the project. It is a very meritorious project. And some projects will be accepted in the conference committee that are in the House bill and not in the Senate bill. I mean that is in the essence of compromise in the House. I can assure the Senator from Arkansas that his project is probably without peer because of its merit, its attractiveness, and the compelling nature of the arguments he has made on behalf of it.

Without promising on the record to take it in the conference committee, I think that is about as much as can be said on the floor of the Senate other than to say more would absolutely destroy any bargaining room one would

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have. But I think the Senator can expect that while we will bargain very hard with the House this project is likely to be one as to which there will be the least resistance.

I hope the Senator gets the message on what will happen in conference. Based on that, I hope he will recognize and tell the city fathers of Fort Smith to please let the Senator from Arkansas know in time next time because this project is such that had it been brought to our attention at the committee level it would undoubtedly have been approved unanimously.

Mr. BUMPERS. Mr. President, I thank the Senator very much. Mr. President, with that understanding I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. METZENBAUM, Mr. EVANS, and Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Excuse me. I say to the Senator from Oklahoma that I heard the Senator on this side, the Senator from Washington, seeking recognition.

Mr. EVANS. Thank you, Mr. President.

AMENDMENT NO. 1169

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] for himself and Mr. ADAMS, proposes an amendment numbered 1169.

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

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

The amendment is as follows:

On page 36, line 15, insert the following new section:

SEC. 206. Section 208 of the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "$88,000,000 (January 1987 prices), provided that of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

Mr. EVANS. Mr. President, I believe this amendment has been cleared on both sides. This amendment is needed for the Oroville-Tonasket Irrigation project in the State of Washington. It is for an increase in authorization and not appropriation, in order to complete a project which the Bureau of Reclamation agrees was not done well in the first place by the Bureau.

It is the same as a bill which passed the House earlier this year and which, unfortunately, has gotten held up in the House.

As I say, I believe it has been cleared on both sides.

Mr. President, today I am offering, along with my distinguished colleague from Washington, Senator BROCK ADAMS, an amendment to the energy and water development appropriations bill that exactly mirrors a bill that the Senate passed earlier in October, S. 649. This amendment is needed to increase the authorization ceiling level by $18 million on the Oroville-Tonasket Irrigation project in our State. I would like to add that the House of Representatives has also approved this authorization ceiling increase in title 2 of S. 640, its omnibus water projects authorization bill.

The Bureau needs to award contracts for the completion of this project by December, which is why I am here today with this amendment. The House and Senate negotiations on other sections of the House-passed bill that are controversial will take more time than we have to wait on the Oroville-Tonasket project. This amendment will ensure that the Bureau can proceed expeditiously in completing this project. The amendment authorizes an additional $18 million for the project and clarifies that under the current policies of the Bureau of Reclamation, only this $18 million is available for additional adjustments based on changes in the costs of construction. This amendment will serve a beneficial purpose in sending a clear message to the Bureau of Reclamation that we expect the project to be completed without further delay and within the cost estimates that we have been given.

It is my sincere hope that this legislation will lead to a speedy resolution of a problem that has plagued the farmers in the Oroville-Tonasket Irrigation District for too long—getting clean water from their irrigation system. The Oroville-Tonasket irrigation project was authorized by Congress in 1976 to replace an antiquated delivery system with a pressurized delivery system to benefit growers in north central Washington. At that time, the project was authorized at $39.4 million in January 1976 prices. In today's dollars, that translates to an authorization ceiling of $70.8 million. The Bureau now estimates that it will need $88 million to complete the project. This amount includes both the costs to complete the third phase of the project and to repair problems that have plagued the construction of the second phase of the project.

Due to problems relating to both insufficient analysis, inadequate design, and faulty materials in the second phase of construction, farmers have been struggling with a new system, that often delivers more silt than water. The irrigators dependent on the water delivery system have experienced heavy damage to sprinklers and regulators. In some cases, irrigators have not been able to use the system at all. Initial attempts to try to repair the system to make it work proved futile and frustrating.

Fortunately for the growers in the Oroville-Tonasket Irrigation District, the Bureau has finally admitted "it can't get there from here." It has scrapped its original attempt to fix the siltation problem and has agreed to construct siltation ponds at five pumping plants along the Okanogan River. Water will remain in the settling ponds for a few hours and then be screened to remove as much silt and other material from the water before it enters the grower's distribution systems. After many long months of discussing the issue, there is finally some agreement on how to proceed.

Mr. President, our farmers are dependent upon the Federal Government fulfilling the commitments made to them when Congress authorizes water projects. These farmers should not be subject to the endless delays and broken promises that so frequently accompany Bureau projects. I urge my colleagues to support the speedy passage of this amendment.

Mr. JOHNSTON. Mr. President, this is for the Oroville-Tonasket amendment. Mr. President, we have cleared the Oroville-Tonasket amendment. The staff on the minority side tells me that it has been cleared on the minority side as well.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington [Mr. EVANS].

The amendment (No. 1169) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is prepared to go forward with an amendment in behalf of myself, Senator GRASSLEY, and Senator LEVIN, having to do with the right of contractors to use Federal funds to lobby Congress. It is my understanding that the staff and the Senator from Louisiana would like some time in order to see if we could work this matter out with the assurance of the Senator from Louisiana that the Senator from Ohio will be protected, that we will not go to final passage.

Mr. JOHNSTON. Mr. President, if I may tell the Senator the problem because there have been some press re-

ports on this, the scientists from Lawrence Livermore Lab and the other labs have been a very fruitful source of information to us, particularly on nuclear matters both in this subcommittee, in other subcommittees and in the defense subcommittee of the Appropriations Committee. They were particularly useful this year on the subject of SDI because Lawrence Livermore is the lead lab on SDI. For example, one of their scientists came in and talked to me at great length about SDI, particularly about the space-based kinetic kill vehicles, about their capability. And some of the people at the Departments of Energy and Defense got very upset about the scientists coming in and talking to me about that. And I do not know whether there was a cause and effect relationship but it so happened that the rumor was out within days that the regulations referred to in our amendment were going to be amended to prevent them from lobbying, and in fact the amendment to that was submitted within a matter of days or weeks.

It seemed to us that the regulations may be an effort on the part of the Department to chill their scientists in giving us that kind of information.

Just this year on uranium enrichment, one of the leading scientists and experts on uranium enrichment, as a matter of fact on the AVLIS program, came to my office and later we had a long discussion at dinner that night on the subject of that which played a major role in molding the legislation which later had become uranium enrichment.

Understand that on the House side, about the same time all this was pending—and I was unaware of this—there was some complaint about a lobbying effort on behalf of the Department of Energy against the nuclear test ban. I did not know anything about that at the time I designed this amendment. I had in mind not to permit lobbying at all.

All we want to do is protect the right of scientists and technical personnel of our national labs to not only respond to a question but also to come in and give us information. These scientists would come in on a regular basis from time to time, sometimes to respond to questions, sometimes to tell us about their programs, sometimes to perhaps urge that we do something. I would hope that they would continue to be able to do this.

These are scientists; these are professionals. I think their degree of credibility and their degree of reliability is the best I know of. It is higher than the Department of Defense; it is higher than the National Academy of Sciences. Without saying it is higher than others, I say it is as high as any source I know of. It is a valuable resource to us.

I would like to be able to develop with the Senator from Ohio some language which says lobbying, no PR firms, no lavish expenditures, but let them communicate freely with Members of Congress and their staffs, not just to answer a question when asked before a hearing, in response to a subpoena, but to have a free-flowing exchange of ideas between scientists and Members of Congress and their staffs. That is a very valuable resource we have.

Mr. METZENBAUM. I say to the Senator that we are not in agreement, but we are not that far from disagreement. I have no problems with respect to scientists and physicists making their information available. But I think that if it is requested by a Member of Congress, you do not have to have a subpoena nor call a scientist and say, "I want you to show up here." That is one thing.

The other thing is, a scientist may have something he wants to say to you, and it is no problem for that scientist to pick up the telephone and say: "Senator JOHNSTON, this is Dr. Curie from National Lab, and I have information on X or Y, and I believe I can make that information available to you, but I am not in a position to come to Washington unless you invite me to do so, because I have no expense account with respect to being able to do that."

The other thing is, I do not see any problem, either, about a scientist walking into your office and saying to you: "Senator, I think there are some problems with what you are doing." He does not have to get paid by the Government to do that. It is going to take him 15 minutes or a half hour to do that. Once he comes in, if you want that information, you are in a position to explore that subject with him and say: "I'm happy you're here, and I wonder if you could stay another couple of days or come back next week for a hearing."

The amendment of the Senator from Louisiana goes too far, and the GAO has indicated that, because the amendment provides that the Department of Energy acquisition regulations which have to do with this whole matter of expenditures for lobbying shall not apply to the management and operating contractors for the Department of Energy national laboratories. That means the door is wide open for all these contractors, all these labs, to come in and lobby at the Government's expense.

The GAO, in a report they came out with recently, specifically addressed themselves to this subject.

So I say to the Senator from Louisiana that we may be able to work this out. But I do not want scientists or others to be able to come here on the basis that they are scientists and they are bringing information when, indeed, they are lobbying and having the Federal Government pay for it. I think that is inappropriate.

If we can work out language along that line, I am sure we will be in agreement and have an acceptable amendment. If not, Senator GRASSLEY, Senator LEVIN, and I will offer an amendment.

As I understand, the point of the Senator from Louisiana was that he preferred that we not go forward with the amendment at this moment and that we make an effort to work it out. That is perfectly agreeable with me, with the understanding that you will not take the bill to final passage until I have an opportunity on this issue.

Mr. JOHNSTON. We may or may not be able to work out the amendment. I would like to narrow the differences.

I do not want to make it so that somebody cannot come into my office and have to be cleared by headquarters as to what he can tell me or that I have to request of him that which he can tell me.

Mr. METZENBAUM. That is fine with me, as long as we do not pay for it.

Mr. JOHNSTON. He should not have to come here at his expense. These scientists make regular trips up here.

I can tell the Senator that, as chairman of the Energy and Water Subcommittee, we have jurisdiction over the Department of Energy, all these national labs. They are a great resource. For all the years I have been here, they have been a tremendous resource.

If the Senator must know, they talk to me about nuclear testing. Let me tell you what they told me. I do not know whether I asked them first or they told me, or whether it was before a hearing. But they stated clearly that we should not all of a sudden impose nuclear test limits, because we perhaps freeze in time an advantage that the Soviets might have.

For example, they may have conducted 20 tests and just completed those and say, "OK, let's have a freeze." We may be ready to start our 20 tests; and if you freeze at the wrong time, they may have a great advantage.

You may have, for example, the D-5 missile, which is a brand new missile, which has been developed, and now we are in the testing time. We have put billions of dollars in that. If you freeze a test ban, you might prevent the whole weapons system from being used at all. I think the Senator agrees with me that it should not be tested in the 12 MIRV mode.

Not only is there nothing wrong with their volunteering that information, if that is lobbying, but also, it is in the vital national interest. Some-

how, we should be able to protect that right.

We are big boys and they are scientists. We are not going to have our minds polluted by somebody coming in and saying, "Here are the facts." After all, do we have to protect ourselves against a scientist?

Mr. METZENBAUM. No, but does the great body of the American public have to pay for lobbying for these contractors in order to get more money or more contracts from the Federal Government? It is a contradiction in terms. Why should the taxpayer be called upon to pay for these contractors to lobby us?

If you want to ask the scientist to come in, fine. If the scientist calls you or writes and says, "I have something to say, and at your invitation I would be glad to travel from California to Washington," fine. I am not talking about that.

I am talking about lobbying. I am talking about trying to have an impact on the legislative process. I am not trying to deny you or any other Member of the information these people have available, and I am prepared to agree with you that they do have a great deal of information that is available.

Mr. JOHNSTON. Mr. President, perhaps we have the seeds of a compromise here. I am not talking about the military-industrial complex contractors. It is the contractor who runs Los Alamos and Lawrence Livermore and Lawrence Livermore Berkeley is the University of California. I think they are a-dollar-a-year contractor. Really, they are the manager of the scientists and it is not somebody who is in it for profit. Perhaps an exception for employees of the University of California could solve our problem.

I hope with that explanation we can then go to work privately and see if we can work out these differences.

Mr. METZENBAUM. We would be glad to try to work it out with the understanding that if we cannot before the bill gets to final passage, the position of the Senator from Ohio will be protected.

Mr. JOHNSTON. Yes, it will.

Mr. METZENBAUM. I thank the Senator.

AMENDMENT NO. 1170

(Purpose: Provide for the extension the license for hydroelectric development at Bloomington Dam, MD)

AMENDMENT NO. 1171

(Purpose: Increase the cost ceiling for the Noyes, MN, local protection project)

Mr. JOHNSTON. Mr. President, I send two amendments to the desk and ask unanimous consent that they be considered en bloc.

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

The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) for Ms. MIKULSKI proposes an amendment numbered 1170 and for Mr. DURENBERGER proposes an amendment numbered 1171 en bloc.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT No. 1170

On page 49 after line 20 insert the following:

"SEC. . The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest."

AMENDMENT No. 1171

On page 18 after line 19 insert the following:

"SEC. . The undesignated paragraph under the heading "Noyes, Minnesota, in section 401(d) of Public Law 99-662 (100 Stat. 4131) is amended by striking out "$250,000" and inserting in lieu thereof "$650,000"."

Mr. JOHNSTON Mr. President, the first amendment provides for a 2-year extension of the hydroelectric license at Bloomington Dam in Maryland by the Federal Regulatory Commission. That amendment is submitted on behalf of Senator MIKULSKI.

The second amendment raises the cost ceiling on the Noyes, MI, project from $250,000 to $650,000.

These amendments have been cleared by the authorizing committee and have no budgetary impact.

The PRESIDING OFFICER. Is there further debate on the amendments?

If not, the question is on agreeing to the amendments of the Senator from Louisiana.

The amendments (No. 1170 and No. 1171) were agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1172

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1172.

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

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

The amendment is as follows:

On p. 41, line 20, after the word "operations.", insert the following:

"*Provided further*, That of these funds, $20,000,000 shall be made available for the Hanford Waste Revitrification Plant (Project 88-D-173)."

Mr. JOHNSTON. Mr. President, this is a reallocation of funds within the bill costing no additional funds that reallocates up to $20 million to be made available for the Hanford waste revitrification plant. The reallocation is within the nuclear accounts.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1172) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HECHT. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

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

AMENDMENT NO. 1173

(Purpose: To study potential earthquake effects on a Yucca Mountain nuclear waste repository site)

AMENDMENT NO. 1174

(Purpose: To provide a study of reprocessing of spent fuel)

AMENDMENT NO. 1175

(Purpose: To authorize funds for upgrading transportation facilities in the State affected by the siting of a nuclear waste repository)

AMENDMENT NO. 1176

AMENDMENT NO. 1177

(Purpose: To establish an Office of Subseabed Disposal Research)

Mr. HECHT. Mr. President, I send several amendments to the desk and ask that they be considered en bloc and ask for their immediate consideration.

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

The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. HECHT] proposes amendments numbered, 1173, 1174, 1175, 1176, and 1177.

Mr. HECHT. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1173

On page 40, insert at the end of the provision with the caption Nuclear Waste Disposal Fund, the following:

"Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'On page 33, line 9, insert the following new section 7 and redesignate section 7 as section 8:

'REPORT

'SEC. 7. In the event that the Secretary undertakes characterization of a site at Yucca Mountain, Nevada, for a nuclear waste repository, under the Nuclear Waste Policy Act of 1982, as amended, such site characterization shall include research to examine the potential effects on such site of continued testing of nuclear weapons at the Nevada Test Site including, but not limited to, whether such testing would cause earthquakes at such site, movement along faults affecting such site, or damage to such a repository if located at such site.'."

AMENDMENT NO. 1174

On page 40, insert at the end of the provision with the caption Nuclear Waste Disposal Fund, the following:

"Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'(1) insert the following new section 11 of the Nuclear Waste Policy Act of 1982 on page 30, line 8, of said bill:

'REPORT

'SEC. 11. The comprehensive statement of the Secretary pursuant to section 114 shall include a comparative analysis of the economics of nuclear waste management strategies based on (1) reprocessing spent fuel as a source of new fuel for light water reactors and the disposal of the resultant nuclear wastes and (2) direct disposal of spent fuel. Such analysis shall also compare the advantages and disadvantages of such strategies.'."

AMENDMENT NO. 1175

On page 40, insert at the end of the provision with the caption Nuclear Waste Disposal Fund, the following:

"Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'(1) on page 31, line 19, delete the quote and insert in lieu thereof the following new subsection:

'(f) There is hereby authorized to be appropriated such fund as may be necessary from the Nuclear Waste Fund, without fiscal year limitation, to the Secretary of Energy for use in the upgrading and construction of road and rail facilities to be utilized in the transportation of spent nuclear fuel and highlevel radioactive waste within the State in which a repository is located under this Act. Obligation of such funds by the Secretary shall be on the basis of need as determined by the Secretary after consideration of the availability of alternative sources of funding. Obligations of funds under this subsection may be made only after consultation with the governor of such State.'."

AMENDMENT NO. 1176

At the appropriate place in the bill add the following:

"Within 45 days of the passage of this Act, the Secretary is directed to report to the Congress on the amount of funds necessary annually ever the next 5 years to:

"(1) Conduct a detailed research program on the subseabed disposal of nuclear wastes;

"(2) Identify and assess potential impacts of subseabed disposal on human health and the marine environment; and

"(3) Develop preliminary designs for a subseabed disposal system, including estimated costs and institutional requirements.".

AMENDMENT NO. 1177

On page 40, insert at the end of the provision with the caption Nuclear Waste Disposal Fund, the following:

"Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'On page 33, between lines 8 and 9, insert the following new section, and renumber the subsequent sections accordingly:

'SUBSEABED DISPOSAL

'SEC. 7(a) OFFICE OF SEABED DISPOSAL RESEARCH.—There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by a Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

'(b) FUNCTIONS OF DIRECTOR.—The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within thirty days of the date of enactment of this Act.

'(c) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Seabed Consortium described in Subsection (d) of this Section, and other persons.

'(d) SEABED CONSORTIUM.—(1) Within 60 days of the date of enactment of this Act, the Secretary shall establish a university-based Seabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

'(2) The Seabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

'(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

'(ii) develop conceptual design for a subseabed disposal system, including estimated costs and institutional requirements; and

'(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

'(3) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of subparagraph (2).

'(e) ANNUAL REPORT.—The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

'(f) FUNDING AUTHORIZATION.—Such funds are hereby authorized to be appropriated as are necessary for carrying out the purposes of this section.'."

Mr. HECHT. Mr. President, I ask unanimous consent that Senator REID be listed as a cosponsor of these amendments.

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

Mr. HECHT. Mr. President, this amendment ensures that, in the event the Energy Department ever does characterize a site at Yucca Mountain for a high level nuclear waste repository, then that site characterization work will be technically complete by addressing one very important area.

I am speaking about the very real possibility that the regular testing of nuclear devices at the Nevada test site, a mere handful of miles away from the Yucca Mountain site that is being considered for a repository, may pose serious problems for the long-term viability of a repository.

The Nevada test site is about 35 percent used up at present, which means that future weapons testing is inevitably going to get closer and closer to the proposed repository site. Now everyone who lives in southern Nevada has their favorite stories about the Earth shaking when nuclear explosions have been detonated at the test site. If weapons testing can shake the ground in Las Vegas, approximately 65 miles from the test site, then imagine what it would feel like at a much closer distance. Yucca Mountain is only about 10 miles from active testing areas in the Nevada test site. Over time, as I have said, we can expect the testing to get closer and closer to the repository site.

This makes it very important for us to find out what the effects might be on a repository of the manmade earthquakes that are regularly produced by nuclear weapons tests occurring nearby. I initially raised this issue nearly 2 years ago. I was shocked that the Energy Department actually refused to consider this very obvious and legitimate question. After nearly a year of my insisting that this technical issue must be addressed, the Department finally agreed I was right, and offered assurances that this issue of manmade earthquakes would be fully considered. However, after seeing how the Department has flip-flopped numerous times with its nuclear waste program in the last few years, I think the people of Nevada and the rest of the Nation deserve the type of assurance with regard to this issue that can only be given through legislative direction.

This amendment is not only important to the people of Nevada, but also to all Americans, because failure to carry out the work contemplated by the amendment could lead to a situation that would be harmful to all Americans. If, despite my best efforts and strong opposition, a repository were to someday open up at Yucca Mountain, what would we do if after 5 or 10 years of operation we suddenly discovered that manmade earthquakes from weapons testing had ruptured the repository, or that the repository was in danger of being ruptured? What would we do? As I see it, there would be only two choices. First, we could close down the repository, removing all the waste that had been put in place up to that time, and begin again the search for a new repository.

This would mean walking away from a multibillion dollar investment, writing off years of effort and expenditures. We would be faced with the biggest and most expensive monument to Government folly in the entire history of civilization. It would also mean that all of a sudden, many other States would suddenly find themselves in the running for a repository, and we would be down here on the floor of the Senate reliving this debate. Only this time it would be some other States whose futures would be linked against their will with a repository.

I did say there were two choices, Mr. President, but I suspect my colleagues will view the second alternative even less favorably than the first. If a repository were damaged, or about to be damaged by nuclear weapons testing, we could do something else.

Instead of moving the repository, we could move the weapons testing to another State. Nevadans have put up with nuclear bombs going off in their backyards for decades. The Nevada test site is a very important facility that is essential for maintaining a strong America, but I wonder how many other Senators here would be willing to have nuclear weapons regularly exploding within their own States. I suspect that not too many Senators would rush down to the floor here to volunteer their States for this type of activity.

All things considered, Mr. President, I think it should be pretty obvious that we better find out about any possible conflict between a repository at Yucca Mountain and the weapons testing program at the Nevada test site before a repository gets built, and not afterwards.

I therefore encourage my colleagues to support this amendment.

REPROCESSING STUDY AMENDMENT

Mr. President, this amendment would allow this Nation to take a second look at the option of reprocessing spent nuclear fuel before the Energy Department actually goes out and starts building a deep geologic repository somewhere.

If the current plans of the Energy Department are allowed to be implemented, then sometime around the turn of the century the Congress will be presented with the name of a single site where the Department will want to construct a repository. This will take place after the site characterization work has been done, after the Energy Department has concluded that they have found a safe place for the repository, and just prior to the Governor of the affected State having the opportunity to veto the Department's selection.

My amendment will make sure that once that choice is made by the Department, and forwarded by the President to the Congress, that we in the Congress will have one last opportunity to consider the advantages of reprocessing spent nuclear fuel, before the Energy Department starts pouring the concrete at a repository construction site.

Mr. President, 15 years is a long time in the energy business. It is entirely possible that the economics of reprocessing will look very different by the turn of the century, especially in light of the rapid developments in technology, some of which I have reported to my colleagues during the extended debate on this issue.

In the long run, Mr. President, I am convinced that this country will reprocess spent nuclear fuel instead of putting down into a deep geologic repository. My amendment will hopefully make this eventual transition easier to accomplish.

I urge my colleagues to accept this amendment.

TRANSPORTATION AMENDMENT

Mr. President, this amendment is designed to protect communities within a State that contains a high level nuclear waste repository. The communities within this State will have to bear the risks and inconvenience associated with having large amounts of high level nuclear waste from all around the country coverging on their local areas.

The Energy Department plans to ship approximately 3,000 metric tons of waste to a repository each year, when and if one actually opens up. If there was a monitored retrievable storage facility actively collecting and repackaging this waste from the Eastern and Midwestern nuclear power plants, then this 3,000 metric tons of waste would require about 50 trainloads of waste to a repository each year. That means that about once a week a waste train would come rolling across the country to Texas, Washington, or Nevada. Without an MRS, this waste would converge on a repository in about 1,000 truck shipments a year or about 350 rail shipments a year.

Any way you look at it, the State and local communities that have to live with a repository are going to have to put up with a constant campaign of nuclear waste shipments that will continue for decades. The people who live near a repository will bear a greater risk from the transportation of this material than any other citizens in our country. I think they deserve to have special protection against that risk.

My amendment would go a long way toward providing special protection by authorizing funds for transportation improvements within the State where a repository is located. This money could be appropriated by a later Congress once a site for a repository has been chosen, and actual construction of that repository would be about to begin. The money could be used, for instance, to build a special road or railroad track that detours shipments of waste around cities within the repository State. The appropriated funds would be spent out of the nuclear waste fund after the Secretary of Energy has consulted with the Governor of the repository State, to determine which transportation projects would be the most beneficial.

Mr. President, I think this is a fairness amendment. I think this is a common sense amendment. I urge its adoption.

SUBSEABED RESEARCH FUNDING AMENDMENT

Mr. President, this amendment earmarks $5 million from the funding of the Energy Department and requires the Energy Department to promptly report on the cost of further research on the subseabed disposal of high level nuclear waste.

Specifically, the Department will estimate the cost of three things:

First, a detailed research plan for the characterization of subseabed candidate sites in the Atlantic and Pacific Oceans;

Second, the potential impacts of subseabed disposal on human health and the marine environment; and

Third, preliminary designs for a subseabed disposal system, including estimated costs and institutional requirements.

In markup on S. 1668, the Energy Committee expressed some interest in further research that might be done on subseabed disposal, but the Appropriations Committee did not provide any money at all for this work.

Mr. President, as I have stated earlier, both the National Association of Regulatory Utility Commissioners, and the Edison Electric Institute are on record in support of further research on subseabed disposal. In other words, both the industry regulators and the industry see the need for this work.

In closing, let me say that this work is necessary, it is appropriate, it is sup-

ported by industry, prominent institutions of higher learning, and the States.

SUBSEABED OFFICE AMENDMENT

Mr. President, this amendment will set up a special office in the Department of Energy to carry out research on the possibility of subseabed disposal of high-level nuclear waste.

The Federal Government has been participating in this research since 1974. By 1985 10 other nations had joined the United States in a cooperative research effort on this subject, with America contributing only about 42 percent of the total research budget. Subseabed is potentially a superior alternative to our current plans for high level nuclear waste. It may prove to be cheaper and safer. This research allows us to cooperate with other nations in finding a common solution to the waste problem, and a solution that reduces the chances of nuclear proliferation. Finally, this research enables America to stay at the cutting edge of ocean research and technological development.

In the past, this research has been under the administrative direction of the Office of Civilian Radioactive Waste Management at the Energy Department. Unfortunately, that office has shown little or no interest in the alternative of subseabed disposal, but instead has been preoccupied with promoting deep geologic disposal inside the Continental United States. As a result, subseabed disposal research was not funded as it was intended according to the Nuclear Waste Policy Act of 1982, it is entirely possible that the Energy Department's entire Waste Disposal Program might unravel due to a legal challenge under the National Environmental Policy Act.

If subseabed research is to receive the attention it deserves from the Energy Department, I believe the Congress is going to have to put another part of the Department in charge of this research effort. This amendment puts the program in the Office of Energy Research, where I expect it will receive more attention from the Department.

Mr. President, I am very pleased that the chairman of the House Committee on Merchant Marine and Fisheries, Congressman JONES of North Carolina, has recently introduced H.R. 3499, a bill that is very similar to the amendment that I am proposing here today.

Clearly there is bipartisan interest on both sides of Capitol Hill in keeping research going on the subseabed disposal of high level nulcear waste. I believe I have offered a useful and helpful amendment on this subject, and I urge my colleagues to adopt it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JOHNSTON. Mr. President, we have carefully gone over the amendments of the distinguished Senator from Nevada over a period of time, as a matter of fact. I thank him for his cooperation in getting these amendments in acceptable form and we do agree to them en bloc.

The PRESIDING OFFICER. Is there further debate on these amendments?

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

The amendments (Nos. 1173, 1174, 1175, 1176, and 1177) were agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we will soon ask to amend the unanimous-consent agreement with respect to nuclear waste disposal. I would like to explain for the benefit of Senators what we have in mind here and I guess we will probably do a hotline on this.

But what we want to do is this: to revise the unanimous-consent agreement of November 10, governing nuclear waste disposal amendments to be modified to read as follows: One, that Senator ADAMS be recognized to offer one amendment on nuclear waste with a time limitation of 1½ hours, equally divided; two, that any second-degree amendments to the Adams amendment be germane and time for debate be limited to 20 minutes, equally divided, and in the usual form; three, that Senator BREAUX be recognized to make a motion to recommit the bill with instructions relating to the nuclear issue, and that no point of order under rules XV or XVI be in order, that any amendments to the instructions be germane and limited to 20 minutes equally divided, and in the usual form, and that debate on the motion be limited to 2 hours, equally divided and controlled by Senators BREAUX and JOHNSTON; and, four, that no other first-degree amendments or recommitment motions related to nuclear waste be in order.

Mr. President, I think that this unanimous-consent agreement reflects exactly the unanimous-consent agreement at present and as Senator ADAMS has amended, save in the one respect that no other first-degree amendments or recommittal motions relations to nuclear waste be in order. I know of no such amendment. This unanimous-consent agreement would simpy be a way of in effect going to third reading on the subject of nuclear waste leaving the bill open, of course, to amendments to any other subject.

I am not going to ask that unanimous consent now but simply give that notice and that explanation for my colleagues and we will soon do a hotline on that.

Mr. DOMENICI. Mr. President, will the distinguished chairman yield?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. I say to my friend from Louisiana, that he mentioned in that proposed unanimous-consent agreement certain Senators with proposed amendments on the subject and I understand from our side that we would like him to include Senator MURKOWSKI from Alaska as having an amendment.

Mr. JOHNSTON. Is that on nuclear waste?

Mr. DOMENICI. On nuclear waste. I know nothing more about it other than I was asked to inform the Senator of that at this point.

Mr. JOHNSTON. I thank the Senator for telling me that. Obviously this will have to be revised to reflect that so if Senator MURKOWSKI's staff would let us know if it is just one amendment and I understand it is just one amendment——

Mr. DOMENICI. The Senator is correct.

Mr. JOHNSTON. That will be germane. Would it have any second-degree amendment, or second-degree amendment limited to 20 minutes I would assume. But we will clear that with Senator MURKOWSKI before we ask for it.

Mr. DOMENICI. I assume with this colloquy plus the staff being informed what we just said they will get to Senator MURKOWSKI's office. If the Senator needs further clarification we will have it for him shortly.

But we want his, Senator MURKOWSKI's name included with those others that the Senator named.

Mr. JOHNSTON. I thank the Senator.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE DEFICIT

Mr. NICKLES. Mr. President, we have heard a lot of discussion during the last few days and we have a lot of Senators who are involved in negotiations with the White House and Members of Congress in trying to bring down the deficit. I wish them well.

We have heard a lot of discussion about how evil the deficit is, how it has contributed to the stock market collapse. I heard my good friend, the Senator from Arkansas, make a very fine statement today about the deficit. I think probably at one time or another most Senators have made comments concerning the need to bring the deficit down.

I have a chart, Mr. President, I sent to all of my colleagues, and I will have it entered into the RECORD. It is an analysis of Federal spending for the years 1980 through the year 1987 and projected for the year 1988. One of the things I think a lot of people are not aware of is the fact that last year, between fiscal year 1986 and 1987, we had a very significant, a very real reduction in the deficit. We actually had last year a very a very low rate of growth in spending; actually 1 percent. Spending grew $12 billion last year from $990 billion to $1.2 trillion, an increase of $12 billion or 1 percent. Revenues last year grew $85 billion or 11 percent. That is remarkable. So you also had revenues growing by $85 billion and you had spending growing $12 billion.

The net result was last year we had a deficit reduction of $73 billion, the largest reduction in the deficit that we have had in our history; a very significant reduction in the deficit. And you see these lines saving Federal spending and revenues really start to close up.

I would hope that my colleagues and I and others, when we are working on the budget plan for 1988 and the budget plan for 1989, 1990, and 1991, that we would be successful in maintaining the very low rate of growth in total spending. Because, as the chart shows, spending has risen and risen substantially from the year 1980 all the way thorough the year 1987. But it is just starting to slow down. Actually, as the chart shows—and my enclosed chart that I will put in the RECORD—spending has been slowing down. In the year 1985 to 1986, spending grew 5 percent. The year before that, it grew 11 percent. And it has for all the past several years.

Finally, we have taken inflation out of this big Government surge of spending; so we need to keep it low. I think we can make further significant, substantial reductions in the deficit if we can hold the growth of spending down to 1 or 2 percent per year. It can be done, it was done last year. It can be done without hurting people. It can be done without gutting programs. We are not talking about cutting spending. We are talking about maintaining or controlling the growth of spending. Revenues are growing and revenues are growing fairly rapidly, as I mentioned, last year, revenues grew by 11 percent. I doubt that they will continue to grow at 11 percent. That is very unusual and that is very high.

If we can maintain or hold the growth of spending levels down, revenue levels will catch up and we can achieve that without a significant tax increase.

A lot of people say, "Oh, we can't close the gap without a big tax increase." I disagree. I think if we can just hold the growth of spending down to 1 or 2 percent, maybe even slightly above that, if the growth of revenues is significantly more, we can make significant, substantial real deficit reduction. Again, I will just cite to my colleagues, revenues grew in 1986, the figure was $769 billion; last year, $854 billion, an $85 billion increase in revenues.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. NICKLES. I will be happy to yield.

Mr. BUMPERS. The Senator alluded to the fact that revenues grew $85 billion last year, which he correctly points out is by far the biggest increase in revenues ever in the history of the country.

Mr. NICKLES. Not quite.

Mr. BUMPERS. That is not likely to be repeated any time soon. As the Senator knows, we had a lot of growth rate last year. But the principal reason for that was a big increase in Social Security collections, plus most people were selling stocks to get the 20 percent capital gains rate. And so we collected a tremendous amount of capital gains revenue last year as a result of that.

As a matter of fact, I think when you compare last year's $85 billion increase in revenues with the average increase over the past several years of about $35 billion, you can see there is a real aberration there.

Mr. NICKLES. I beg your pardon, Senator. I am going to have to correct you on your statistics. In the first place—and I will enclose this chart into the RECORD, as well—but it shows exactly where that $85 billion came from. We had 11-percent growth in individual income taxes. We had a 32-percent growth in corporate income taxes. We had a 13-percent growth in revenues from customs; 8-percent growth in excise taxes; estate and gift taxes; social insurance taxes. Social Security, as the Senator alluded to, went up 7 percent, and on and on. I will include this in the RECORD.

You mentioned that the average revenue increase was $35 billion for the last several years. I will give you what the actual last year revenue increases was. From 1985 to 1986, revenue increased by $35 billion. From 1984 to 1985 the increase was $67 billion. From 1983 to 1984, revenues increased by $65 billion. The year before that, revenues went down by $17 billion. That was in the year, 1982, when we had a recession. The year before that 1981, revenue increased by $18 billion. If you took the average of those figures, you might not be that far off from an average increase of $35 billion.

Mr. BUMPERS. I do stand corrected. I think, though, if you will take roughly the 5-year average from 1981, you will find that it is about $35 billion. That is what I said, an average increase of $35 billion, which also happens to be the increase for 1986.

But let me just pursue one further point. Could the Senator tell me, if he knows, how much of that deficit reduction last year and revenue increase was a result of trust funds, such as Social Security?

Mr. NICKLES. Again, I have it for the RECORD. I will include all of these figures in the RECORD.

I think the principal point I am going to have to make—is that the main reason we had an $73 billion reduction in the deficit is because spending went up 1 percent. That is historic. Revenues fluctuated somewhat and expenditures have gone on and increased at significant rates. That is also included in the information which I am supplying to my friend from Arkansas and all of our colleagues.

I send this out with not a particular campaign in mind, except to let people see what the facts are. We even put down the percentage of growth in each department, each category in expenditures, and then we also show the increases in revenue.

The point I am making is that we have something that has happened. We have been successful. Last year, for whatever reason, primarily because of low inflation growth, expenditures grew very slowly.

What I would hope that we could do is that we would work, both on the Appropriations Committee and on the Budget Committee, and on the special task force that is working to reduce the deficit to try, to hold down the growth of spending. And maybe that means, instead of having a baseline using last year's figure and adding 4.2 percent, maybe it would mean using a baseline of last year's figure. I think that would be a step in the right direction. It may mean other procedural reforms which some of us may support and some of us may not, such as enhancement rescission or line item vetoes and so on.

But through whatever technique, I hope that we would work to cap or slow the growth of spending down so if we do have revenues, if we do have tax increases, it will actually be used to bridge the gap and not to continue the cycle of spending and spending and not really closing the deficit gap. I think that is awfully important.

Mr. President, I have a couple of things that I would like entered into the RECORD.

I ask unanimous consent to have printed in the RECORD a table entitled "Analysis of Federal Spending," as well as a "Summary of Receipts by Source and Outlays by Function of the U.S. Government" from the Department of Treasury.

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

ANALYSIS OF FEDERAL SPENDING 1980–88[1]

	1980 actual	1980–81 increase/decrease		1981 actual	1981–82 increase/decrease		1982 actual	1982–83 increase/decrease		1983 actual	1983–84 increase/decrease		1984 actual
		Amount	Percent		Amount	Percent		Amount	Percent		Amount	Percent	
Defense	134.00	23.50	.18	157.50	27.80	.18	185.30	24.60	.13	209.90	17.50	.08	227.40
International Affairs	12.70	.40	.03	13.10	−.80	−.06	12.30	−.50	−.04	11.80	4.10	.35	15.90
General Science	5.80	.70	.12	6.50	.70	.11	7.20	.70	.10	7.90	.40	.05	8.30
Energy	10.20	5.00	.49	15.20	−1.70	−.11	13.50	−4.10	−.30	9.40	−2.30	−.24	7.10
Natural Resources	13.90	−.30	−.02	13.60	−.60	−.04	13.00	−.30	−.02	12.70	−.10	−.01	12.60
Agriculture	8.80	2.50	.28	11.30	4.60	.41	15.90	7.00	.44	22.90	−9.30	−.41	13.60
Commerce & Housing Cr	9.40	−1.20	−.13	8.20	−1.90	−.23	6.30	.40	.06	6.70	.20	.03	6.90
Transportation	21.30	2.10	.10	23.40	−2.80	−.12	20.60	.70	.03	21.30	2.40	.11	23.70
Community & Reg Dev	11.30	−.70	−.06	10.60	−2.30	−.22	8.30	−.70	−.08	7.60	.10	.01	7.70
Educ. Training, Emp	31.80	1.90	.06	33.70	−6.70	−.20	27.00	−.40	−.01	26.60	1.00	.04	27.60
Health	23.20	3.70	.16	26.90	.50	.02	27.40	1.20	.04	28.60	1.80	.06	30.40
Social Security	119.00	20.60	.17	139.60	16.40	.12	156.00	14.70	.09	170.70	7.50	.04	178.20
Medicare	32.00	10.00	.31	42.00	4.60	.11	46.60	6.00	.13	52.60	4.90	.09	57.50
Income Security	86.50	13.20	.15	99.70	8.00	.08	107.70	14.90	.14	122.60	−10.30	.08	112.30
Veterans Benefits	21.20	1.80	.08	23.00	1.00	.04	24.00	.80	.03	24.80	.80	.03	25.60
Admin of Justice	4.60	.20	.04	4.80	−.10	−.02	4.70	.40	.09	5.10	.60	.12	5.70
General Government	4.40	.20	.05	4.60	−.10	−.02	4.50	.30	.07	4.80	.30	.06	5.10
Gen Purp Fiscal Asst	8.60	−1.70	−.20	6.90	−.50	−.07	6.40	.10	.02	6.50	.30	.05	6.80
Net Interest	52.50	16.20	.31	68.70	16.30	.24	85.00	4.80	.06	89.80	21.30	.24	111.10
Allowances		(2)	(2)		(2)	(2)		(2)	(2)		(2)	(2)	
Undist Offset Receipts	−19.90	−8.10	.41	−28.00	1.90	−.07	−26.10	−7.90	.30	−34.00	2.00	−.06	−32.00
Total budget	590.90	87.30	.15	678.20	67.50	.10	745.70	62.60	.08	808.30	43.50	.05	851.80
Receipts	517.10	82.20	.16	599.30	18.50	.03	617.80	−17.20	−.03	600.60	65.90	.11	666.50
Deficit	73.80	5.10	.07	78.90	49.00	.62	127.90	79.80	.62	207.70	−22.40	−.11	185.30
GNP Growth	−.20			1.90			−2.50			3.60			6.80
CPI	13.50			10.40			6.10			3.20			4.30

[1] Totals may not add due to rounding.
[2] ERR.

ANALYSIS OF FEDERAL SPENDING 1980–88[1]

	1984–85 increase/decrease		1985 actual	1985–86 increase/decrease		1986 actual	1986–87 increase/decrease		1987 actual	1987–88 increase/decrease		1988 estimate
	Amount	Percent		Amount	Percent		Amount	Percent		Amount	Percent	
Defense	25.30	0.11	252.70	20.68	0.08	273.38	8.63	0.03	282.01	7.59	0.03	289.60
International Affairs	.30	.02	16.20	−2.05	−.13	14.15	−2.39	−.17	11.76	4.94	.42	16.70
General Science	.30	.04	8.60	.38	.04	8.98	.21	.02	9.19	2.81	.31	12.00
Energy	−1.40	−.20	5.70	−.97	−.17	4.73	−.56	−.12	4.17	−.47	−.11	3.70
Natural Resources	.80	.06	13.40	.23	.02	13.63	−.41	−.03	13.22	2.38	.18	15.60
Agriculture	12.00	.88	25.60	5.84	.23	31.44	−4.95	−.16	26.49	1.21	.05	27.70
Commerce and Housing Cr	−2.70	−.39	4.20	.62	.15	4.82	.41	09	5.23	1.37	.26	6.60
Transportation	2.10	.09	25.80	2.32	.09	28.12	−1.89	−.07	26.23	2.07	.08	28.30
Community and Reg Dev	.00	.00	7.70	−.47	−.06	7.23	−1.90	−.26	5.33	1.17	.22	6.50
Educ, Training, Emp	1.70	.06	29.30	1.59	.05	30.89	−2.17	−.07	28.72	4.38	.15	33.10
Health	3.10	.10	33.50	2.44	.07	35.94	4.03	.11	39.97	4.03	.10	44.00
Social Security	10.40	.06	188.60	10.16	.05	198.76	8.59	.04	207.35	12.85	.06	220.20
Medicare	8.30	.14	65.80	4.36	.07	70.16	4.96	.07	75.12	5.18	.07	80.30
Income Security	15.90	.14	128.20	−8.40	−.07	119.80	3.70	.03	123.50	6.40	.05	129.90
Veterans Benefits	.80	.03	26.40	.20	.01	26.60	.20	.01	26.80	1.50	.06	28.30
Admin of Justice	.60	.11	6.30	.30	.05	6.60	.90	.14	7.50	1.50	.20	9.00
General Government	.10	.02	5.20	.90	.17	6.10	−.10	−.02	6.00	1.30	.22	7.30
Gen Purp Fiscal Asst	−.40	−.06	6.40	.03	.00	6.43	−4.81	−.75	1.62	.28	.17	1.90
Net Interest	18.30	.16	129.40	6.60	.05	136.00	2.52	.02	138.52	7.38	.05	145.90
Allowances	(2)	(2)		(2)	(2)		(2)	(2)			(2)	
Undist Offset Receipts	−.70	.02	−32.70	−.30	.01	−33.00	−3.62	.11	−36.62	−3.98	.11	−40.60
Total Budget	94.50	.11	946.30	43.93	.05	990.23	11.92	.01	1,002.15	63.85	.06	1,066.00
Receipts	67.60	.10	734.10	34.99	.05	769.09	85.05	.11	854.14	48.86	.06	903.00
Deficit	26.90	.15	212.20	8.94	.04	221.14	−73.13	−.33	148.01	14.99	.10	163.00
GNP Growth			3.00			2.90			3.80			
CPI			3.60			1.90			4.30			

[1] Totals may not add due to rounding.
[2] ERR.

SUMMARY OF RECEIPTS BY SOURCE, AND OUTLAYS BY FUNCTION OF THE U.S. GOVERNMENT, SEPTEMBER 1987 AND OTHER PERIODS

[Dollar amounts in millions]

Classification	This month	Fiscal year to date 1987	Percent	Comparable period prior fiscal year 1986
Receipts:				
Individual income taxes	$39,797	$392,557	+11	$348,959
Corporation income taxes	20,506	83,926	+32	63,143
Social insurance taxes and contributions:				
Employment taxes and contributions	23,788	273,185	+7	255,062
Unemployment insurance	1,246	25,418	+5	24,098
Other retirement contributions	368	4,715	−1	4,742
Excise taxes	2,808	32,510	+8	32,919
Estate and gift taxes	587	7,493	+8	6,958
Customs	1,278	15,032	+13	13,327

SUMMARY OF RECEIPTS BY SOURCE, AND OUTLAYS BY FUNCTION OF THE U.S. GOVERNMENT, SEPTEMBER 1987 AND OTHER PERIODS—Continued

[Dollar amounts in millions]

Classification	This month	Fiscal year to date 1987	Percent	Comparable period prior fiscal year 1986
Miscellaneous	2,032	19,307	−3	19,884
Total	92,410	854,143	+11	769,091
Outlays:				
National defense	22,132	282,016	+3	273,375
International affairs	1,712	11,761	−20	14,152
General science, space, and technology	860	9,188	+3	8,976
Energy	−197	4,176	−13	4,735
Natural resources and environment	1,157	13,225	−2	13,639
Agriculture	1,383	26,493	−18	31,449
Commerce and housing credit	−547	5,235	+8	4,823

SUMMARY OF RECEIPTS BY SOURCE, AND OUTLAYS BY FUNCTION OF THE U.S. GOVERNMENT, SEPTEMBER 1987 AND OTHER PERIODS—Continued

[Dollar amounts in millions]

Classification	This month	Fiscal year to date 1987	Percent	Comparable period prior fiscal year 1986
Transportation	2,505	26,228	−7	28,117
Community and regional development	−602	5,334	−35	7,233
Education, training, employment and social services	2,178	28,721	−6	30,585
Health	3,332	39,968	+11	35,935
Medicare	6,204	75,120	+7	70,164
Income security	9,880	123,499	+3	110,796
Social security	17,221	207,353	+4	198,757
Veterans benefits and services	2,168	26,801	+2	26,356
Administration of justice	766	7,507	+13	6,603
General government	379	6,005	+1	6,104

SUMMARY OF RECEIPTS BY SOURCE, AND OUTLAYS BY FUNCTION OF THE U.S. GOVERNMENT, SEPTEMBER 1987 AND OTHER PERIODS—Continued

[Dollar amounts in millions]

Classification	This month	Fiscal year to date 1987	Percent	Comparable period prior fiscal year 1986
General purpose fiscal assistance	428	1,621	−300	6,431
Interest	10,284	138,519	+2	136,008
Undistributed offsetting receipts	−4,106	−36,622	+10	−33,007
Total	77,140	1,002,147	+1	990,231

Note.—Details may not add to totals because of rounding.

Source: Financial Management Service. Department of the Treasury.

Mr. NICKLES. Mr. President, I also would encourage my colleagues to look at the report that came from the Secretary of the Treasury for the month of September, which gives these figures. I think there is a wealth of information that would help us. And if we better understood our past, we can make better decisions for the future.

Mr. President, part of my concern is instead of capping and slowing the growth of total spending down, we are taking several actions this year and next year which will cause that line to go straight up. It will cause that line to increase, probably, at rates of growth possibly equal to what we have had during the very high inflationary years, 1979, 1980, and 1981. I think that would be a serious mistake.

Congress is planting some of the seeds of those problems right now. New programs; not just last year's programs, but brand new additional programs. I will mention a few, and this list is not all-encompassing, but it is indicative.

We passed a bill, catastrophic health insurance; also an amendment called the drug provisions, which will be enormously expensive.

By the year 1990, the House bill called for additional spending, put the two together, of $14.3 billion. The Senate bill was $4.3 billion. In conference, it will come out somewhere in between.

We are looking at a Senate bill that says by the year 1993 all drugs will be eligible for that provision, an enormously expensive provision, far more than $4 or $5 or $6 billion. We are looking at a very expensive provision. It will cause that line to go up.

We passed a Clean Water Act that is $6 billion over the President's request. We are working on an AIDS bill that already passed HHS appropriations, $964 million. We had homeless aid earlier this year for 1987, it is $443 million; for 1988, $616 million.

We have a housing authorization bill that will be coming before the Senate that is $4.6 billion over the President's request for this year as well as for next year. We have the space station that is proposed, that will be another $30 billion over the life of the project; we have the super collider, $4.4 billion; the trade bill now in conference has a section called worker training authorization, $980 million; again a new program. There are the total authorizations under the trade bill with $3.7 billion.

We are looking at adding on several very extensive and expensive programs that certainly can break the budget; that certainly will not allow us to maintain a low level of growth.

Mr. President, myself and I am sure most of my colleagues received a letter from Senator WILLIAM ARMSTRONG, a very distinguished Member of this body, who also shares my concern about deficit spending and the growth of spending and I will ask that his letter be printed in the RECORD.

Mr. President, I thank the leaders of the bill, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be allowed to proceed for 1 minute as in morning business.

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

Mr. BUMPERS. Mr. President, the point I wanted to make a moment ago in response to the comments of the Senator from Oklahoma, which are all appropriate and I am sure accurate, is out of the $72 or $73 billion in deficit reduction last year, I want to remind my colleagues that the surpluses in the Social Security fund, the highway fund, the airport fund, unemployment insurance fund, all of those programs where the money can only be spent for that particular purpose—the reason the deficit is down is because $73 billion was in surplus trust funds; $23 billion in Social Security alone. We took $23 billion that we collected in excess of what we paid out in Social Security last year and put it on the debt.

Now, everybody knows that we did not really reduce the deficit by $72 billion last year. We just borrowed money from the Social Security trust fund and other trust funds.

The next point I want to make, Mr. President, is in the form of a question to the Senator from Oklahoma. The Senator mentioned there is no need for a tax increase. Is the Senator aware that on January 1 we are getting ready to put in effect a $17 billion tax cut? I want to ask the Senator, in light of the fact that the house is on fire, if he considers that a prudent thing?

Mr. NICKLES. If the Senator will yield——

The PRESIDING OFFICER. If I could ask the Senators to suspend, the 1-minute allocation has expired.

Mr. BUMPERS. Mr. President, the managers of the bill do not appear ready to proceed with the bill. Let me ask unanimous consent that we proceed for an additional 2 minutes.

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

Mr. NICKLES. I will be happy to respond to the question of my good friend and colleague. If this is the thrust of the Senator's question, what you are saying: You want to go in and not allow the final step of the tax reduction to the 28 percent? I would oppose the Senator's effort. There may be others that wish to do that. I am well aware of the deficit reduction packages that are floating around and I am sure we are all going to argue about the composition of those packages. I may have some taxes I would support. The Senator may have some that he would support. We may agree or disagree and I am sure the entire Senate will work that out.

The point I am trying to make and the most important point is that to really get deficit reduction it is most important that we cap the total amount of money that we spend. If we do not, this figure could easily go up $60 billion. As a matter of fact, it is projected right now at $66 billion.

Mr. BUMPERS. We are in agreement on that. We do not need to preach to each other on that.

If we are going to $23 billion on the one hand and giving away $17 billion in additional tax cuts on the other hand, my question is: What sense does that make? Does the Senator realize, also, that half of that $17 billion tax cut goes to people who make over $75,000 a year and the other half is in a reduction of corporate taxes? Does the Senator think that that is equitable?

Mr. NICKLES. Let me respond. The Senator is making some—almost allegations in some of his statements. One, on the Senator's theory we had a reduction in income tax rates for individuals last year. But individual total collections went up 11 percent. You actually had a reduction in corporate rates last year but you had the total amount of money that corporations paid go up 32 percent. So I think there are some positive things happening with reduction rates. I happen to be one—I do not like to use the terminology "supply side," because that definition depends on the user. I happen to believe that individuals and corporations have the tendency to produce more, to work more, to have more incentive to work overtime if they are entitled to keep a greater percentage of that effort. I know that from some of my manufacturing experience.

Mr. BUMPERS. Let me ask the Senator this question: Is the Senator suggeting the more you cut taxes the more revenue you take in? How do you square the $17 billion tax cut that we are getting ready to put into effect with the fact that the Treasury De-

partment says revenues are going to drop precipitously in 1988, to the point that $23 billion in deficit reduction will only reduce the deficit by $6 billion?

Mr. NICKLES. Again, the Senator is making my point. The reason is not because you see tax rates coming down. The reason why we are going to make a $23 billion or $30 billion deficit reduction and you see the deficit not even coming down, is because spending is projected to go up $66 billion.

If we would keep spending temporarily level or have spending go up as it did last year by only $12 billion or maybe $20 billion, then we would be talking about significant real deficit reduction. You would see the deficit figure last year, $148 billion, would actually decline if we could keep spending fairly level. But instead, spending for 1988 is expected to go up $66 billion. That is my concern. I will debate with anybody as far as how we are going to compose the revenues. If the Senator wants to stop the final stage of the income tax, personal income tax—fine. We can debate that. But I do not know that that makes a lot of difference in worrying about how you are going to compose where the money is coming from. If you allow the spending to continue to go up, you are not going to be successful in deficit reduction.

Mr. BUMPERS. Does the Senator think that entitlement programs, freezes on cost of living or reductions in costs of living would be an appropriate part of the tax package?

Mr. NICKLES. I will tell the Senator I am one, and I have said this for the last 7 years I have been here, that says nothing should be off the table.

I have been one who has urged the negotiators as late as today, when I met with some of the negotiators, that I think it all should be on the table.

Some people say freezing the cost-of-living increases cannot be done, politically it is so sensitive. We have an opportunity, because of last year, a very unique opportunity. Last year's CPI increase was 1.9 percent. We could actually limit all COLA's to 2 percent in every program—in Social Security, in veterans, in military, in Federal Government, and for Senators. We can limit every cost-of-living program to 2 percent. Everyone would receive as much as they received last year.

I do not think there would be a hue and cry from the population saying this is unfair. It would be more than they got last year. If we did it for a couple of years in a row and limited appropriations bill increases to 2 percent, in other words limited the total growth of spending to 2 percent, or in this case it would be about $22 billion for the next couple of years, you would really see significant deficit reduction, both for 1988 and 1989. That would send a signal to the markets of, "Hey, Congress is serious."

I have a feeling that when they read this deficit reduction package that is coming out and they find out here is $30 billion, we are going to do it $12 billion in taxes, $3 or $4 billion in entitlements, $3 or $4 billion in appropriations, and maybe $5 billion from asset sales and $5 billion from defense, I have a feeling the market will not be impressed. This Senator is not impressed. I think we can do more. I think we can do better. But if we are going to do better, in my opinion, we are going to have to put all the Federal spending on the table.

Mr. BUMPERS. So the Senator feels that the deficit package at least ought to be fair straight across the board and the sacrifices shared by everybody. Would that be a correct statement?

Mr. NICKLES. I will make my own speeches.

Mr. BUMPERS. Well, is that correct or not? Does the Senator think the reduction package ought to be a fair one to everybody?

Mr. NICKLES. I think the Senator is making a statement that all Senators could subscribe to.

Mr. BUMPERS. Then how can the Senator say that everything should be on the table, maybe a Social Security freeze, and that sort of thing? How can you argue with the people in Oklahoma that that squares with people making over $200,000 getting a $5,000 tax cut next year?

Mr. NICKLES. The Senator is talking about taxes. I have not said that taxes could not be part of the question. I have not taken a blood oath saying no taxes. I am trying to say if we reduce taxes, let us make sure that we are reducing the deficit and not more spending.

Mr. BUMPERS. Then it would be hard to make the argument that everyone would share in the sacrifice. Retirees, Social Security beneficiaries, and others should accept a freeze or a cut and give the wealthiest people in the country a $9 billion tax cut next year. That would not be fair, would it? Will the Senator agree?

Mr. NICKLES. I will not agree to the Senator's postulation.

Mr. BUMPERS. I will let you argue that to your constituents. I just wanted to make a point.

Mr. NICKLES. Mr. President, I ask unanimous consent that a letter from Senator ARMSTRONG be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 28, 1987.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR DON: I do not subscribe to the "cycles of history" theory. The notion that history just repeats itself over and over again in endless cycles is far too pessimistic for me.

I think we have the capacity to learn from experience. And I doubt it there has ever been a more urgent need to do so than now as we begin negotiations on reducing the federal deficit. There is a real danger Congress will be stampeded into adopting policies and legislation which will make the crisis in stock market confidence worse and may cause a severe economic downturn.

As you know, the last time the stock market declined so dramatically was in October, 1929. Over a two week period, the market dropped 52.9 percent. What is often forgotten is that by April, 1930, the market had made a dramatic recovery and reached a level that was 30 percent higher than after the October crash. By June of 1930, however, the Federal government initiated a series of policies that would doom the economy.

First, President Hoover announced he would sign the infamous Smoot-Hawley tariff bill. The stock market reacted with a sharp decline. Investors knew the ability of foreign debtors to repay loans from U.S. banks depended on their ability to export freely to this country. After Smoot-Hawley became law, many countries established retaliatory tariffs and the nation's recession worsened. In 1930, the gross national product fell 9.8%. In 1931, GNP fell another 7.6%. Smoot-Hawley clearly contributed to this trend. The obvious lesson is that protectionist trade policies are dangerous and must be avoided. Any effort to reduce the deficit will go for naught unless coupled with a rejection of the protectionist provisions in the pending trade bill.

Second, President Hoover proposed tax rate increases in 1931 as a means of reducing the Federal budget deficit. Tax rates at lower income levels were quadrupled, and the top rate was increased from twenty-five to sixty percent. In 1932, GNP fell another 14.7%. In the midst of economic instability, the worst possible prescription is a tax increase. While rate increases of this kind are not in the offing, both the Finance and Ways and Means Committee have proposed new taxes of $12 billion in FY88 and $50 billion over three years. Nearly all of these taxes would be borne by American businesses.

Third, in the early 1930s, the Federal Reserve sharply constricted the money supply and failed to prevent a severe deflation in the economy. Thus far, the Fed seems to be pursuing a more enlightened policy in response to the current instability on Wall Street.

Congress must do the same. Tax increases should be the last resort of deficit reduction efforts and avoided completely if possible. Even small tax hikes on business, during a period of economic uncertainty, will lead to less investment, lower stock values, and less economic growth. The result will be an increase in the deficit, not a reduction. These are not political assertions, but economic facts of life. Indeed, speculation that budget negotiations will produce a tax hike may be contributing to continued instability in the market.

Further evidence that tax increases hold little promise of reducing the deficit may be found in more recent history. For the 1982-1990 period, Congress has legislated tax increases totaling $991 billion dollars to offset the effect of the 1981 tax cuts and help reduce the deficit. This includes tax increases in TEFRA (1982), DEFRA (1984),

COBRA (1985), OMBRA (1986), gasoline taxes (1983), higher social security payroll taxes (1983), and a higher social security wage base each year. Think of it: nearly $1 trillion in tax hikes in this decade alone and Federal deficits persisted. Unless accompanied by real reductions in spending, tax increases will do no good.

Those who think spending has been cut to the bone should consider the following:

Appropriations: Senate appropriation bills exceed President Reagan's request by almost $18 billion in budget authority. House bills exceed the President's budget by nearly $15 billion. The Senate HUD appropriations bill alone exceeds the President's request by $5.7 billion; the House HUD bill by $6.4 billion. Both House and Senate Labor-HHS bills are $9 billion over the President's budget.

Budget Reconciliation: This legislation, in theory a measure to reduce spending and possibly the vehicle to implement any budget agreement, proposes substantial increases in federal spending. The House reconciliation bill, while claiming "net" savings of $1.8 billion in three years, actually proposes $7.2 billion in spending increases over this period. The Senate bill claims $8 billion in three-year savings, but actually proposes $4 billion in new spending.

Costly Authorization: Over the President's veto, Congress has already passed a clean water authorization that was $6 billion above the President's request and a highway authorization that was $10 billion more than the President requested. Congress will shortly consider the conference report on a housing authorization bill which is $5 to $7 billion above the President's FY88 budget. The trade bill would authorize $8.7 billion in additional spending over five years and establish dozens of new Federal agencies, advisory panels, commissions, and bureaucrats. It would also establish a new worker dislocation program that could cost as much as $4 billion, to be financed by a foreign import tariff, and a $2.6 billion "education competitiveness" program.

Other Spending Initiatives: Congress is also on the verge of enacting a major expansion in the Medicare program which would raise Federal outlays and revenues by at least $20 billion in five years. Welfare reform proposals now pending would cost between $3 and $5 billion. Finally, a federal pay raise set to take effect next January could cost $2 billion.

Any effort to reduce the deficit must account for these costly initiatives. Freezing the status quo is simply not good enough; neither is assembling a tepid political compromise of taxes and minuscule spending cuts. What is needed are bond and permanent policy changes that will end the drift in fiscal policy which has plagued Congress not only in the 1980s, but for decades.

Let's work together for that kind of package.

Best regards.

Sincerely,

WILLIAM L. ARMSTRONG.

Mr. NICKLES. I thank my friend and colleague, the manager of the bill, and I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988

The Senate continued with the consideration of the bill (H.R. 2700).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from North Dakota, suggests the absence of a quorum. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1178

(Purpose: To increase the amount of funds provided for the Verification and Control Technology Program of the Department of Energy and to reduce correspondingly the amount provided for nuclear weapons production and surveillance)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. KENNEDY, Mr. DOMENICI, Mr. WILSON, and Mr. CRANSTON, proposes an amendment numbered 1178.

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

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

The amendment is as follows:

On page 41, line 20, after the period insert the following: "*Provided, further,* That of the amount appropriated to the Department of Energy in this paragraph, $125,600,000 may be obligated only for the verification and control technology program of the Department of Energy.".

Mr. BINGAMAN. Mr. President, the amendment which I am offering together with Senators KENNEDY, DOMENICI, WILSON, and CRANSTON would increase funding for verification research at DOE by $25 million, from $100.6 million to $125.6 million. There would be a corresponding $25 million reduction in the nuclear weapons production and surveillance operating budget.

This amendment would give higher priority to the Verification Research Program at the Department of Energy. It is vitally needed because the proposed budget level is inadequate to develop verification options for our arms control negotiators in a timely fashion. Our amendment is totally consistent with action taken in the authorization conference.

Mr. President, the verification mission is basically an orphan in the Department of Energy and in the Government as a whole. Compared to the advocates for developing new weapons technologies, the advocates for developing new verification technologies and strategies wield little influence.

If we are seriously going to pursue the nuclear testing negotiations which started this week in Geneva, those working in our universities, DOE national laboratories, and industry on seismic and nonseismic means of nuclear test verification are going to need greater support than they have been afforded in recent years.

Our amendment would permit vitally needed additional research in several areas. It would allow the Department of Energy to develop a deployable seismic verification system to provide an improved in-country seismic monitoring capability and to produce five units which might be ready for deployment in 1989. This would cost $12 million.

Our amendment would permit continued improvement in our ability to detect nuclear detonations in the atmosphere and in space and thus to verify the Nuclear Non-Proliferation and Limited Test Ban Treaties. In particular, instruments needed for the boost surveillance and tracking system satellites will be kept on course in their development. This will cost $8 million.

We need to support improved verification capabilities at lower yields, including applying the Corrtex hydrodynamic yield measurement technique at such yields. That will cost $5 million.

Mr. President, I realize that we are facing severe budget restraints. That is why I am offering an offset for the proposed increase in verification funding. That offset has also been identified by the authorization conference. The conference has decided to cut operating funds for nuclear weapons production and surveillance by $40 million from the level included in the bill before us. This reflects decisions made by the conferees to delay or cancel various strategic weapons platforms in the DOD budget. Thus, the verification funding proposed in this amendment will be more than offset by the reduction in the nuclear weapons production budget.

Without the additional funding for verification proposed in our amendment and supported by the authorization conference, DOE will be unable to respond to anticipated requirements of nuclear test verification and no new concepts for verification of nuclear tests can be initiated.

That should not be the posture in which we find ourselves as we enter negotiations with the Soviets on nuclear testing restraints. We know verification will be the key issue in those negotiations.

Mr. President, I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JOHNSTON addressed the Chair.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment does indeed shift funds within the Department of Energy nu-

clear weapons account. It takes money from the nuclear production and surveillance line and puts it in the verification line in accordance with the action of the defense authorization conference.

The distinguished Senator from New Mexico is a member of that conference. Although the conference report has not been filed at this point, he advises that that is so. I would note that if for any reason the conference should unexpectedly change its mind on that matter, then we would have full latitude in our own conference on this bill to conform to such changes. But all we are doing here is shifting money in accordance with the action of the defense authorization conference and we therefore accept the amendment.

Mr. BINGAMAN. Mr. President, I thank the Senator from Louisiana, the floor manager for that statement.

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

The amendment (No. 1178) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1179

(Purpose: To direct the expenditure of funds to alleviate ground water problems on Cochiti Pueblo land in New Mexico)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. BINGAMAN), for himself Mr. DOMENICI, and Mr. INOUYE, proposes an amendment numbered 1179.

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

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

The amendment is as follows:

On page 12, between lines 10 and 11, insert the following:

The Secretary of the Army, because of the Federal trust relationship that links the United States and Indian people, is directed to expend within available funds not to exceed $50,000 to plan and not to exceed $700,000 to design and engineer appropriate works to alleviate high ground water problems on agricultural lands owned by Cochiti Pueblo, New Mexico, directly downriver from Cochiti Dam: *Provided, however,* That no such funds shall be expended by the Secretary for design and engineering until the Secretary and the Tribal council of the Pueblo have agreed to writing to a plan of design that, in the judgment of both parties, will resolve the problems related to such high ground water: *And, Provided further,* That the Secretary and the Tribal Council of the Pueblo shall continue to negotiate, and, if the parties so agree, the Secretary shall submit to Congress, if appropriate, a proposed settlement that would be in lieu of, or in addition to, any construction of works for the purposes of alleviating high ground water problems. For the purposes of this negotiation only, the provisions of section 3 of the Act of May 15, 1928 (45 stat. 535, ch. 569; 33 U.S.C. 702c) and section 2401(a), 2401(b), and 2680(a) of title 28, United States Code, are waived. Nothing in this paragraph shall be construed to prejudice the rights, responsibilities, and defenses of either party in any litigation between the Pueblo and the United States, more commit the Section * * * solution of the controversy.

Mr. BINGAMAN. Mr. President, this amendment is very straightforward. It does not cause the expenditure of any additional funds. It relates to the Cochiti Pueblo in my home State of New Mexico, and authorizes and directs that the Secretary of the Army through the Corps of Engineers expend not to exceed $50,000 for plans and not to exceed $700,000 to design and engineer appropriate works to alleviate the high ground water problems on agricultural lands owned by the Cochiti Pueblo.

Mr. President, the language of this amendment does not mandate they go forward with any structure or any structural solution to this problem but it directs funds be used to plan, and then design and engineer a necessary structural solution if that solution is determined to be the most appropriate way to deal with the problem that has occurred there.

I am joined by my friends and colleagues, the senior Senator from New Mexico, Mr. DOMENICI, and the Senator from Hawaii, Mr. INOUYE, in proposing this critical amendment to the legislation before us today. It is my understanding that this amendment is acceptable both to the Subcommittee on Energy and Water Development and the Committee on Environment and Public Works.

This is not an add-on amendment. No additional funds will be added to the Secretary of the Army's budget. The amendment simply directs the Corps of Engineers to use up to $750,000 of its already appropriated funds for the preparation of engineering and design plans that would remove surface waters from agricultural lands owned by the Cochiti Pueblo in New Mexico, immediately below the Cochiti Dam and Reservoir. The expenditure by the corps is conditioned, among other things, on the ability of the corps and the Cochiti Pueblo Tribal Council to reach a written agreement setting forth such a plan.

Briefly, let me outline the need for this legislation. In 1976, the corps—without any requests from the pueblo—built the dam on an easement through the Rio Grande that it purchased from the Cochiti Pueblo for less than $150,000.

Since the dam's completion, we have witnessed, and worked to prevent, the destruction of land that has been farmed by the people of the pueblo since pre-Spanish times. The pueblo's only agricultural land, about 800 acres lying directly below the dam, has been rendered virtually useless because of water storage and extensive seepage from under the dam. The resulting high water table has left standing ponds and marshes on much of this acreage and has waterlogged the rest. Similar damage has occurred to a lesser but still serious degree on land within the nearby town of Pena Blanca and on the tribal land of the Santo Domingo Pueblo. The livelihood of many people who are dependent on farming has been destroyed.

Without going into detail, I will simply say that the pueblo filed suit in Federal district court more than a year ago in an attempt to prompt the corps into correcting the problems stemming from the dam's construction. The suit has been stayed pending the outcome of negotiations between the two parties. In a meeting with myself and Senator DOMENICI on October 6, 1987, the pueblo and the corps agreed to continue negotiations and, if possible, to settle their dispute out of court. It is our intent that those negotiations continue. Indeed, the direction we issue today is expressly contingent upon the continuation of negotiations, but should not be interpreted as an attempt to influence the rights, responsibilities or defenses of either party in any judicial proceeding.

During the past year, pursuant to Congress' directive, the corps has been studying possible solutions to the dam speepage problem. It has promised to produce a preliminary report based on an engineering study conducted in New Mexico by mid-November. From that study, the parties believe an adequate solution can be formulated. However, the corps has told me that without legislation such as this, which directs the corps to take action based upon the study and to continue to negotiate, it would be unable to undertake a structural solution to the problem.

It is my sincere hope that the parties will agree to an adequate solution. For 11 years the people of the Cochiti Pueblo have waited for the corps to come up with a solution. They have waited long enough. It is time to move forward and develop the plans necessary to constructing a remedy. Action by us today would make this possible. This amendment is not intended to prejudice the pending litigation or address liability for any damages caused by operation of the project. It is merely a step toward rectifying a deplorable situation that continues to

grow worse. I urge my colleagues to support this measure.

Mr. DOMENICI. Mr. President, I wish to express my support for this amendment, and I urge its adoption by the Senate.

This amendment seeks to resolve a problem on which I have been working for a number of years. The problem is this:

A number of years ago, the U.S. Army Corps of Engineers constructed Cochiti Dam on the Rio Grande north of Albuquerque. The dam was constructed about 1 mile upriver from Cochiti Pueblo, the home of the Cochiti Indians, and completed in 1975.

The dam was designed primarily for the temporary storage of flood waters. In addition to potential flood storage of 483,000 acre-feet of water, the reservoir holds 103,000 acre-feet of water for recreation and as a sediment pool.

In recent years, wet years, the dam has had to hold back large quantities of water for longer periods of time. Recently, for example, the Cochiti Reservoir pool contained about 400,000 acre-feet.

Just below the dam, as I mentioned, is the pueblo, which is home to more than 1,000 Cochiti Indians. The pueblo is surrounded by several hundred acres of agricultural land. It is good land. It is land that members of the pueblo have farmed for generations, land that is intergral to the culture of the Cochitis.

The presence of the dam and its large storage capacity has caused a rise in the water table immediately downriver of the dam, thus high water levels in the reservoir have inundated the fields of the Cochiti Pueblo.

I have been there and seen this waterlogged land. What used to be good farmland now is often soggy. It is land that often serves best as a resting spot of migrating ducks, not the growing of crops.

To alleviate the problem, the Corps of Engineers several years ago spent $400,000 to install drainage facilities on 17 acres of this land. It was anticipated that this would resolve the issue. It didn't. The wet years only worsened and expanded the wet-fields problem.

For a number of years, the Corps of Engineers and the pueblo have been entangled in lawsuits and negotiations on a solution. That process now appears to have failed. It has not produced a satisfactory solution. As a result, my distinguished colleague Mr. BINGAMAN, and I have developed this amendment in an effort to produce that necessary and justified solution.

This amendment has three purposes:

First, our amendment appropriates to the corps, $50,000 for planning of an engineering solution, plus $700,000 for the necessary design and engineering work on a structural fix to the wet-fields problem. It is estimated that the structural fix will cost about $5 million, and will eliminate the standing water problem from as many as 800 acres.

This amendment does not authorize such construction. It says: Go and develop a solution, then bring it back to Congress for our consideration.

Second, the amendment specifies that not a dime of the $700,000 can be spent on the design and engineering of the project until the corps and the Tribal Council of the Cochiti Pueblo agree on a basic plan and strategy to solve the problem. That will be an agreement in writing, signed by both parties.

And I do mean a strategy to solve the problem. Whatever is developed as a result of this engineering process must resolve this issue once and for all.

And third, our amendment encourages the Federal Government and the Cochiti Pueblo to continue to negotiate toward a settlement that might provide an alternative to a corps-built structural solution. If the two parties reach such an agreement, that agreement is to be submitted to Congress for our consideration.

To facilitate these negotiations, the amendment also waives four specific provisions of law. The first of these involves Federal responsibilities and legal defenses as a result of flood control works undertaken by the Federal Government. The next two involve statutes of limitation, and the final provision concerns Federal legal defenses in the event developments of the Federal Government acts as they are supposed to act.

These waivers are for this negotiation only. They do not affect any lawsuits, nor do they affect any other dam or situation in the Nation.

Essentially, this amendment provides time for the Government and the Cochitis to work on two tracks: One that would produce a structural solution; one that would produce some other agreement, presumably one that would involve a cash settlement with the Cochitis, allowing the pueblo to use the cash for other types of development.

Mr. President, my colleagues are well aware of the special relationship between the United States and all Indian peoples. This special relationship holds true for the people of the Cochiti Pueblo.

That is one key factor in this amendment. Probably more significant, though, is the fact that this amendment merely seeks to resolve a problem created by the Federal Government. It is a problem that probably no one could have foreseen, a problem that the Corps of Engineers has worked hard to resolve. It is a problem that the Congress must, at this point, help to resolve.

For these reasons, this amendment does not require non-Federal cost sharing, which is now required for other types of water resources projects. But this is to correct an error, a problem caused by the construction of Cochiti Dam. This correction should not be viewed as a precedent for other situations that could arise.

Finally, this amendment is not to intended to prejudice ongoing litigation between the corps and the Cochitis. That is clearly spelled out in the language. By our appropriating these funds, we are not acknowledging any liability on the part of the Corps of Engineers, which would have an effect on that litigation.

Mr. President, I urge my colleagues to support this amendment. And when this amendment becomes law, I urge the corps and the Cochitis to move rapidly to develop an effective plan and to continue negotiations, if appropriate.

Mr. JOHNSTON. Mr. President, this amendment contains the final language. It says nothing herein shall mandate a structural solution to the problem.

Mr. BINGAMAN. Yes. It does. I respond that the amendment is as modified by the Senator from Louisiana to make that very explicit.

Mr. JOHNSTON. Mr. President, we accept this amendment. We think it can have a very constructive effect in getting a solution to a very contentious problem. The Corps of Engineers built this dam for water supply downstream which has in fact if not flooded at least made soggy or unfarmable the Indian tribal lands which have great value to the Indian tribe. There is a lawsuit going on. We hope that lawsuit can be solved.

The reason we have asked that the amendment include language that says it does not mandate a structural solution is because it may be that the structural solution, that is building a ring levee around this land, would be much more expensive than first paying the Indians the full and fair value of their land, or two, acquiring alternate land of equal value, and equal farmability, or some other combination of those things.

We do not want to mandate a structural solution if that is not practical, and if that is not in fact the best solution. But we must know what the structural solution would be, what its cost would be, and really it brings the parties together and urges them in a material way to settle this lawsuit without having to go through the courts. Of course, it does not preclude the parties from exercising their rights in court, but it recognizes really the advisability or preferability of some other settlement of the case.

So we will accept the amendment, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. BINGAMAN].

The amendment (No. 1179) was agreed to.

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

Mr. BINGAMAN. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ACEQUIAS RENOVATION FUNDING

Mr. DOMENICI. Mr. President, I wish to point out to the Senate that this bill initiates construction of an important program, one to repair and restore many of the hundreds of small acequia systems in New Mexico.

Under the terms of this legislation, $1,700,000 is appropriated to the Corps of Engineers to begin that construction. This initial Federal construction commitment will be matched this year with a non-Federal contribution of $566,666.

I am proud that after my many years of effort to authorize this work, the Appropriations Committee has quickly seen its value and agreed to appropriate the initial money toward a program that eventually will involve a $40 million Federal commitment, with non-Federal spending of $13.3 million.

The acequias of New Mexico are community irrigation ditches, many of which date back to the 18th century. They thus hold great historic and cultural importance to many communities, an importance that may equal their economic significance.

Acequias were begun with the construction of small diversion dams and related canals, dams and canals that often had to be repaired or rebuilt every year. If these facilities are to continue to benefit the area economically, many of these diversion structures and associated canals must be upgraded, they must be made more permanent.

This bill begins that effort. This legislation will make funds available to begin the actual construction work.

And I must tell my colleagues that the State of New Mexico shares my commitment to this effort.

Governor Carruthers has established a 10-member acequias commission, headed by Andres A. Martinez of Taos, NM. The commission will help the State and Corps of Engineers determine priorities in this work. In addition, the State is committed fully to provide its 25-percent match on this work.

My commitment to renovation of the acequias dates back many years. Fortunately, we have been successful on two fronts, a specific project undertaken by the Bureau of Reclamation at Velarde, NM, and this new, general acequias renovation project, authorized a year ago.

We began in April 1979 with a hearing at Velarde on the need to rebuild the acequia serving that community. The Velarde acequia irrigates 2,800 acres, using water taken at nine diversion structures. That fall, at my request, the Bureau began an engineering study on the Velarde problem.

In January 1980, we held a hearing in Santa Fe on the more general problem of acequias.

That September, Senator MOYNIHAN and I introduced S. 3170, a major omnibus water resources bill. Section 1303 of that bill established an acequias provision, one almost identical to the one we are funding today. That provision called for 40 million Federal dollars to be matched by 10 million in non-Federal dollars. That legislation was reported by the Subcommittee on Water Resources, but failed to win full committee action by the time that Congress adjourned.

On February 3, 1981, I introduced the acequias bill as separate legislation. No action, however, was taken by that Congress on any legislation authorizing work by the Corps of Engineers. So the members of our acequias had to wait again.

In October 1982, the Bureau of Reclamation submitted the report on possible rehabilitation work on the Velarde structures and ditches. The Bureau estimated the cost at $13 million.

On the broader program, my acequias bill was included as section 313 of S. 1739 when the Committee on Environment and Public Works reported that bill in August 1983. That was the omnibus water resources bill. This bill, however, was never voted on directly by the Senate; it came to the floor only as a nongermane amendment to the continuing resolution, and was ruled out of order.

During fiscal 1984, at my request, $3 million was appropriated to the Bureau of Reclamation to begin work on acequias rehabilitation at Velarde. This work involved the construction of new diversion structures, plus relining of canals.

The following year, fiscal 1985, another $1,580,000 was appropriated for the Velarde Community Ditch Project.

On August 1, 1985, my general acequias proposal—this time authorizing 40 million Federal dollars to be matched with 13.3 million non-Federal dollars in line with the 75/25 matching formula elsewhere in the bill—was reported by the Senate Committee on Environment and Public Works as section 312 of S. 1567. This bill eventually passed the Senate as H.R. 6.

In fiscal 1986, $2.5 million was made available, after Gramm-Rudman-Hollings cuts, for continued work at Velarde.

The following fiscal year, 1987, another $2.28 million was appropriated for the Velarde Community Ditch Project.

Then on October 17, 1986, the House and Senate passed the conference report on H.R. 6. In that conference report, section 1113 contained language that was virtually identical to the earlier versions of my statewide acequias renovation program. That is the work we are funding with this appropriations bill.

President Reagan signed H.R. 6 on November 17, 1986, as Public Law 99-662.

Mr. President, it has taken nearly a decade to move this important program forward. It has taken a long time because of the gridlock that existed between the Congress and the White House over water projects and cost sharing. That gridlock dates back to the Carter administration.

I am very pleased that we have broken that gridlock, that we have passed major water resources legislation that includes the acequias provision, construction of which begins in this bill.

It will, of course, require several years before we can complete the entire task costing $53.3 million. But we have started, and I am excited by that prospect.

And I am pleased that this bill also continues the separate work on the Velarde project, with an appropriation of $717,000 to the Bureau of Reclamation.

The leaders of the New Mexico Legislature and Gov. Garrey Carruthers are to be commended for their hard work and commitment in allocating money to provide the required non-Federal share.

Mr. President, I endorse this provision. More importantly, I believe it demonstrates how effective a new, cooperative effort can be in the development of America's water resources, a cooperation in financing and commitment.

AMENDMENT NO. 1180

Mr. BINGAMAN. Mr. President, I send an amendment to the desk for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 1180.

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

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

The amendment is as follows:

On page 15, between lines 19 and 20, insert the following:

The Secretary of the Army, with the use of available funds, is directed to prepare a revised master plan for recreation and resource management for Abiquiu Dam and Reservoir, Rio Chama, New Mexico at a total federal cost not to exceed $100,000. The findings of the revised master plan shall be furnished to the Congress no later than January 31, 1989.

Mr. BINGAMAN. Mr. President, this amendment merely directs that funds already in the bill be made available for use by the Corps of Engineers to prepare a revised master plan for recreation and resource management for the Abiquiu Dam and Reservoir in northern New Mexico. Many of the residents of the Espanola Valley have indicated concerns that the recreational potential of the reservoir has not been fully realized. Recreation is a major source of tourism and economic opportunity for this part of my State. The Corps of Engineers last prepared a written plan in 1977. With the increased use of the reservoir for recration, a new plan clearly is needed.

This amendment would provide that a comprehensive recreation and resource management plan be completed no later than January 31, 1989, and at a cost not to exceed $100,000.

I expect the Corps of Engineers to work closely with local officials and community leaders in developing this plan. This amendment will ensure that we fully develop recreational opportunities for the benefit of the local community and all New Mexicans.

I urge the adoption of the amendment. I have discussed it with the manager of the bill, and I believe it is an acceptable amendment.

Mr. JOHNSTON. Mr. President, this amendment is within available funds. It does not provide any budgetary impact and provides for a needed study, and we support it.

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

The amendment (No. 1180) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1181

(Purpose: To reprogram certain funds to complete a soil classification study for the Hilltop irrigation project of the Pick-Sloan Missouri River Basin Program)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) for Mr. DASCHLE proposes an amendment numbered 1181.

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

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

The amendment is as follows:

On page 36, between lines 14 and 15, insert the following:

"SEC. . The Secretary of the Interior is directed to use not to exceed $70,000 in fiscal year 1988 for soil classification studies required to complete the integration of the Hilltop Irrigation District as a Federal unit of the Pick-Sloan Missouri River Basin program."

Mr. JOHNSTON. Mr. President, this amendment provides within available funds $70,000 to complete soils classification studies required to complete integration of the Hilltop Irrigation District as a Federal unit of the Pick-Sloan Missouri River Basin Program as authorized. I emphasize that it is within available funds and therefore does not have any budgetary impact.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 1181) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1182

(Purpose: Relief for the city of Dickinson, ND)

AMENDMENT NO. 1183

(Purpose: For the relief of the city of Minot, ND)

Mr. CONRAD. Mr. President, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. CONRAD) proposes amendments numbered 1182 and 1183 en bloc.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1182

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

SEC. Notwithstanding title II of the Reclamation Authorization Act of 1975 (Public Law 94-228), the city of Dickinson, North Dakota, is forgiven all obligations incurred by such city under the contract (numbered 9-07-60-WR052) entered into with the Secretary of the Interior or his delegatee.

(b)(1) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into a new repayment contract with the city of Dickinson the terms of which shall entitle the city of Dickinson to water supply benefits provided by the bascule gate project authorized by title II of the Reclamation Authorization Act of 1975 in consideration for repayment of the costs of the bascule gate project as provided in paragraph (2).

(2) Repayment terms of the new contract shall provide for—

(A) repayment by the city of Dickinson of the capital cost of the bascule gate project of $1,625,000 over a period of 40 years at an interest rate of 7.21 per centum per annum; and

(B) payment of the annual operation, maintenance, and replacement costs of the project facilities.

AMENDMENT NO. 1183

At the appropriate place in the bill, insert the following: "That (a) notwithstanding any other provisions of law, the city of Minot, North Dakota, is relieved of all liability for repayment to the United States of the sum of $1,026,489.29 associated with the excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294).

"(b) The relief from liability for repayment granted by subsection (a) shall be effective retroactive to January 1, 1978, the start of the city of Minot's repayment obligation under the 1972 repayment contract with the Bureau of Reclamation.

"(c) If the excess capacity referred to in subsection (a) is ever used, the city of Minot, shall reimburse the United States for the cost referred to in subsection (a) proportionate to the actual use of the excess capacity."

Mr. CONRAD. Mr. President, I ask unanimous consent that we consider these amendments en bloc.

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

AMENDMENT NO. 1182

Mr. CONRAD. Mr. President, this amendment would relieve the city of Dickinson, ND, of repayment of approximately $1.575 million spent by the Bureau of Reclamation for construction of new gates at the Dickinson Dam. The money represents unexpected cost overruns that the city of Dickinson could not have foreseen, and this bill deserves the support of the Senate.

Dickinson Dam provides municipal and industrial water for the city of Dickinson. The dam was authorized by the Flood Control Acts of 1944 and 1946 and construction was completed in 1950.

The need for safety modifications and additional storage capacity led Congress to enact Public Law 94-228 in 1976 which authorized the Secretary of the Interior to construct a new spillway and to install a bascule gate. The act required the city of Dickinson to repay approximately $681,000—January 1974 dollars—allocated to providing additional municipal and industrial water supplies.

Inflation, design modifications, and an extended construction period caused the final cost for water supply and repayment by the city to rise to $3.22 million. The city objects to repayment of this amount because most of the cost is attributable to inadequate design. The bascule gate has performed poorly and is unreliable. For example, in February 1982 the gate collapsed because of a large ice flow caused by an unusually rapid spring thaw. The gate mechanism had been designed for more temperate climates and had never been tested in rivers with large ice and debris. The city originally intended to expand the capacity of the dam by adding 3 feet of concrete to the structure, but the Bureau of Reclamation claimed that a Bascule gate would be the best method to save water. The Bureau assured the city that the gate would automatically adjust for outflow.

The amendment authorizes the city of Dickinson to repay the capital cost of the Bascule gate at $1,625,000 over 40 years at an interest rate of 7.21 per centum per annum. The amendment is an equitable solution for the city and the Bureau of Reclamation.

AMENDMENT NO. 1183

Mr. President, this amendment corrects an oversight. The first reauthorization of construction of the Garrison Diversion Unit in 1965 did not contain a provision for a water supply for the city of Minot. In 1970, however, Congress authorized the Minot extension of Garrison, and the city contracted with the Bureau of Reclamation to construct a pipeline large enough to carry Garrison diversion water from the Velva Canal. In 1986 the Garrison Diversion Reformulation Act deauthorized those portions of the project that would have delivered Missouri River water to the Minot pipeline, and the city of Minot is now left with the bill for a pipeline that it cannot fully use.

The Garrison Reformulation Act provides that "[a]ny investment related to features constructed by the Secretary that are no longer employed to full capacity pursuant to the recommendations of the Garrison Diversion Unit Commission Final Report shall be nonreimbursable." As the Regional Director of the Bureau of Reclamation stated in a letter to the city of Minot on August 22, 1986, the history of the Reformulation Act indicates that entities should not have to pay for unused capacities on existing features. The director concluded that exclusion of the Minot pipeline from the repayment provisions of the Reformulation Act appears to be an oversight.

This amendment would reduce the original contract repayment from approximately $3.8 million to approximately $2.8 million. It also provides that if the excess capacity is ever used, the city of Minot shall reimburse the Federal Government for the costs associated with that use. The amendment is an equitable solution to a serious problem, and I will urge my colleagues to support it.

Mr. President, both of these amendments are no cost amendments. They relate to legislation that has already passed the Senate but require that we put them on another vehicle. They have been approved on both sides, and I urge their adoption.

The PRESIDING OFFICER. Is there further debate on the amendments?

Mr. JOHNSTON. Mr. President, we have cleared the amendments. They have, as a matter of fact, been considered in the Committee on Energy and Natural Resources where not only the committee considered but the Senate passed S. 640. So, this amendment is perfectly acceptable.

The PRESIDING OFFICER. Is there further debate?

Mr. CONRAD. I might just bring to the chairman's attention, we are not only dealing with what was S. 640 but also S. 641. So we are dealing with two amendments here en bloc.

Mr. JOHNSTON. Mr. President, the other amendment was also passed last year. So both amendments en bloc were passed last year by the Senate, and I, of course, will accept them.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendments en bloc.

The amendments (No. 1182 and No. 1183) were agreed to.

Mr. CONRAD. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, if I might just thank the Chairman and thank the ranking member for their courtesy and help in this matter.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—NUCLEAR WASTE

Mr. BYRD. Mr. President, this request has been cleared with the distinguished manager and other Senators and on the Republican side.

I ask unanimous consent that, in addition to the one remaining Adams amendment and the Breaux motion to recommit, both under the previous order, there be only one more first-degree amendment in order on the subject of nuclear waste, that being an amendment by Mr. MURKOWSKI. I ask unanimous consent that any amendments to the Murkowski nuclear waste amendment be germane to the first-degree amendment.

The PRESIDING OFFICER (Mr. DASCHLE). Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, and I shall not object, it is my understanding that the Murkowski amendment has to do with the transportation of processed plutonium, which we will generically call nuclear waste. With that understanding, I have no objection.

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

Mr. BYRD. Mr. President, I thank all Senators.

Mr. JOHNSTON. Mr. President, did the unanimous-consent request eliminate all other nuclear waste amendments, other than those stated?

Mr. BYRD. It did.

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Did that include motions to recommit?

Mr. BYRD. It includes the Breaux motion to recommit.

Mr. JOHNSTON. Does it preclude other motions to recommit?

Mr. BYRD. It says nothing about other motions to recommit.

I ask unanimous consent that only the Breaux motion to recommit, which was ordered by the Senate some days ago, on the subject of nuclear waste be the only motion to recommit in order.

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

Mr. BYRD. I thank the distinguished manager and other Senators.

May I inquire of the distinguished Senator, is it the plan of the managers to go further on this bill today?

Mr. JOHNSTON. Mr. President, I think we are about at a stopping point. We, frankly, are getting very close to passage. There are a few other amendments, but not world-shaking amendments.

So I hope that we can go to third reading by midday or at least by mid-afternoon tomorrow, at the latest. It looks as though the difficult amendments we have been able to pretty well work out. So I would urge all Senators, if they have amendments on this bill, to be ready to go early tomorrow. We are giving fair notice that we are going to be ready to go, and we do not want to wait with long quorum calls.

I hope that the nuclear waste motion and the nuclear waste amend-

ments also could be brought up tomorrow, because if they want to bring them up at the last part of the bill, which I think they do, then I think the last part of the bill will be tomorrow. So all Senators should be ready to go tomorrow.

Mr. BYRD. I thank the distinguished manager, Mr. JOHNSTON, for his very clear outline of what the state of play is at this point and for urging of Senators to be prepared to call up their amendments tomorrow.

I anticipate that the conference report on housing will be called up and disposed of yet today.

Mr. President, I yield the floor temporarily.

JACKSON LAKE DAM

Mr. McCLURE. It is my understanding that the committee bill provides $31.9 million for the Jackson Lake, WY dam project under the Safety of Dams Act. Is this correct?

Mr. JOHNSTON. That is correct.

Mr. McCLURE. It is also my understanding that the contractor is proceeding on this project at a faster pace than was originally budgeted for by the Bureau of Reclamation. In the long run, this faster pace will save the taxpayer money, but this pace may require additional funding above the committee's allocation. It is my understanding that if this additional funding is necessary, the Bureau of Reclamation has the authority to transfer up to 15 percent of the funds available for that project to handle this contingency. Is that correct?

Mr. JOHNSTON. That is correct. If the funds are available, I would support such a transfer.

Mr. McCLURE. I thank the good Senator from Louisiana for his support for this project.

PORT OF MIAMI

Mr. CHILES. Mr. Chairman, in November 1981, the Congress authorized a Corps of Engineers' reconnaissance study into improvements to the Miami Harbor main ship channel and turning basin. Funds were provided in fiscal year 1982 to begin the study and Congress continued to fund the study, at the corps' request, through fiscal year 1986.

The proposed improvements involve both deepening and straightening the main channel to increase the efficiency and safety of vessel movement within the harbor. The Port of Miami has experienced tremendous growth in the volume of cruise and cargo vessels utilizing the main channel since the investigation commenced in 1981, raising safety concerns associated with the current channel configuration.

The corps has not completed the feasibility report on the proposed improvements, although the investigation began in 1981 and first-year design funds were provided for fiscal year 1987 in Public Law 99-500. I understand that the corps had difficulty in obtaining and compiling base economic data, which delayed completion of the report. But as this information has now been compiled, would the distinguished chairman join me in urging the corps to complete the reconnaissance report by December 15 of this year?

Mr. JOHNSTON. Yes; I concur with the request of the Senator from Florida. On behalf of the Senate Appropriations Subcommittee on Energy and Water Development, I strongly recommend and urge the Corps of Engineers to complete and release the feasibility report by December 15, 1987.

GRAYS LANDING LOCK AND DAM

Mr. HEINZ. Mr. President, I rise to engage the distinguished chairman of the subcommittee, Senator JOHNSTON, in a colloquy regarding funding for the Grays Landing lock and dam in the fiscal year 1988 energy and water appropriations bill. The Grays Landing project on the Monongahela River in southwestern Pennsylvania is a critical component of the Nation's inland waterway system. Replacement of this lock and dam was authorized in the Water Resources Development Act of 1986, Public Law 99-662. Under the Corps of Engineers present funding schedule, the project is expected to be completed in 1995.

The committee has included $5.3 million for this project in the fiscal year 1988 appropriations bill. While I appreciate the fact that this is a higher level of funding than that which has been requested by the administration, it is lower than the $6.8 million provided in the House bill.

It is my understanding that the Ohio River Division of the Corps of Engineers is prepared to spend $6.8 million on the Grays Landing project in fiscal year 1988, which would enable the corps to initiate construction on the project by next spring, and would reduce the time needed to complete the project by 1 year. This expedited schedule would reduce construction costs, which escalate each year that the project is delayed, and would enable the project's benefits, such as reduced transportation costs, to be realized earlier.

Is this the understanding of the chairman?

Mr. JOHNSTON. The Senator is correct.

Mr. HEINZ. I would, therefore, request that the chairman work in the House-Senate conference on the fiscal year 1988 appropriations bill to provide the full $6.8 million that represents the corps' capability for the Grays Landing project.

Mr. JOHNSTON. I thank the Senator for bringing this matter to my attention. I share his view that the Grays Landing project is a high priority of this committee, and I will work in conference to achieve the $6.8 million funding level, provided we can do so within the budgetary limits placed on the overall bill.

Mr. HEINZ. I thank the chairman.

ACEQUIAS IN NEW MEXICO

Mr. BINGAMAN. Mr. President, during the 99th Congress, we took action to provide funds for the restoration and preservation of the system of acequias in my State. The acequias are an historic system of irrigation ditches that have served New Mexico since the early Spanish colonization period of the 17th and 18th centuries. These acequias are still used in New Mexico and deserve to be preserved. They are an integral part of the culture and heritage of the area. The funding provided under section 1113 of Public Law 99-662 is to be used for design and construction of the acequias and not for a general education program. However, the restoration of the acequia system does require a thorough understanding of how to properly maintain and operate the newly constructed facilities. It is my understanding that the Corps of Engineers is prepared to offer instruction and guidance in this area and that such assistance would be provided for under existing law. Is that also the understanding of the chairman of the Environment and Public Works Committee?

Mr. BURDICK. Your understanding is correct. The corps is authorized to provide the important instruction and guidance you have mentioned.

Mr. BINGAMAN. Is it also the understanding of the chairman of the Energy and Water Appropriations Subcommittee that funding of these activities would be permitted under existing law?

Mr. JOHNSTON. Yes. If the Corps of Engineers determines this work is appropriate and authorized funds are available.

Mr. BINGAMAN. I thank my colleagues.

THE SUPERCONDUCTING SUPER COLLIDER

Mr. EVANS. I have some concerns about the language adopted on page 39 of the bill that requires the Secretary of Energy to carry out two independent studies in order to develop potential cost-sharing by State government for funding the SSC project. I would like to pose several questions to the author of this amendment during the committee's markup, the senior Senator from New Mexico.

Does this language, and the accompanying report language, give the Department of Energy the authority to require cost-sharing by a State government for the SSC project?

Mr. DOMENICI. I would respond by stating unequivocally: No, it does not. The amendment is an attempt to develop objective, neutral financial information on the benefits to any particular State of building and operating

the project. As we all know, this is an extremely expensive project in basic energy research that is estimated to cost $4.4 billion. It is very doubtful that the Federal Government can afford to appropriate the necessary funding of the entire project. I think it is reasonable to try to develop objective criteria and a methodology for potential cost-sharing for each competing State, should the Congress choose to require it.

Mr. EVANS. I cosponsored earlier this year an amendment offered by the senior Senator from New Mexico to the fiscal 1987 supplemental appropriations bill which effectively precluded the DOE from considering financial incentives when evaluating each State's proposal. Is the intent of this amendment contrary to this earlier amendment and our floor colloquies?

Mr. DOMENICI. No, it is not. In fact, I attempted to draft the amendment in a way that continues the principle of treating all competing States equally by requiring that the study take into account the varying financial capabilities of respective States. These studies should develop a methodology for measuring different financial indixes that could be used when a final preferred site is selected. As the report states, on page 161:

> The goal is to prepare a cost-sharing plan that any of the competing States might be able to reasonably be expected to meet.

In addition, the development of any recommendation by the organization commissioned to carry out such a study must be performed solely outside the site selection process, thereby ensuring that the Department of Energy could not consider any of the information gathered under this study in selecting a final site.

Mr. EVANS. The Senator from New Mexico is aware that proposals already submitted to the DOE by his State government and mine include a substantial State contribution to defray the total cost of the project. This contribution consists of such projects as improvements to the infrastructure and to the environment, setting, and regional conditions around each State's site. The Senator's amendment is not entirely clear as to how these already-offered contributions are to be treated in such a methodology. Could he clarify his intent?

Mr. DOMENICI. Let me say I believe that any plan developed under this provision would most likely be subject to negotiation once a final site is selected by DOE. I am aware that most of the 25 States that have submitted proposals have indicated their willingness to provide a substantial contribution to defray the Federal Government's cost of the SSC project. DOE would certainly have to take those commitments into account in developing any final cost-sharing agreement.

In addition, let me emphasize that this language does not grant to the DOE the authority to enter into such cost-sharing agreements with any State. It simply requires two outside firms to develop as objective financial information as possible on each of the competing States and submit it to the Congress by December 31, 1988.

Mr. EVANS. Would the Senator agree that there are other ways to defray the cost to the Federal Government of the SSC project, such as international collaboration?

Mr. DOMENICI. The Senator is correct. Cost-sharing with the State is one way to reduce the cost to the Federal Government of this important research project. International collaboration is certainly another important option to consider, and I understand discussions are underway with other Advanced industrial countries to determine their potential interest in our SSC project.

These negotiations must continue. In addition, this body is going to have to think long and hard on how we plan to fund this project. Possible State cost-sharing is just one small element. The study required in this bill will provide us with valuable information, but it is only part of a much larger plan that we will need to begin to think about and develop if we are sincere in wanting to see this project become a reality.

Mr. EVANS. I thank the Senator. I share his concern about the necessity to address realistically the problem of funding this very expensive research project. Let me state, however, that I think it's extremely important for these financial indicators not to be considered by the Department as it considers the best qualified list recommended by the NAS/NAE panel, and as it finally selects the preferred site. The selection criteria should be solely those laid out in volumes 3 through 8 of the "Invitation for Site Proposal" [ISP], published by the Department in April 1987.

I strongly believe that our earlier amendment requires that the Secretary not be able to consider any financial incentives or cost-sharing until after the Department selects one final preferred site. It is only after that such a selection is made that the Department may wish to consider cost-sharing and begin discussions with the State. Is that the Senator's understanding?

Mr. DOMENICI. Yes; that is my understanding.

Mr. EVANS. On another subject, I also am not aware of how vigorously the Department is pursuing the potential path of international collaboration. If we are to require two independent studies of potential State cost-sharing, I also think we should require the Department to accelerate its consultations with foreign governments on potential cost-sharing. Such agreements are not easy to negotiate in the intensely competitive environment of basic science and its commercial applications.

Each government, of course, will try to set terms and conditions which are advantageous to its scientific community and industry. In addition, I suspect that foreign governments such as West Germany and Japan are cautious about entering into any agreement prior to the advent of a new administration in 1989. These governments have entered into agreements with the United States on other projects earlier which the succeeding administration has not honored.

I think it would be useful for the Congress to receive a detailed briefing and be consulted about the nature and frequency of discussions that DOE has been carrying out with foreign governments about potential international collaboration. Such consultations with the appropriate committees of the Congress could lay out the potential interest of those governments, and the particular conditions which they may impose on their contribution to the project. At that time, administration officials should describe in detail the strategy that DOE is pursuing in seeking arrangements for sharing the costs of this project with foreign governments or foreign entities. Such consultations should be required to be carried out at the time the administration submits its budget request for fiscal year 1989, but in no case later than February 15, 1988. I understand a similar requirement for consultations on the Department's strategy for international cost-sharing was included in the SSC authorization bill in the House, H.R. 3228, that recently passed the House Science and Technology Committee.

Would the Senator agree that such consultations would be useful and necessary?

Mr. DOMENICI. I think that is an excellent suggestion and agree that DOE should be required to develop and consult with the appropriate committees of Congress concerning its strategy for potential international collaboration. Such information would be useful in our deliberations in the Energy and Water Appropriations Subcommittee on DOE's request for SSC funding in its fiscal year 1989 budget. The deadline of February 15, 1988, is reasonable and is consistent with a similar provision in the House authorization bill.

Would the chairman of the subcommittee agree that such comprehensive consultations should be required of DOE?

Mr. JOHNSTON. I think international collaboration should be consid-

ered as a potential way to defray the cost of the SSC project. I agree that DOE should prepare such a comprehensive and detailed briefing for the relevant authorizing committees and the appropriations committees in each House by the date of February 15, 1988.

Mr. WILSON. Mr. President, I rise to endorse the fine work of the Appropriations Committee in reporting out a fiscal year 1988 energy and water bill that is responsive to the severe budget constraints that we are laboring under. Like most States, California has a major stake in this bill, and I appreciate the willingness of the committee to work with my staff and California representatives in putting this bill together.

A review of the committee's bill and report reveals that there are over 90 separate California projects that are affected by this legislation. Quite understandably, not all of these projects have been fully funded at a level commensurate with their financial needs. In an effort to help cut Federal spending, I am willing that California should make these sacrifices as long as other States share in making the necessary cuts required to arrive at a fiscally responsible outlay level.

However, spending parameters are constantly changing. By the time the House-Senate conferees on this bill are prepared to make a final cut at a fiscal year 1988 funding level, we will undoubtedly find ourselves in an altered fiscal situation. In the event that the Senate conferees find that they have more flexibility in the upcoming conference than is allowed in the bill before us today, I would like to identify a few projects that could justifiably use a higher funding level.

This bill provides $2 million for funding a small reclamation loan ground water management project sponsored by the United Water Conservation District in Ventura County, CA. What is needed, however, is $5.5 million so that the construction of necessary in-stream diversion facilities can be completed during the summer months of the year. If only 2 million dollars' worth of work is done, construction will only be partially complete and any such work began in the summer will be damaged or destroyed in the flood waters of winter.

An additional $900,000 is required to finance a Corps of Engineers' general investigation study of the proposed Sunset Harbor project in Orange County. This small harbor improvement project—also known as Bolsa Chica—is unique in that its terms of authorization require a 100-percent payback of all Federal expenditures. Non-Federal financing has already been secured and all parties to this project are poised and ready to begin preparation of feasibility studies. With the appropriation of $900,000, the corps will be equipped with the means to meet its share of the financing obligation.

Another corps project in need of general investigation funding is the proposed $350,000 Oceanside Harbor study. The breakwater in this harbor was poorly designed such that waves have a tendency to smash boats up against the jetty. As a result, there have been 10 deaths in the mouth of the harbor over the last 13 years; $350,000 is needed to finance a corps engineering study on how to improve this breakwater.

Further up the coast from Oceanside is the need for another $200,000 breakwater study off Santa Monica. In the severe storms of 1983, the Santa Monica Breakwater was completely destroyed and is now a submerged structure and a hazard to navigation. Its reconstruction is needed to help protect public and private facilities along what is one of the most populated sections of the southern California coastline. Congress has come close to financing this needed study in the past, but necessary money did not survive a House-Senate conference. I would hope that $200,000 can be made available this year to finance this urgently needed study.

Finally, the Water Resources Development Act of 1986 authorized the Corps of Engineers to do a reconnaissance study of the Portuguese Bend landslide on the Palos Verdes peninsula in Los Angeles. This 270-acre landslide into the ocean has destroyed 140 homes over the last 30 years and threatens at least 200 more. Over $4 million has been spent by local jurisdictions to stabilize the upper slide area, but shoreline stabilization is still needed. As the first phase of this stabilization project, the corps requires $350,000 to conduct a reconnaissance study of the coastline portion of this slide.

All of the above mentioned projects have been included in the House version of H.R. 2700 and will be open for discussion in the forthcoming conference. I urge the committee conferees to adopt the House funding levels for these urgently needed projects.

IOWA PROJECTS

Mr. GRASSLEY. Mr. President, I would like to know if the Senator from Oregon [Mr. HATFIELD] would yield.

Mr. HATFIELD. I would be happy to yield to the Senator from Iowa.

Mr. GRASSLEY. I would like to ask you, as ranking member of the Appropriations Subcommittee on Energy and Water Development, to consider the following projects when the Senate conferees meets with the House of Representatives conferees as you consider this pending appropriations bill.

One of the projects that the House bill H.R. 2700 included was for a flood control pumping facility for Hamburg, IA. This project was earmarked under the general investigations—planning section. Since earlier House action, this area has had another flood that prompted the President to declare a national disaster after more than $1 million of damage in the area. This is the second time in 3 years that this area has faced flood problems. The Corps of Engineers office in Omaha that has authority for this project has indicated that this project could be completed if it were funded by Congress. I would hope that we could move ahead with this due to the unusual hardships faced by this community.

The second project that I am asking your committee to consider is the Carter Lake flood control diversion project. The House committee earmarked only $35,000 for this under the section 205 of the Small Flood Control Project Program.

Drainage from the Eppley airfield area flows into Carter Lake which will flood property bordering the lake if it is left unchecked. To avoid this damage, the city of Omaha was diverting excess flow into its sewer system. Because of the requirements of the Clean Water Act, the Nebraska Department of Environmental Quality ordered this practice to be terminated as of January 1, 1987.

Since that time, pumping into the sewer system has continued under a waiver to avoid flooding, but technically it is in violation of the Clean Water Act.

The final project that I hope the committee will consider is the dam repairs on the east fork of the 102 river at Bedford, IA. The House has earmarked $1 million for these repairs. This is the amount needed, but I would ask that this community be exempt from the cost-sharing requirements. The Corps of Engineers acknowledged that their work in straightening the 102 river had contributed to the hole being eroded in the dam due to the increased water velocity. This is one of the reasons that I feel this community should not have to pay for the mistake that the corps caused. I am also concerned due to the severe problems that this community has faced during the farm crisis. They have lost not only many farmers but also related community businesses and people within the community that make up their tax base. Bedford is unable to meet this cost-sharing requirement, but the project is needed or the dam will not last.

I know the budgetary constraints that the committee faces, but as you can see these requests are urgently needed.

Mr. HATFIELD. I thank the Senator from Iowa for bringing these issues to our attention and I assure the Senator that we will give them every con-

sideration during the conference committee with the House.

HANFORD WASTE VITRIFICATION FACILITY—AMENDMENT NO. 1172

Mr. EVANS. Mr. President, I rise today in support of an amendment that provides for $20 million in funding for fiscal year 1988 for the Hanford waste vitrification plant. This follows on an earlier amendment which I sponsored on the National Defense Authorization Act for fiscal years 1988 and 1989 (H.R. 1748) on September 25, 1987. I appreciate the cooperation of the chairman of the subcommittee, Senator JOHNSTON, on this amendment and look forward to working with him on funding the Hanford defense cleanup activities in the future.

Fiscal year 1988 marks the first year of a capital line-item for the vitrification plant at Hanford—a $7.5 million request. I welcome the administration's request this year for initial design activities of this plant. The vitrification plant is the key element in the process for the immobilization of liquid high-level wastes for permanent disposal. Yet I am concerned that the proposed funding level of $7.5 million in fiscal year 1988 for the vitrification plant is too low. I think it's very important to accelerate the funding of this project as much as we can in the early years of design and construction. For that reason, I have proposed raising by $12.5 million the funding level in fiscal year 1988 to a total level of $20 million.

What can the engineers accomplish with this money, Mr. President? For one, I undersand they can accelerate the title I design activities by about 6 months. This would allow the engineers at Hanford the chance to interact with the engineers who have worked at the Defense Waste Processing Facility [DWPF] at Savannah River. There is quite a bit of synergy that could occur between the engineers of the two plants, since it proposes to use similar processing technology. If we let too much time pass by, however, the Hanford people will lose the chance to learn from Savannah River.

Second, if we continue a steady increase in the funding profile over the next 3 to 5 years, I understand that we can advance the expected date of operation of HWVP by about 1 year from 1997 to 1996. It is important that we do this, especially in this era of tight, declining budgets. I am already concerned that the operation date has already been pushed back a year or two. The timely start of the operation of this plant in 1996 or 1997, for hot-cell testing, is essential in the overall defense waste cleanup effort.

Third, I believe that the 12-year period proposed for design and construction for HWVP could be shortened if funding from the Congress were substantial and if the engineers were able to accelerate their design activities. There are considerable opportunities for cost savings if most of the design activities could be shortened by 6 months.

Fourth, an acceleration of the schedule for HWVP will have beneficial spinoff effects on other essential parts of the cleanup effort, such as the grouting of the low-level waste fractions and the fracionating operations at the B-plant. These areas also need adequate and steady funding from the Congress and I hope that we can work together with the House and the administration to ensure that this indeed is the case.

Finally, we need to remember that the longer we wait to design and construct this facility, the more it is going to cost. Just in terms of inflation alone, the estimated cost of this facility increases by $30 or $40 million per year. A few years ago, the total estimated cost was $680 million; today it is $920 million. We need to get on with the design and construction now to ensure that total costs stay within reasonable limits.

Mr. President, it is not going to be cheap to cleanup the existing defense waste streams at the Hanford reservation. The final EIS on the cleanup effort will be released in early 1988. Costs range from $4 billion at the low end to $18 billion at the high end. Unfortunately, waste disposal and environmental restoration have not been considered as part of the integral cost of producing special nuclear materials since the establishment of the Manhattan engineering project in the 1940's. Defense waste has always been an afterthought—never a carefully planned forethought.

Fortunately, I sense the Congress is finally beginning to realize its important responsibilities in this area. Providing for an accelerated cleanup of the Hanford reservation is a good start. In the large picture, $20 million in the first year of the line item may not seem like much money. But it is important both in a symbolic and programmatic sense. This first step will be followed on next year and in future years by continued attention, at least from the Washington State delegation. This amendment is a good first step in a long process.

Mr. JOHNSTON. Mr. President, to further elucidate on the state of this bill, I think we are down to about three or four amendments and two or three of those, in fact, all of them may be worked out; maybe one of those will require a rollcall vote. And then I hope that we could go, with any luck, to the nuclear waste amendments before noon. So we are really getting down to the final throes of this bill.

I would alert all Senators to be ready with their amendments the first thing in the morning, because we will be going to third reading as soon as we are finished with our amendments.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on S. 825 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 825) to amend and extend certain laws relating to housing, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 6, 1987.)

Mr. BYRD. Mr. President, I anticipate there will be a vote on the adoption of the conference report yet this evening. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from California.

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

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

Mr. CRANSTON. Mr. President, is the housing bill conference report now before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. CRANSTON. Mr. President, I am very pleased that the Senate is ready to now consider the conference report on the Housing and Community Development Act of 1987, S. 825.

Seven years have passed since Senators were last able to act on a housing bill conference report. So this moment is long overdue.

The conference agreement now before us was developed over a period of several months in an atmosphere of remarkable bipartisan cooperation. I particularly want to thank the ranking minority member of the Housing Subcommittee, Senator D'AMATO, for his help in achieving this objective. My appreciation also goes to other Senators on the conference committee—Senator BILL PROXMIRE, Senator DON RIEGLE, Senator PAUL SARBANES, and Senator JOHN HEINZ.

Much credit for the achievement of this conference agreement must also go to House Banking Committee Chairman FERNAND ST GERMAIN and Housing Subcommittee Chairman HENRY GONZALES as well as to the ranking minority members CHALMERS WYLIE and MARJORIE ROUKEMA. They once again showed consummate skill and personal commitment to passage of responsible housing legislation.

Other Members of the House on the conference committee, members of the Housing Subcommittee, also played very significant roles in moving this legislation to this final point.

Negotiations were successfully completed because conferees on all sides of many issues were willing to accommodate honest differences of opinion.

The conference produced an important "housekeeping" bill that meets three tests Senate conferees established at the beginning. First, the conference report is a lean bill. It is limited to provisions that need to be enacted this year. Second, the conference agreement is a consensus bill. It has won a broad base of support within Congress and across the country among those who care about affordable housing and sound community development. And third, it forms a legislative package that the President should sign into law.

I want to touch briefly on some of the highlights.

The conference report provides permanent authority for FHA home mortgage insurance so that we will never repeat the experience of last year when FHA was forced to shut down six times for a total of 51 days. It will end, once and for all, the disruptions in mortgage insurance that are so harmful to the housing industry and to hundreds of thousands of families who are trying to buy a home.

The conference report also updates legislative limits on FHA mortgage insurance to make it useful on a more equal basis in all parts of the country.

The conference report will extend Fannie Mae's and Freddie Mac's second mortgage authority without additional limitations in duration or scope. Fannie Mae an Freddie Mac have provided valuable benefits to the second mortgage market—reducing spreads over interest rates on second mortgages, promoting uniformity, and ensuring a constant market for second mortgages throughout the mortgage cycle. This permanent authority will allow them to provide these benefits to the growing market for second mortgages.

The conference report shows fiscal restraint. The funding authorizations are about $600 million lower than both current funding levels and the levels that passed the Senate several months ago. They are below the House-passed levels by about $900 million.

Frankly, funding levels in the conference agreement are substantially below levels that most conferees believe are justified. Housing and community development programs have already been reduced more than 70 percent since 1980 while the need for low-income housing has intensified. However, to ensure the broadest possible support in the current budget situation, the conferees agreed to bring the funding levels down even lower to about $15 billion in budget authority. I believe that to go lower simply would not be responsible.

The conference report provides free-standing authority for housing vouchers, which the administration has been seeking for several years. And it also provides for shorter contract terms for section 8 certificates.

The conference report provides an urgently needed response to the impending loss of low-income housing that is privately owned and federally assisted. As many as 900,000 units of low-income housing could be lost in the next few years as low-income affordability restrictions expire. That would inflict unacceptable harm on tenants who are poor—most of whom are elderly or minorities or young mothers with children. In most cases, tenants would be displaced in markets where other affordable housing is simply not available.

The conference agreement provides a temporary, interim solution for HUD assisted housing—major provisions would sunset in 2 years. During those 2 years, it would prevent the irreversible loss of low-income housing that we might ultimately be able to save. Owners would be offered incentives to keep the housing affordable to low-income people.

That would give Congress the chance to consider and act on recommendations now being developed by several private sector task forces.

Another solution is tailored to housing assisted by Farmers Home. Owners would be offered a chance to withdraw equity through refinancing in exchange for keeping the housing affordable to low-income people. And in cases where that would not work, Farmers Home would facilitate the transfer of ownership to nonprofit organizations or public agencies who would retain the property as low-income housing for the remainder of its useful life.

The conference report establishes a reverse annuity mortgage program in FHA to offer elderly homeowners a safe way to convert their home equity into a stream of income.

The report will extend most housing and community development programs through the end of fiscal 1989 to give States and local communities the stability that is needed for sound program management.

The conference report will, at long last, reform the UDAG project selection system to give hard-pressed cities in every region of the country a fair chance to receive a UDAG grant.

The conference report would expand assistance to low income people who are displaced by certain activities funded with community development block grants or UDAG grant. It would also require the replacement of certain occupiable low income housing units that are demolished or lost as a result of those activities. This was a controversial provision. But I feel the final conference agreement made it more workable for localities. The definition of indirectly displaced persons was much tightened. The period during which rental assistance must be provided was reduced to 5 years. The conference report makes it clear that assistance a city must provide to indirectly displaced persons would be limited to amounts available under section 8 certificates or vouchers, through public housing or from loan repayments directly related to a specific project that was found to have caused the indirect displacement. And other limits were placed on the original House-passed provision.

The report opens the way to improved management and preservation of low-income public housing. It lays the groundwork for a new comprehensive grant approach that will give localities more managerial flexibility. It will enable more residents of public housing to manage their own projects. It would permit a transfer of public housing ownership to resident management organizations under carefully defined conditions that protect the interests of low-income tenants and the public.

The conference agreement will extend important rural housing programs.

It will start the Fair Housing Initiative Program as a 2-year demonstration within HUD and ensure that other fair housing enforcement efforts are protected.

The conference report will establish a new Nehemiah Grant Program to expand homeownership for low-income families and rebuild depressed neighborhoods in our cities.

The conference report would also establish major elements of the Enterprise Zone Program that the Reagan administration has long pointed to as its preferred approach to urban development.

In summary, Mr. President, the conference produced a responsible, important, bipartisan bill that addresses urgent needs of many Americans.

This bill has the strong backing of a broad array of organizations and individuals who are about affordable housing. I ask unanimous consent that the text of a full page add sponsored by a

number of organizations be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. The broad acceptability of this bill is demonstrated by the overwhelming support it has received in the House from Members on both sides of the aisle, from all regions of the country and from members of all political philosophies. Earlier this week, the House passed this conference report with a vote of 391 to 1.

I want to repeat that. This conference report was approved in the other body just a few days ago by a vote of 391 to 1. Obviously, it had overwhelming bipartisan support. It had the support of the leadership on the Democratic side of the aisle and the support of the leadership, all of it, on the Republican side of the aisle. We should do likewise in this body, Mr. President.

I am confident, I know, that this measure has very strong, bipartisan support in the Senate as well as in the other body. It should be passed promptly and be enacted into law.

Before closing, I want to thank the staff of the Housing Subcommittees of the Banking Committees in the House and in the Senate, again on both sides of the aisle, Democrats and Republicans alike, for their very effective staff work. They worked many hours, they worked many long, long nights, starting early in the morning again putting together this measure with their Senators; likewise, the staff on the House side with the House Members. This represents a very fine measure moving us forward to the degree we are presently able to move in coping with the housing needs of our country.

We will have further reference later on more bills, but that is for another day, and really probably for another decade. Today, our country and its people need this measure. I urge all of my colleagues to support it.

I am delighted now to yield the floor and I will be delighted to listen to the remarks of my friend from New York who has done such a magnificent work in the committee on this measure.

EXHIBIT 1

THE AMERICAN PEOPLE DO!

Young families who need low down-payment loans to buy their first homes . . . low income families looking for affordable housing . . . senior citizens on fixed incomes . . . working single parents who pay too much of their incomes for rent . . . rural as well as urban Americans.

Look at the facts:

This is the first major comprehensive housing bill to be considered seriously in seven years.

The federal housing budget authority has been cast by more than 70% since 1980 . . . while the overall federal budget has increased by more than 60%.

This is not a budget boasting bill. Spending for housing would be held below FY 87 spending levels.

Homeownership opportunities are declining. The homeownership rate among young households peaked in 1980 and has been declining ever since. To head off further declines, the housing bill guarantees the uninterrupted continuation of the FHA mortgage insurance program.

Affordability has become a major problem for homebuyers. The housing bill would freeze FHA user fees and make housing more affordable in high cost areas by raising the FHA mortgage ceiling.

Only 28%, or 2.1 million poverty-level households, receive housing existence. S. 825 would provide finding to allow additional low-income families to attain decent and safe shelter.

Rural housing programs have already been cast in half. The housing bill provides affordable housing to low- and moderate-income families living in rural America.

CONSIDER THE VIEWS OF AMERICAN VOTERS

The vast majority of Americans support this housing legislation, according to recent surveys conducted by Information America Corp., a nationally recognized polling firm. The survey shows:

76% of the registered voters polled believe it is harder for young people to purchase a home today than it was 10 years ago.

79% of voters believe that the federal government has a responsibility to help young families buy their first home.

58% believe housing has taken a disproportionate share of federal budget cuts in recent years.

66% say Congress should pass a housing bill, even if it means overriding a Presidential veto.

The right choice is for the Congress to pass and for the President to sign the housing bill (S. 825). That's what the facts support; that's what the American people want.

Mr. D'AMATO. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I appreciate the distinguished Senator from New York yielding to me. I will be very brief.

Mr. President, I rise in strong support of the conference report on S. 825, the Housing and Community Development Act of 1987. This important meausre is the first comprehensive housing legislation to move to final passage in Congress since 1981. It will reauthorize and make important improvements to most housing and community development programs of the Department of Housing and Urban Development [HUD] and the Farmers Home Administration [FmHA], programs designed to help improve housing for low- and moderate-income Americans.

This conference report and the legislation accompanying it permanently authorizes the FHA loan insurance programs and makes other needed reforms so that FHA authority will not lapse as it has on numerous occasions in recent years. This extraordinarily successful program will thereby continue to be available to assist many, many Americans realize their dream of homeownership, a dream which we have translated into a reality in this country to a far greater extent than anywhere else in the world.

This legislation reauthorizes HUD- and FmHA-assisted housing programs and extends the Community Development Block Grant and UDAG Programs for 2 years, programs which have been effective in a number of our communites and cities across the country in improving housing conditions, the quality of neighborhoods, and restoring economic vitality to previously distressed areas.

This legislation contains authorization for the important Nehemiah Home Ownership Program. This program is modeled on the successful effort in New York City that combines the efforts of nonprofit groups, city and State government programs, and Federal loan funds to provide homeownership opportunities for low- to moderate-income families in formerly dilapidated neighborhoods.

The Nehemiah Program is carefully structured so that a wide array of private and public resources can be concentrated in areas of greatest need with the greatest prospect for turning around bligthed neighborhoods.

When this legislation was before the Senate committee, we heard testimony that the pilot Nehemiah Program on which this new program is modeled, has been effective in helping low- and moderate-income families become first-time homeowners—40 percent of whom were previously in assisted housing.

In Maryland, a number of nonprofit groups have expressed an interest in the Nehemiah Program and an effective church-sponsored organization in Baltimore, Baltimoreans United in Leadership Development [BUILD], testified in support of this measure.

BUILD is celebrating its 10th year helping to improve the quality of life for the poor in Baltimore and is perpared to make the commitment, working with local and State government, to start a Nehemiah Program to help establish stable neighborhoods of homeowners in distressed neighborhoods.

In addition, the Federal Crime Insurance Program, a critically important program for small business, and the Flood Insurance Program would also be reauthorized for an additional 2 years under this legislation.

The conferees reached bipartisan agreement to authorize a figure of $15 billion in fiscal year 1988 for all programs authorized by this legislation. Although this level of funding is below the funding levels in both the original House- and Senate-passed bills, and while it will not solve the crisis in housing and community development facing us, the figure does recognize the very real fiscal constraints under which we operate and it was agreed to in an effort to develop a broader consensus in support of this legislation.

This legislation represents a new beginning in housing after many years of trying to make some of these changes. I commend both Senator CRANSTON, who served as chairman of the Senate Housing Subcommittee and of the Senate conferees, and Senator D'AMATO, who is the ranking member of the Housing Subcommittee, for their very fine efforts in bringing us to this point. Both showed very skillful and effective leadership in advancing this legislation.

The enactment of this legislation will set the stage for a further comprehensive review of a national housing policy that has already begun as a result of the efforts of Senator CRANSTON and a host of professionals from all sectors of the housing field.

I want to underscore in closing that this legislation won bipartisan support among most members of the conference committee. It was accepted in the House of Representatives on a record vote of 391 in support to 1 vote against.

Mr. President, I urge my colleagues on both sides of the aisle to approve this conference agreement and support this very important legislation.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I simply rise to thank my friend from Maryland for his generous remarks about my efforts and the efforts of the Senator from New York on this measure, and I thank him for all that he did to bring us to this fine point.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, as the Senate begins consideration of the final version of S. 825, the Housing and Community Development Act of 1987, let me take this opportunity to commend the chairman of the Housing Subcommittee, Senator CRANSTON, not only for his able stewardship and leadership but for the bipartisan manner in which he sought to bring about and resolve the difficult and the truly contentious issues. Without his leadership and without the professionalism of the staff—the staff on both sides—we would not have been able to bring this bill to this point. Truly, it was a remarkable display of the kind of stewardship and leadership that we desperately need in the Congress of the United States and here in the Senate.

I wish some of my own colleagues would at times begin to maybe find ways to accommodate legitimate interests and legitimate concerns of their fellow colleagues, keeping in mind the necessity to recognize that we have financial problems.

Senator CRANSTON did that. Without his leadership, we would not have cut this bill to $15 billion. Without his leadership some of the contentious provisions, Davis-Bacon, for one, would not have been stripped out of this bill. I just wish that we had some people who would take a look at the facts instead of coming up to underscore with rhetoric that this bill is a budget buster when, indeed, it is not. It is a sorry state we have not had a freestanding housing bill since 1980. It is a sorry state, as we talk about the kinds of cuts and sacrifices, that if we had had this kind of application of reduction in spending in other areas, Mr. President, we would not have the fiscal calamity of today—if we applied that in some of the special interests that we all too often talk about as so necessary for this country. Let us talk about it. We have not had those kinds of cuts as it relates to other areas—agriculture. We have not seen any cuts. We have seen for housing assistance in 1980 budget authority of $30 billion and today budget authority for assisted housing of $7 billion.

So I would like to ask some of my colleagues, let us look at the record and see where we have been cutting and where our priorities are. When they talk about senior citizens and meeting their needs, they ought to be ashamed of themselves—12,000, 14,000 senior citizen housing units. That is what this great Nation can produce for those who truly are in need? What about that? Go home to your districts and tell them how you are concerned about the senior citizen when you will not provide what is necessary to give them an opportunity to live a decent, productive life, and so many of them are living on nothing more than Social Security and in some cases living on social services. I would like to see the true conservative who says that is a program we should axe. Why? Because a person does not have that opportunity? We say to the private sector, go ahead and build.

Go ahead, private sector, build and tell me how you are going to provide housing opportunity to a husband and wife with an income of $600 a month.

I get a little tired, Mr. President, hearing the rhetoric that this is a big spending program, that we are just pushing out that money, because we have not been. These programs have sustained much in the way of reform that was necessary. There were many of these programs that were abused, but I think we have come a long way. To say this level of $15 billion is excessive would be a great travesty and a mistake.

For nearly 50 years the Federal Government has played a major role in advancing national housing and economic development policy in its partnership with the housing industry and with State and local governments. Federal tax incentives have promoted homeownership and affordable rental housing. Direct Federal assistance has been provided to low- and moderate-income individual and families so that they may be sheltered in decent and safe housing.

Government assistance also has been provided through the establishment of specialized financial institutions. These federally chartered institutions have channeled funds into the housing market and have given prospective home buyers access to affordable mortgage credit. Other Federal programs have been developed to revitalize our Nation's commercial and industrial areas, to rebuild our neighborhoods, and to provide a safe environment in which every American can live and work.

It is unrealistic, therefore, to assume that our cities, towns, counties, and other localities are no longer in need of these programs that are administered by HUD and the Farmers Home Administration. Our communities must continue to grow and develop and their residents must continue to have opportunities to prosper. The Federal Government must continue to maintain housing, and urban and rural revitalization as one of its highest priorities.

However, recent history tells a different story. The Congress has not enacted a free-standing authorization bill of Federal housing and community development programs since 1980. The Senate has not considered a significant authorizing bill in approximately 3 years. Housing programs have had to stagger along through stopgap funding measures. This has caused uncertainty and confusion in our communities.

Since 1981, many of these programs have had to face draconian funding cuts. Others have had to face complete elimination. These actions have imposed an undeserved financial hardship on our States, cities, rural areas, and smaller localities.

Just last year, the inaction of Congress to pass reauthorizing legislation caused the shutdown of FHA's insuring authority six times for a total of 51 days. This unprecedented disruption imposed needless costs on the housing industry and on Americans who tried to sell a home, to buy a home, or to refinance a mortgage.

America's confidence in the Federal role in housing and community development is at an all-time low. However, 1987 gives Congress the timely opportunity to reaffirm the goal set forth in the Housing Act of 1949: to provide a decent home and suitable living environment for every American family and to contribute to the development and redevelopment of our Nation's communities.

Today we have before us legislation which would authorize for 2 years the major housing and community development programs administered by

HUD and the Farmers Home Administration. This bill, the Housing and Community Development Act of 1987, represents several years of a bipartisan effort to restore faith in these Federal programs. Furthermore, and perhaps most importantly, it represents a major effort on the part of the House and the Senate to accommodate administration wishes for Federal funding in the area of housing.

The House initially provided $15.9 billion for a 1-year authorization for housing. The Senate provided slightly less, approximately $15.6 billion. However, after significant effort on the part of House and Senate Members, both sides agreed to reduce the funding level of the bill. The final housing bill provides $15 billion in authorization for a 2-year period. This marks a funding level below a freeze.

Many provisions of this bill were included in last year's housing legislation, S. 2507, and have the demonstrated support of an overwhelming majority of the members of the Banking Committee. The primary purpose of this bill is to provide the existing housing and community development structure with the support necessary for stable, sound management, and the efficient and effective delivery of services.

Specifically, this bill would extend the authorization for most programs through fiscal 1989, permanently authorize FHA mortgage insurance programs, prohibit fee increases on Federal mortgage insurance and secondary mortgage credit programs, provide for a fairer project selection system and allocation formula for the Urban Development Action Grant Program, permit the testing of new approaches to manage low-income public housing, establish a new program to rebuild inner-city neighborhoods and expand homeownership opportunities to families with modest incomes, and implement the Fair Housing Initiatives Program on a demonstration basis.

Specifically, the bill would provide permanent authorization for the Federal Housing Administration's mortgage insurance programs so that FHA will not experience any further shutdown of its insuring operation.

The bill establishes the Nehemiah Housing Opportunity Grant Program. The program would provide grants to nonprofit corporations to issue interest-free, nonamortizing second mortgage loans to low- and moderate-income families in distressed neighborhoods for the purchase of newly constructed or substantially rehabilitated homes. The maximum amount of a Nehemiah second mortgage would be $15,000.

The largest section of the bill addresses the low- and moderate-income housing crisis that we face in this Nation. The House-Senate bill provides a 2 year, temporary solution to the imminent termination of various HUD and Farmers' Home mortgages and contracts. A short-term solution will give the Congress a couple of years to assess this situation in a long-term comprehensive manner.

The termination of these contracts threatens the housing needs of hundreds of thousands of low-income tenants around the country. In addition, an equal number of low-income housing units could be lost to market rate housing. Given the potentially large impact that the termination of these contracts could have on low- and moderate-income individuals in this country, I am pleased that S. 825 has approached this problem in a reasonable and manageable way.

I firmly believe that Federal housing policy must promote homeownership, stimulate housing in the private sector, and provide housing assistance to individuals and families most in need. This bill would accomplish these objectives. Furthermore, the provisions embodied in S. 825 would provide the urban and rural areas of our country with the necessary tools for revitalization.

I ask my Senate colleagues to support this bill. We must not renege on our commitment to house every American citizen and to assist in the development of every American community.

I express my profound thanks to the chairman of the subcommittee and also to some of those who had legitimate disagreements but in order to move this process forward helped produce a bill that I think is the best we can do under some very difficult and trying circumstances.

Mr. GARN. Mr. President, I rise in opposition to the conference report on S. 825. I urge my colleagues on both sides of the aisle to vote against it. I did not support S. 825, the Senate housing bill, when it was on the floor of the Senate. The funding level was $15.6 billion and the bill contained several new programs. That was my major reason for objection, not the total funding level. The conference report on S. 825 is an entirely new animal on its arrival from the House and is even more objectionable than the predecessor in the Senate.

The reason that I am more concerned about it is not the level. We are playing a numbers game with the level of funding. It is advertised that we should vote for it because it is $15 billion rather than $15.6 billion. Well, I have been around housing programs for a long, long time, for 20 years, as a city commissioner, as a mayor, as a member of the Senate Banking Committee, chairman of the Banking Committee. The major reason we have not been able to pass housing authorization bills is because we have never been satisfied with the existing programs. No matter how many mistakes we have made, no matter how many wasteful programs we have created, with good intent originally, we always think the answer is let us not try and fix the old programs, make them more efficient, have them deliver housing to the elderly and the poor and the disadvantaged, we create a new one.

I had a lot of experience with housing. I can remember years and years ago, at least 15 years ago, when I was trying to get some HUD grants in Salt Lake City in order to put in emergency low-income housing—emergency low-income housing. After 2 years of trying to work with the Federal Government and the Congress, I gave up. I simply gave up for all the bureaucracy.

I went to the Utah State Legislature and I said, "I tell you what, legislature, if you will approve half a million dollars, I will match it with city funds and we will build emergency low-income housing." Within 3 months we had a low-income housing bill.

So when I hear we are insensitive to the poor, insensitive to the elderly, we do not want to do that, I do not accept that. I have been in a position where we built houses on the front end of Government, not back here with the wonderful wizards of the Potomac inside the beltway who are good at housing theory. We are good at theory and rhetoric that says how we are going to do this for everybody here, there and elsewhere. Well, I wish we could concentrate on the existing programs, use some expertise around this country to try to improve them and try to get more bang for the buck, get more people into housing rather than creating new programs.

So that is my major objection. We can play the numbers game. I think it is fair to say both of my colleagues on the floor who favor this bill know that I have tried for weeks to help work out a compromise that was acceptable to the administration so they would not veto it, primarily in the area of compromise within the programs.

As I could support $15.7 billion, I could support $16 billion, and we play the numbers game. It is not very meaningful. It is what kind of programs are you creating within the guts of this bill, and how much is it going to cost down the road? We have a quarter of a trillion dollars of unfunded liability right now. If we never created a new housing program, the taxpayers of this country are obligated to pay over a quarter of a trillion dollars for existing programs, some good, some bad. And now we are going to start some new ones.

The conference report has taken numerous provisions from the House bill which authorize a variety of new programs. That is in light of a stock market crash; that is in light of budget negotiations that have been going on for 2 weeks, and our colleagues have

been so brave. I hear the latest thing that is being considered after 2 weeks of hard, tough negotiations, they are talking about $4.8 billion of cuts in nondefense discretionary and entitlement programs. How brave. How brave, for a $2 trillion problem. They go on week after week, day after day.

We need to do something dramatic. We need to send signals to the market. We need to forget partisanship and walk out of a conference room together and say, "look, we have really done something big. We have gotten some political courage for once." It gets less and less around this place all the time. But to some it has not produced any yet. The administration does not have any more courage than the Congress. It has lots of rhetoric about what we are going to do, but we are not doing very much.

So in light of that, here we are with a housing authorization bill that creates new programs, new spending authorities for the future. That really makes a lot of sense to this Senator. We do not have the guts to cut existing programs. We do not have the courage to tell the American people that we might limit increases. My goodness, who is talking about cutting Social Security and veterans' pensions? But we have not even the courage to place limits on the growth. Last year when the law said if you do not have 3 percent inflation, there will not be COLA's, we could not stand that. We could not even stand to follow the current law. We gave people COLA increases anyway. We have a little trade deficit problem, a little deficit problem, a little stock market problem, and we cannot solve it because we do not have any courage. Both sides of the aisle and the administration are more concerned about the next election than they are in doing something about the problems.

So in the middle of that, what do we have? We have a housing bill with new starts. I might have been able to agree with $20 billion for this year if we were simply something about the substance of the bill because I will guarantee you, 5 or 6 years down the road somebody is going to be standing here paying the bill for what we are doing. We never look back at the rhetoric that goes on at the time. I am sorry the administration will not sit down and bargain in better faith on this particular bill. But we played a numbers game and because it is $15 billion rather than $15.6 billion, the substance within the bill really has not been touched by either side, Democrats or Republicans, or this administration in the middle of a budget crisis.

That is why I cannot support this bill. It does not have anything to do with whether I am for elderly housing. My record is clear, probably more clear than anybody in this body because I served out there in local government and had to deliver housing. I've not been back here on an academic basis of talking about it, and making great statements so the people will think we are for all of these programs.

To pay for this and stay at $15 billion, money has been set aside in various programs. Budget authority has been recaptured and Peter has been robbed to pay Paul. This money could go to deficit reduction or to fund existing programs.

How about funding the existing programs at a higher level rather than creating new ones that we do not know where the bottom of that pit is? For the next 2 years, that money is going to be used to pay for new programs. After that, we will be pressured to spend more for these new programs. That is going to mean less for the existing programs and deficit reduction goes out the window.

After 13 years around here, I think I have learned how the system works. Get the camel's nose in the tent and then it expands. Is there anybody here who can tell me 2 years after creating these new programs that somebody is going to come back and cancel them or recommend cuts, or that they will not be expanded and no requests for larger amounts of money will be made?

I may not be too smart, but I am not that dumb. Over and over again I have seen tiny little programs start out just a little bit now for the next couple of years or the next year and then 10 years down the road—as a matter of fact, when I came to this body in 1974, the budget request that year by Gerald Ford was $295 billion and Congress passed $318 billion. The budget requested at that time was not too much larger than what our deficits are now. That has only been 13 years ago.

I have been here to see $300, $400, $500, $600, $700, $800, $900 billion, and $1 trillion in 1 year, and interest on the national debt in excess of $150 billion a year. John Kennedy ran the whole country, ran the whole country, just 25 years ago for $106 billion including the defense of the country, and all the social programs.

We are told that the problem is lack of revenue and not spending. Again, my record is second to none as a local official in trying to provide housing in this country, and not a lot of new programs with knowing not where they will end in future expenditures.

Again we are being pressured to support the bill because it has been cut to $15 billion instead of $15.6 billion in the original Senate bill.

Again, the fact is it is just the numbers game. The section of this legislation imposed new regulatory requirements in Federal programs such as antidisplacement provisions in CDBG and UDAG, to require grantees to pay for 5 years of rent subsidies for displaced households and to make sure subsequent housing is affordable for 10 years. Certainly it will chill the ability of many communities to take advantage of the grant programs when the cost of replacing households outweighs construction and rehabilitation for which CDBG and UDAG were created.

The new lead-based paint requirement diverts over $1 billion of Federal housing subsidies in modernization funds to remove paint. Moreover, within 2 years of enactment these new standards will also be imposed on federally insured home buyers. Ultimately all private sales of homes could be required to test and abate before selling. That might amount to a cost of up to $8,000 per home.

There are two other new spending programs in the bill.

The HUD preservation loan section gives capital improvement loans to owners of apartment buildings financed by FHA-insured loans and provides additional subsidies to new owners. The rural housing preservation program would enable a nonproft organization to buy out owners of apartments originally financed with farmers' home loans, and funds for these grants would come from raiding the rural housing insurance fund.

The country is sinking deeper into debt, and nothing is done about the deficit. This conference bill focuses less on the neediest in the country and more on the special interests, costly, poorly targeted, new spending programs and inflexible regulatory requirements.

It has been mentioned by my colleagues that this passed the House by 391 to 1, a staggering margin. I can see the questions. My wife might even ask, "What makes you think you are so smart? If only one House Member was opposed, how do you have the courage to stand up and oppose this bill?" Well, I think I know the answer to that. I have also seen the game played over the years. I know exactly what happened. Mortgage bankers, the home builders, the realtors, come in and at least got most of my Republican colleagues to say "we have to have this bill; it has permanent FHA authority in it, and some other provisions that we like about FHA." I agree. I tried for several years to get a permanent FHA authority, and have not been able to do so. Senator ARMSTRONG tried a couple of weeks ago and failed.

But we are using that as an engine to try to drive this whole bill. I can see where it came from. I am frankly disgusted with the home builders, realtors, mortgage bankers, and others who take a piece of this bill and say we have to swallow the whole loaf just to get the provisions we like. That is exactly like the highway bill that was bloated with pork last January in this

body and which overrode the veto of the President. That went through for two reasons: Because the contractors, wanted that money for construction. They are afraid they would not get it early in the spring. They did not like a lot of the pork in it, either. But they were willing to accept it to get their piece of the bill.

Then there was the 65-mile-an-hour speed limit, which I certainly support, coming from a large western State, but I was not willing to pay the $1 billion or $2 billion to get a 65-mile-an-hour speed limit.

That is what happens with most of the legislation that goes through this body. It goes through with everybody saying: "I really don't like it. It's too expensive. But I have my piece of the action in there, so I'll swallow the whole loaf to get that one piece."

That is why the housing conference report passed 39 to 1, and that is why it will pass this body tonight—because they put enough in it to satisfy various pieces and say, "I just have to take it."

That is why we should have a line-item veto for a President, whether it is this President or any other.

We are dealing in slop and pork. It gets worse every year I am here.

I would like to see a housing bill passed. I am disappointed that the administration would not be more cooperative.

I appreciate Senator CRANSTON and Senator D'AMATO trying in good faith to change some of these provisions, but it is tough when you deal with the House. That is why we have not had a housing bill the last 7 or 8 years. The House puts in most of these provisions and we have to accept the House provisions. That is what happened in 1981. The House insisted that we would not get any additional money, with the international banks, with the lending problem primarily in Central and South America, unless we put a housing bill on it. So the House is the source of most of these problem provisions.

This is not the way to do business, whether it is this bill, the highway bill, or the water bill, or anything else.

The reason I am disappointed with some of these groups, which normally, I suppose, are Republican constituencies—contractors, homebuilders, realtors, mortgage bankers, and so on—is that they are the ones who sign the ads, who help buy the ads.

They say: "We have to reduce the budget. You have to do something about entitlements. You have to do something about military spending. Maybe we will even accept some taxes." They say to us: "You have to do something about this deficit. It's killing us."

The special interests in this country, from the left or the right, cannot have it both ways. You cannot in good faith come to visit us and buy full-page ads and say: "We want to solve the economic problems and reduce the trade deficit," and then come in with bills like this and ask us to swallow the whole loaf, whether it is the highway bill or the others. It goes on and on.

Congress is responsible for deficits. We can blame the Fed or this President or the last one, but I think the Constitution is pretty clear. It says that only Congress appropriates money. No President of the United States has ever spent a dime that was not appropriated by Congress.

If they are so persuasive that they can talk us into all these big spending bills, it is like my boys: When I question one, he will say, "My brother made me do it, Dad. It wasn't really my fault." I guess we can say Ronald Reagan made us do it. He made us vote for these bills and therefore it is his fault. We did not have the courage to vote for less expenditures in this body.

These programs, in my opinion, are poorly targeted. I think we had an opportunity to produce a housing bill. We have failed. I am disappointed about that. I would like to have seen a housing authorization bill several years over the last few, rather than going on the way we have primarily been doing it in the appropriations process, but we have not. We are too partisan. We are too interested in the next election, too interested in making speeches, rather than making decisions and getting together and solving some of the problems of this country.

If this bill is not passed, nothing happens. We maintain the status quo. In fact, it is my belief that cities are better off if it does not pass. It is not like the highway bill. Construction on major projects will not stop.

I wonder what it will take to make some people realize that we do have a serious problem and playing games with the total authorization number in a bill does not provide the answer. We should look at those programs and see what the spending potential is for the future.

The one portion of this conference report that I wholeheartedly agree with is making the FHA insurance programs permanent. However, this conference report is not necessary to make FHA permanent. It can be done by a simple FHA extender.

Mr. GRAMM. We voted on that, and people who voted for this bill voted against it.

Mr. GARN. That is correct. The Senator from Texas reminds me of that.

Interestingly enough, we defeated it because we were told that if we did not immediately pass the short-term extender, FHA authority would expire. The House let it expire for 5 days when we sent the short-term extender over.

I have no illusions about what will happen tonight. But I wish the American people, regardless of their political party or philosophy, conservative or liberal, would start looking at the way we do business in this body, to see how badly the process has broken down, how lacking in courage we are to make some of the difficult decisions that would bring our economic policy under control, particularly some of those groups that are supposed to be on the conservative side. They buy those ads, and yet urge us to be more frugal in this body. They should quit swallowing the whole pig for a little piece of it.

Mr. ARMSTRONG. Mr. President, I congratulate the Senator from Utah on the very thoughtful, very sound statement he has made.

I think we all recall the admonition that those who forget the lessons of history are doomed to repeat the mistakes of history.

It is evident to me that the Senator from Utah [Mr. GARN] has a very clear idea of where we have been and where we are going, and I congratulate him on a statement that I found to be very meaningful.

Mr. President, this conference report comes to us at about the least opportune time that it would be possible to imagine. For about the last 2 weeks, our colleagues—in fact, the most senior and important leaders of this body—have been meeting in a little chamber about 50 feet down the hall, with their counterparts from the House and with the senior advisers to the President, in an effort, which thus far has not borne fruit, to find ways to control Federal spending.

With a deadline of November 20 ahead of us for a sequester which will occur automatically under Gramm-Rudman, these leaders—the chairman and ranking members of the Finance Committee, the Appropriations Committee, and the Budget Committee, along with the majority and minority leaders of this body, and the Speaker and minority leader of the House, and the committee chairmen and ranking Members of the House—have been meeting with the Secretary of the Treasury, with the Chief of Staff to the President, with the Director of OMB. They have been trying to find some way to package up some savings that would somehow narrow the budget deficit even more than the $23 billion which will automatically be cut off the spending side in a few days if they are not able to put together and obtain passage of such a package.

They are not doing it because it is fun. It is hard work. They are not doing it because it is something they desire to do. They are not doing it at this time because they planned it. They are doing it because the stock market crashed. A couple of weeks

ago, after declining about 500 points between August and October, it went down 508 points on one day.

Suddenly, there dawned as a realization on Senators and others that there was something dreadfully wrong in the way the Government is managing this business; that somehow, by some means, in some emergency fashion, we had to find a way to get Federal spending more closely matched up with the available revenues—either, as some favor, through a tax increase, which is not my first choice, or a reduction in spending, which is the way I approve, or perhaps through some combination of spending cuts and revenue enhancements which is the exception I guess of most of the commentators and others who are following this as outside observers. This is regarded or at least it was on the 19th, 20th and 21st of October and in the days immediately following the crash as an urgent priority.

I myself believe that the crisis has only just been recognized, that it is in fact deeper and more serious than it is popularly understood to this point.

I spent a lot of time over the last year or two and particularly in the last several weeks talking to outside observers of the economic situation, talking to economists and businessmen and women, academics, people on Wall Street and others, and after doing so I am convinced that the problem is much deeper than just a 500- or 1,000-point decline in the New York stock market. In fact that is a symptom of an ailment which is potentially at least much more serious.

People have forgotten, Mr. President, that following the crash of 1929 the market recovered; in fact by April of the next year the stock market stood at about 30 percent above its previous precrash level. But then Congress did some things that in retrospect were most unwise. Congress raised taxes, passed and the President signed the Smoot-Hawley Tariff Act. The long and short of it is that that finally, totally, and completely spooked not only the stock market but other leaders of the economic world beyond Capitol Hill. We all know that a 10-year depression ensued, the depression the results of which were finally relieved only by the outbreak of World War II. I think we are in potentially a situation as serious as that.

So I have said to all of our leaders who are gathering next door to try to put together this kind of package. I am ready to back any kind of a reasonable program they can put together even if it contains things I do not fully approve of.

Mr. President, that is relevant to the consideration of this conference report because this conference report not only is not supportive of the kind of budget restraints that we are trying to get put together, it absolutely undoes that effort. It is a step in the opposite direction, not only in terms of its budgetary impact, but perhaps more importantly, in terms of what it says to the world, the gnomes of Zurich and the bulls and bears of Wall Street, businessmen at home, savers, investors, anybody working for a living. To anybody paying any attention, it says, "Don't pay any attention to what Congress says, only to what they do."

This is a bill that has been aptly characterized as a budget buster. That was a description of it sent over here in a memo yesterday or the day before by the Office of Management and Budget that was participating in the negotiations that led to the conference report. They say it is a budget buster, and I think that is a fair description.

My colleague from New York suggested we ought to focus on facts, and I think we ought to do that. I agree with him it is not a time to enage in inflammatory rhetoric.

Mr. D'AMATO. Will my colleague yield just for an observation?

Mr. ARMSTRONG. The Senator is on his feet at the right time, may I say to my colleague, because I was going to give him a big compliment, but go ahead with his question.

Mr. D'AMATO. One would have it as a result of the statement the Senator has made to lay the entire blame for the financial problems that we face with respect to the housing bill and this one in particular. Let me just suggest that if we take a look at the program and spending levels from 1980 to 1987, had the Congress supplied the same kind of spending constraints in other areas we would not have a deficit today.

So I would say let us take a look at the facts and with respect to OMB, I can assure the Senator that last week they sent out figures that were at variance with what we received just 2 days ago.

With respect to their attempt to negotiate in good faith, I have almost never seen it take place and certainly it has not taken place with this Senator as it relates to this bill and they have made no attempt to contact me, notwithstanding the fact that I am the ranking member on the committee, but, of course, they have addressed correspondence to others who would carry their cudgels. With respect to the White House—I have called them repeatedly—they have no idea nor do they give us any signal or tell us what programs should or should not be considered.

When we talk about the new starts that I have heard about, let me tell the Senator something. There are no dollar sums affixed to them. It is such sums as the Congress would appropriate.

I think we have heard a lot of rhetoric.

If the Senator wants to do something with the deficits, let us do something with the deficit. Let us not part and parcel off this consideration to the extent that one would have one believe that had we been doing the business that has been taking place in this committee in the past 7 years, we would find ourselves in this fiscal dilemma.

Mr. ARMSTRONG. Mr. President, since I have attracted the attention of my friend from New York, this is, I think, an appropriate moment for me to say what I was on the verge of saying anyway. My friend AL D'AMATO and I disagree about this matter. We have disagreed about how housing ought to be funded and paid for for a long time. But I am not pleased to come to the floor to continue this disagreement because I admire him greatly and because, though we have often disagreed on this issue, not only here in the Senate but on television and in various public and private forums, I want to acknowledge that he is a dear friend and while it would be very easy for him, since it is his keen interest and responsibility to try to obtain the passage of this legislation, it would be very easy for him to define our relationship in terms of our disagreement. He has never done that. He has never permitted the situation to arise nor would I hope were I ever to permit it to happen that we disagree about this and we forget about the 100 other things about which we are in agreement.

I personally hope whatever the outcome of this is that this will be the last time we have to cross swords on this.

I am doing this not because of any lack of friendship or appreciation for him, but because I genuinely feel this is very bad legislation.

One of the reasons this is a great country is that we do not have to agree on everything, and it is evident and will become increasingly evident that we do not agree on this.

I want to focus, as I probably suggested, on the facts. What are the facts that prompt me to think that this is legislation that is hurtful, this is legislation that would be bad for the Federal budget, bad for the national economy, bad for the housing industry generally, bad for the municipalities that will have to bear a portion of the extra burden that is contained in this bill?

I would like to call the attention of my colleagues to about four or five specific issues that are addressed in this conference report.

The first is the question of subsidized housing, and I guess the place I would like to start is how much is enough and who should get subsidized housing. It appears to me that in a great, rich country like this, Mr. Presi-

dent, it is intolerable for any person to be unable to afford decent housing on some basis or another. We have about 5 million units of subsidized housing in this country today. I am convinced—I cannot prove this—but it is my conviction after studying the matter for a number of years that is enough, that 5 million units of subsidized housing is enough, if properly distributed, to care for all of those who are, by any reasonable standard or definition, indigent when it comes to housing.

It may be there are a lot more than 5 million such people, but I do not believe it. If the units we now have or those which are in the pipeline were distributed on some kind of reasonable basis to the poor or the near poor, I do not think we would have any kind of serious housing problem in this country. That is not the case.

Regretably housing subsidies by the Federal Government go primarily to people who are not by any reasonable standard or definition poor.

So, I think we have enough housing that is subsidized. What we ought to do is focus our attention on putting the housing into the hands of those who need it. Is that a practical solution to the problem in lieu of creating new units every year? I think it is, because in the natural course of events about 600,000 units of subsidized housing will become available each year as people leave them for one reason or another and could be distributed back to those who are indigent from the housing standpoint.

Mr. D'AMATO. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I note my friend from New York has arisen and if he would like to engage me on that point I would be glad to yield to him for that purpose.

Mr. D'AMATO. Does the Senator have a legislative proposal as it relates to see to it that there is a more equitable distribution as it relates to housing? I would certainly work with the Senator as it relates to that. We have been on this committee together for a number of years. I would welcome the opportunity. I do not think there would be any Senator or any former local official who would not.

But to simply say that we vote against the entire housing bill because there may lay in the woods better ways of dealing with the distribution I think would do a disservice to the Senator's position.

Mr. ARMSTRONG. Mr. President, I appreciate the expression of the Senator from New York and he will recall that in fact we have worked together on one or more occasions in exactly that spirit.

In fact, about the only provision of this bill which I do not intend to criticize during the course of my remarks is a particular program which is created by this conference report on which he and I did collaborate to lower the threshold of eligibility so that the program would be more nearly targeted to those who are poor.

Now, we did not set it at the level where I thought it ought to be, but we did set it at a lower level than in the bill originally. And, for that reason, and because of our agreement to do so, he is not going to hear me even say the name of this program tonight.

But I want to point out to him that the other programs in this bill, which have been the subject of amendments which I have offered repeatedly in committee and on the floor, and some of which have been adopted, for the most part are not targeted in the way I think they should be. But I do not want to leave the impression with the Senator from New York or anyone else that this is the only reason. Indeed, this is only one of the reasons why the subsidized housing portion is excessive.

I would like to turn now to some of the other reasons which convinced me that, at this moment when the budget imbalance threatens the financial stability of this country, it is not timely to create an additional program of a subsidized program. And it is an additional program.

There is a notion running around here that somehow this just maintains last year's level; that we are not increasing the number of units, we are just keeping on sort of a level course; that it might even be at a freeze level. Somebody even thinks it is below a freeze level.

I would like to point out to my colleagues that if 6 years ago I had bought a new car and entered into a 6-year contract to pay for it, and then 5 years ago I bought a second new car and entered into a 6-year contract to pay for it, and then 4 years ago I entered into another new car contract, and so on, and then this year I came up with the preposterous idea that I was going to buy another new car and enter into still another multiyear contract to pay for it, they would laugh me right out of the bank if I suggested to them that I was only maintaining last year's level of expenditure.

Now, that is crazy, Mr. President, and yet that is the underlying theory when people say we are maintaining last year's level.

Now, there is a difference, I grant you, between multiyear housing authorizations and buying new cars. And the difference is this: When you finance a car, generally you finance it for 3 years or 6 years. When you finance subsidized housing, it goes anywhere from 10 to 40 years. And that is why the Senator from Utah correctly pointed out that there is a quarter of a trillion dollars in unfunded liabilities in this program right now.

If we defeat this bill and we never authorize or appropriate for another unit of subsidized housing, we are going to have to pay off $250 billion to which we are already committed.

Mr. President, that number is not in the national debt. It is not a part of what we raise when we periodically increase the amount of public debt in this country. It is not reflected in any of the documents of concern. It is just an insidious increment that every year we have to pay off just like we were buying a car every year.

Mr. President, I would also like to point out that the cost estimates which are used to support this conference report are, at the very best, under the most charitable interpretation, subject to dispute. It is suggested that somehow the $15 billion authorization for subsidized housing and other things in this bill is only about the same and maybe a little less than the level that was contained in the Senate bill.

Well, Mr. President, the Office of Management and Budget disagrees with that. Maybe they are wrong. They certainly could be. And I would be the last one to want to stand up here in front of a bunch of Senators and carry the mail for the OMB, because the frustration that my colleague from New York expressed, while I do not express with respect to this bill, I could express on all kinds of other subjects. I mean, the guys down at the OMB are just impossible. All they ever want to do is cut off the spending for these programs. And I know how it is. I mean, I have been down there trying to promote funding for programs I believe in, programs, of national defense or whatnot, and all they think of is just how to somehow save money.

Mr. President, that happens to be their job. Their job is to try to somehow get revenues and spending in balance. That is what that is, that is the Office of Management and Budget. The implication is that they are to manage the Nation's funds within appropriated accounts and provide the President the guidance in preparing his budget and then to work with the Congress. That is their job. I know it is a great frustration.

It is no wonder that, over the years, people who have held the job of the Director of the Office of Management and Budget end up being kind of unpopular. It is no pleasant job. It is more fun to give away money than it is to blow the whistle and sound the alarm and say, "You can't do this because of what it is doing to the national budget, the deficit, the implications for the economy, the debt that we are saddling our kids with, what it is going to mean to unborn generations." That is not as much fun as saying, "Here is some free money. We are going to shovel it out to the poor people, to the

cities, or transportation, or something else."

But they are experts and here is their expert opinion: that the budget authority is understated in the estimates by $3.7 billion. In other words, the conferees say it is $15 billion and the OMB says it is $18.7 billion. That would exceed the Senate's version of the bill by $3.1 billion for next year. Over the 2-year authorization, the conference report, in the opinion OMB, exceeds the Senate bill by $4.2 billion and by $1.2 billion in outlays.

By any kind of measure, by anybody's measure, this bill substantially exceeds the President's budget. The fiscal year 1988 conference report is $6.8 billion over the President's budget request in budget authority. Over 2 years, the conference report exceeds the President's request by $14.6 billion.

Now, maybe they are wrong. Maybe they are way off. Maybe their estimates are as much as 50 percent off. Even so, we are talking about a huge hemorrhage at a time when we can ill afford it.

Now, Mr. President, in addition to that, I want to point out that this bill contains some new ideas that we have not seen previously; some new ideas which are not costed-out and which it is not even clear to me whether the cost of which will be Federal responsibilities or shifted off to the cities. And I am referring to the antidisplacement program.

I would like to explain that. And since I notice the manager of the bill is on his feet, perhaps he could respond to a question. This bill contains the new and unusual and, in my opinion, alarming suggestion that cities—may I rephrase that? It is not a suggestion. It is a requirement. This is the law.

The conference report requires that cities receiving CDBG or UDAG funds provide a 10-year rental subsidy for any low-income family displaced by a CDBG or UDAG project. This sounds like it is a new departure to me. It sounds like it could cost a lot of money.

My question for the managers of the bill is: how much is it going to cost, and who is going to pay for it?

Mr. D'AMATO. Those funds come from within the CDBG. It does not call for any new funds. It is part of the communities.

Mr. ARMSTRONG. Paid for by the communities or out of CDBG grants?

Mr. D'AMATO. Out of CDBG funds. I think we have to recognize, if you are going to have a community development program, that if it leads to displacement of low-income families—that is exactly the sentiment that my colleague has expressed, that of seeing to it that people who are of low income do have decent, affordable housing—it does not make much sense to come in to an area, tear it down, build a shopping center or a hotel or another complex and, in the meantime, displace 25 families, 50 families, 100 families. So what it says to the community is: before you are allowed to utilize these funds in this manner, you are going to have to provide housing for those displaced families. I think it makes ample sense.

Mr. ARMSTRONG. Mr. President, could I pursue that for a moment with my friend from New York? The point he is making, it seems to me, has some merit. I wonder if I could read the transcript of the hearings on this matter.

Mr. D'AMATO. If you could read the transcript of the hearing?

Mr. ARMSTRONG. Yes.

Mr. D'AMATO. If I have the transcript of the hearing here, I would be delighted to let you read it.

Mr. ARMSTRONG. Were there hearings held on this issue?

Mr. D'AMATO. Excuse me. I thought we were referring to the discussion as it related to the conference, because we did have protracted discussions as it related to that. This was a matter that came from the House side and that this Senator expressed some concern about in terms of how far it did go.

Mr. ARMSTRONG. The point I wanted to make—and I am not here tonight to express everlasting hostility to the notion we ought to take care of people who are displaced by these projects. I do not happen to think UDAG project ought to be built anyplace. I am against UDAG. I will be coming to that in a moment.

But I do not think it is an unreasonable notion, per se, to say that we ought to be concerned about poor people who get displaced when the Government bulldozer arrives. What I do think is a little farfetched is the idea that this kind of a dramatic departure suddenly shows up in a conference report. And I am advised—and I may be wrong—I am devised there were no hearings on this matter. So we do not have any idea of how it will affect the people at the local level.

Now, the Senator says—and I assume me are making some kind of legislative history here—that it will be paid for out of CDBG grants. I do not think you can tell that from reading the conference report, but I am perfectly willing, for my part, to let that be the legislative history here.

Mr. D'AMATO. Let me say this to you. It also provides a community section 8 and voucher funds that can be utilized for the displacement of these people. What is says is before you displace the low-income families, you are going to have to be able to be in the position—whether it be from CDBG funds, that the local government, that is the section 8; whether it be by voucher—to provide that assistance.

Mr. ARMSTRONG. Do we have a cost estimate on it?

Mr. D'AMATO. Well, it is within the existing funds. Let me also say about cost estimates, I have seen CBO estimates and over the years their estimate—and I have gone over this, whether it be raising of revenues through the sale of property, whether it be through expenditures—their estimates have historically been inaccurate.

Let me refer to the fact that the estimated authority levels by the Congressional Budget Office for 1988 and 1989, and you might want to disagree with them, but they indicate the estimated levels at $15.76 billion for 1988 and $15.803 billion for 1989.

Mr. ARMSTRONG. Let me just see if we can set the Record straight. I did not suggest that OMB was impartial. I never commented on that. What I said it was their job to undertake an unpopular task.

I think the Senator is well within his rights. It is fair play. It is straight up as far as I am concerned for him to point out that CBO has a different number.

My point is this: that there is at least a responsible opinion that this $15 billion is way too little. But we have moved on beyond that.

I am now inquiring about the specific cost of the antidisplacement provision. It may be a great provision, but what we have here tonight does not validate that in my opinion. In the first place, it is not necessary. At the present time there is a current law provision that pays moving expenses, relocation expenses for people to move into comparable decent, safe housing; provides relocation assistance payments, requires housing counseling and some other features for people who are displaced as a result of CDBG or UDAG housing.

So, while it is nice to say that OMB has come forth with a difference in what the committee conference report has come forward with, the CBO——

Mr. ARMSTRONG. We are past that.

Mr. D'AMATO. The Congressional Budget Office has indicated that, indeed, we are on target. So, if we were going to talk about variances in whose 50 percent——

Mr. ARMSTRONG. It is a separate point, let me say to my friend from New York. We have already established that you think the program is going to cost $15 billion.

Mr. D'AMATO. It is the Congressional Budget Office, not just this Senator. You give us figures that OMB disagrees with. CBO disagrees with them, and I think you accurately portrayed it. OMB is not impartial. They are not the accurate measuring stick. What they have become is the point——

Mr. ARMSTRONG. Has somebody got the floor here?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. The new feature of this is a rental subsidy for 10 years. Even that might be a good idea. It does not sound like it, just instinctively; a 10-year subsidy sounds like a lot of subsidy. That even might be a good idea. But my point is to drag it into a conference report when there are not any hearings and this is not a matter about which there is no controversy? The Senator from New York himself said he had some doubts about it and the opponents include the Conference of Mayors, National League of Cities, and a number of other people.

So, Mr. President, that is reason No. 2 why I think Senators ought to go slow in voting for this conference report.

I would like to turn my attention to the UDAG provision of this bill. One of the features of the conference report is to reauthorize UDAG. For those who have forgotten, UDAG is a program which permits some of the largest corporations in this country to receive money to build projects in designated areas around the country.

What are these projects? Well, mostly they are hotels and that kind of thing but there have also been shopping centers, office buildings, parking lots, recreation facilities, and restaurants.

My question is this; it is just a philosophical question: where is the justice of taxing the people of, say, Yuma, CO, which is struggling to keep its head above water in the midst of a serious agricultural depression, to send the money back to, say General Motors to build an office building? Or the Marriott Corp.? Or the Holiday Inn? Or anybody else—the Sheraton?

So far, UDAG's have built 12 Hiltons, 6 Hyatts, 6 Holiday Inns, 5 Marriotts, and 5 Sheratons.

Am I mad at these companies? I am not. Am I criticizing these companies? No, indeed, Every one of these companies is required to abide by provisions of law which are to their disadvantage. So I do not fault them for taking advantage of this kind of legislation if it is good for them and if it is helpful to them and it puts money in their pockets. But I do fault Congress for permitting such as law to remain on the books, a law which has proven to be so illogical and extravagant that the very Senator who is the father of this program came to the floor not too long ago and joined in offering an amendment saying that it should be abolished.

That is the kind of program we are extending here at a time, Mr. President, when our negotiators are right down the hall trying to figure out a way to make some saving in existing, already-allocated, budgeted, committed funds so that we can prevent a further stock market crash.

I do not want to dwell on UDAG, but I could not pass up the opportunity to say I think we can do without a $3 million marina; without 200 dockominimums; without a 20-acre theme park and water play park and other vacation resources funded by UDAG.

I do not think we need UDAG to build new car washes. Honest to Pete, Mr. President, I think the private enterprise section of this country, even if next year is a recession year and it could be, will provide all of the capital that is necessary to build plenty of car washes to protect the future of America. If not, dirty cars are not the worst thing in the world.

I mean, this is silly. What in the world are we thinking about, even in good times, even when we have plenty of money, spending it in this way? Well, that is UDAG and that is reason No. 3 why, in my opinion, Mr. President, we ought to go slow in voting for this conference report.

Then there is HODAG.

Mr. DOMENICI. Would the Senator yield?

Mr. ARMSTRONG. Do you want me to yield the floor before or after HODAG? I would be happy to yield on UDAG any time.

Mr. DOMENICI. I want to suggest to the Senator another way to look at the CDBG-UDAG phenomenon that you just described under this new legislation. Frankly, I think my notion of it can affect people, make them more for the bill or more against it, either way.

Frankly, as a former mayor, I submit that CDBG and UDAG, with the new displacement rules, are going to be greatly limited in their use. I cannot imagine a city in the United States going in and really cleaning up an area and building new facilities there if they are not only going to have to provide in that package 10-year replacement facilities but look at this provision. It says if that project increases the rent in the area, that is considered an indirect displacement and they are going to have to compensate somebody for it. I do not even know how they are going to figure that one out. That means that if you go in with your goal, I say to my friend from Colorado, to enhance an area and make it better, lift it in quality, you probably have raised the rents in a circle around it because you have raised the quality of the area.

I think those who do not want UDAG's used for the purposes they have been used in the past may very well say this is a good provision because UDAG is probably not going to be used the way it was in the past. As a matter of fact, it is going to be tremendously restricted, in my opinion, because who in the world is really going to pay these kinds of relocation benefits, including potential indirect displacements for rising rents? We are going to get a very narrow use of both CDBG and UDAG, in my opinion, until somebody finds out what this new plan means.

I say to my friend from Colorado, one might take it either way. One might say: Well, that is pretty good, since we do not like the way UDAG's were used in the past. Some might even say that because of the CDBG limitations that I predict are going to occur here, every community is going to use them where there is no displacement. They are going to use them where there is no rental enhancement in the area because they are going to get an awful lot less for the money.

I do not know how much in CDBG Texas gets, but my State gets $20, $21, $24 million. They have hearings and each city that needs it gets a little bit for a water system or for this or that. There surely will not be any which goes to enhance a slum area, because that is the most prohibitive place to use it with what we built in this bill. I think the UDAG is exactly the same.

Mr. ARMSTRONG. But the point the Senator makes, and I hope he will not leave the floor for a minute, is a good one and goes to the heart of the validity of the underlying program. But I wonder if the Senator, who is the ranking Republican member of the Budget Committee, former chairman of the Budget Committee, and generally acknowledged to be one of a handful of people, though I do not know how large a group, a very small group of people who have a thorough knowledge and understanding of the budget and the financial crisis this country is facing, does the Senator think that the merits of UDAG are separate from whether we can afford it? At this point, is that not the major issue? Even with the underlying question of whether it is well-designed or might be abused, the real question from a larger context, even though I have raised objection to the program, is the question of whether we can afford it.

I have just mentioned that the Senator from New Mexico and others have been meeting down the hall trying—I think desperately is not the wrong word—trying desperately to find a way to reduce spending. What are we thinking about when we just seem to be going on our way as if there is no problem, as if it is just business as usual?

Mr. DOMENICI. Let me say I happened to have heard the remarks of the distinguished Senator about 30 minutes ago when he opened his discussion, having given a brief discussion of the history from 1929 on and what happened in the stock market as a forerunner to the overall economic

crisis. Then he gave the history of the first big crash of 1929, followed by a euphoria, with things going up, and then we had a real one.

You said there were some signals out there from this first one indicating that there were some real basic problems. We know what they are. You enumerated some of them—trade deficit, enormous currency fluctuations causing a lack of confidence by foreign markets in America.

Mr. ARMSTRONG. Tight money.

Mr. DOMENICI. Tight money.

Mr. ARMSTRONG. Tax increases.

Mr. DOMENICI. Tax increase or tax increases; and whatever form there is of protectionism. You went through the whole list, and there are more. You indicated quite appropriately that some of them we can do something about and some we cannot, but you said, forthrightly, we can do something about the deficit if we want to. I want to say to my friend, the Senator from Colorado and to those who put this bill together, far be it for me to decide for anyone here what the priorities of Government ought to be.

I do not know whether UDAG ought to be a priority, but I can tell you this. Clearly we cannot afford what we have. We have to cut something. As I was saying to my friend from Colorado, I cannot establish the priorities for this place, the U.S. Senate, the President of the United States, the Government of the United States. That is collectively done here and the President exercises his executive power. But I can say this, that we cannot afford every program that we now have on the books at current levels of expenditures or more and get the deficit under control.

I do not know if I am answering your question. I think I am.

Mr. ARMSTRONG. I think the Senator is answering the question, but while you are on your feet would you care to speculate as to what is going to happen if we fail to get the deficit under control?

Mr. DOMENICI. Frankly, I would not be the least bit reluctant. I would put it another way. I would say we have a reasonable chance of continuing the 59 to 60 months of prosperity in this country, the longest sustained economic growth, if we get the deficit under control. We have a reasonable chance of that going on for a reasonable prolonged period of time.

On the other hand, I think the chances of that occurring without us getting the deficit under control are greatly minimized. I do not think that has anything to do with whether one is worried about Wall Street, as such. It has to do with worrying about prosperity in its fundamental sense: jobs and opportunities, employment in every community in the country.

I am not working in that back room that you have described, Senator, my friend from Colorado, my neighboring State, because of Wall Street. They are plenty big and plenty powerful. They take care of themselves.

The problem is that everything works together now. Our money is international, our banks are international, stock is international, where we get our money is international, to build and pay our debts is international. When that starts to happen, it means something.

So I repeat, the chances are minimized for sustained jobs and growth in America if we do not get the deficit under control.

We have a very significant prospect of sustained prosperity if we can find a little bit of austerity at this point, and it does not have to be an awful lot.

Mr. ARMSTRONG. Just a little.

Mr. DOMENICI. Just a little. From a deficit of $172 billion in the 59th month of a recovery, if you could really, really get it down by $25 billion—that is not an awful lot in prosperous times—we would send a good signal. We might even by able to do that. I thank the Senator for asking.

Mr. ARMSTRONG. Mr. President, I thank the Senator from New Mexico for his thoughtful observations. More than that, I thank him for working 7 days a week to try to bring this deficit under control and wish him good luck and Godspeed in that effort.

Mr. President, I now want to turn to the fourth reason why I think the Senate——

Mr. GRAMM. Will the distinguished Senator yield?

Mr. ARMSTRONG. Of course, I will be happy to.

Mr. GRAMM. As an old schoolteacher, I cannot let a great point made by the distinguished Senator from New Mexico go by without being nailed completely down.

Mr. ARMSTRONG. And you are a real good nailer downer.

Mr. GRAMM. The whole purpose of CDBG and UDAG is to raise property values in blighted areas of our cities, and to raise the quality of the neighborhoods where people live. That is the whole theory in spending the money. But government does not create capital. Every dollar we spend on CDBG and UDAG we must go out and borrow and in doing so, we preempt private borrowers who seek to build new factories, finance new jobs, and so on. We jump in front of them. The whole argument is that we need these Federal programs to improve the blighted areas. But to come along now and require that the taxpayer has to provide years of rent subsidies and has to pay moving expenses for people who are not only displaced but who also suffer rent increases as a result of one of these projects, is to not just spend money we do not have on programs we do not need, but will also guarantee that these programs will be inefficient. They will not work because now there will be no incentive to spend the money in the blighted areas to do the things that the programs were designed to do because the index that is used to evalute the success of the program is the rise in land values and rents in an area where the program occurs.

So the index for success generates the cost that eliminates the incentive to undertake the program. So not only do we not have the money to fund it but we have put into place a requirement which will assure that the money we borrow and spend is poorly spent and that it will not serve the purpose that these programs were created for.

Mr. ARMSTRONG. Mr. President, I congratulate the Senator from Texas on the clarity of his thought.

Mr. GRAMM. And there will be a test later, might I say.

Mr. ARMSTRONG. I thank the Senator, the distinguished former professor of economics.

I wonder if the Senator recalls one night here on the floor we were talking about this UDAG Program and we very nearly killed the program as a result of an amendment which we considered that night. I was up trying to make the point that, by gosh, it just seemed illogical, unfair and unjust, as well as extravagant, to fund all of these hotels, "dockominiums, condominiums, theme parks, and carwashes, and so forth. One Senator arose and asked me to yield and I said yes and he said, "Does not the Senator realize this is a very popular program?"

You know, I did not realize that. By gosh, if you give money away to people, they like it. It is going to be popular. One can readily predict that if you shovel money out of here to communities around the country, give it away to the Marriotts, the Hiltons, the General Motors, various communities, and so on, they are going to like it. But that is a different issue. The issue is whether it makes sense, whether it squares with a reasonable concept of economic justice, or whether, in fact it may be counterproductive as the Senator from Texas so correctly pointed out.

Mr. President, I want to turn quickly to HODAG now. HODAG is reauthorized by this conference report. As you know, this is a program that was intended, it was designed, it was originally created to increase the availability of rental housing for low-income people in areas where that kind of housing is in shortage—rental housing. It would seem to me that a fair place to begin, a threshold, if you will, to consider whether or not this program ought to be reauthorized is to ask how is it working. Mr. President, only about 40 percent of the HODAG funds go to serve the needy. Eighty percent

of the units and 60 percent of the money goes to anyone who wants the available rental apartments under the HODAG Program. And that means many middle- and upper-income families. Again, the issue at least in part is how do we allocate the scarce resources? Do we target it to those who really need it or do we make it available sort of in a hosing fashion—anybody who comes in front of us, we just hose them down with money and figure that that is going to make them well.

Let me just point out the economic consequences of this. Since HODAG subsidizes market rate units for anybody who wants one, along with the lower-income people, an average grant of about $73,400 is required to obtain one low-income unit. It is, in brief, shockingly inefficient.

Mr. President, I wonder how many Senators happened to read an ad that appeared in the newspaper recently which pointed out that in Atlantic City—this was in a Wall Street Journal article in August 1985—an apartment complex with rental units costing $800 per month was built using HODAG funds. Now, just to recap, HODAG is designed to make apartments available to the poor, and one cannot help wondering how many poor people can afford to pay $800 a month for an apartment.

Mr. President, this is a program which needs reform, not reauthorization in the present form.

Now, Mr. President, I want to talk about rural housing. In the last 20 years or so we have spent $40.7 billion on programs of assistance for rural housing. Today there are 1.5 million units of subsidized rural housing in use. In the last 5 years, 246,000 units of rural housing have been added to our stock. I think it is fair to say that the Federal Government has not ignored the need for rural housing, but we have ignored the need for reform. The fact is that, much like the HODAG Program, the rural housing subsidy is shockingly inefficient. New starts under this program are about three times as expensive as the average HUD existing unit, according to the official estimates presented by OMB. The present value of the Federal subsidy for an existing section 8 or voucher unit for 30 years service is $19,000, and that is not, by the way, considered to be an efficient or a well-targeted program. Section 8 is in fact, in the opinion of many, a scandalously extravagant program and one which has been subject to well-documented political corruption. But it cost $19,000 per unit. Under the rural housing program, the comparable figure is $55,000 per unit.

Now, Mr. President, that brings me to the section 235 program which is reauthorized here, not the largest abuse of the conference report but in many ways the most poignant because we have been trying to get rid of 235 for a long, long time.

This is not the moment for a history lesson. Sometimes we do that in the Senate; we go back and rake over old war stories, but I would like to note in passing that the abuses of the 235 program were so extensive that back in the middle 1970's we decided we had to come up with something better than that. That is when we came up with the section 8 program.

Now, the section 8 program has generally been conceded to be a seriously flawed, if not a catastrophic, program. But the idea was, at least the justification for it in part was that we got rid of the 235 program which has proven to be a miserable failure. Default rates on the original 235 program were over 20 percent, up around 21 percent. Total foreclosure losses now exceed $600 million and a study showed that only 13 percent of the families subsidized under this program were poor people.

Again, it is a question of targeting, Mr. President. But anyway, we were going to phase this out. We thought we had come up with something new. We came up with the section 8 program. That did not work and so then we came up with the housing voucher program. That has not worked. The thing that is alarming, or at least disappointing, is that as we have reformed each of these programs and created substitutes we have just continued the old programs which were discredited and which were themselves used as the justification for starting up these new programs, and the worst of it is that the 235 program was expected to phase out finally and now we are starting it back up again in this conference report.

I do not know again if I may refer to a newspaper ad. I do not know how many saw the ad which appeared in the Washington Post under the headline as follows: "Parents, Help Your Son or Daughter Buy a Home With 4 Percent Financing." And then it goes on to tell that under certain conditions you can qualify for this program and the conditions were a certain income level. Mr. President, it was not an income level that denominated a poor person. It was an income level for middle-income people. So, again, you have the working poor paying taxes in order to subsidize middle and, in some cases at least, upper-income people.

Well, Mr. President, these are a few of the things I have been thinking about. I gather it will be the intention of the leadership to debate the issue a while tonight and then lay over the votes on it until tomorrow, but I do, before I yield the floor, want to pose a question or two.

On tomorrow I expect to make a point of order against this matter, or at least I would like to consider doing so, and I would like to inquire of the Chair whether or not I am correct in my understanding that under section 311 of the Budget Act it would not be in order to have any direct spending in this bill which caused an increase in spending. I am told that this bill in one of its sort of minor provisions does in fact direct the spending of, I think, $47 million. That is not the biggest end of the bill. The huge portion of it is only authorized, not actually appropriated or required to be spent, and it is the $15 billion or, if you believe OMB, almost $19 billion in spending which concerns me the most. And yet I do understand that there is some $47 million in direct spending, and my inquiry of the Chair is this: Under provisions of section 311 of the Budget Act, would such spending constitute a violation of section 311, if I were to make such a point of order?

The PRESIDING OFFICER. The passage and enactment into law of the conference report on S. 825 would cause the appropriate level of total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for fiscal year 1988 to be exceeded by the amount of $47 million in violation of section 311(a) of the Budget Act.

Mr. ARMSTRONG. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Will the Senator yield for me to make a brief response to that?

Mr. ARMSTRONG. I would be happy to yield to the Senator from California to respond, although I think I am very close to yielding the floor. But please feel free to go ahead.

Mr. CRANSTON. I would like to get this point in the RECORD, if I may.

Mr. ARMSTRONG. Fine.

Mr. CRANSTON. Tomorrow at an appropriate point I expect to move to waive the Budget Act in relevant respects. I would like to state that this is largely a technical problem that lies against virtually any bill coming at this time to the floor of the Senate. This is the first time this point of order has been raised, however. The fact is it could have been raised with respect to many other bills coming to the Senate floor during the past month or so.

The problem is created by timing only, not by any budgetary problem created by this bill. First, we do not yet have a reconciliation bill and the associated savings. Second, the continuing resolution is scored by the technicians as if it covered the whole year although it only extends through December 16.

I want to emphasize that the housing bill is not responsible for the current budget tightness. Housing programs have been cut by 70 percent

since 1980, and this conference report would cut spending still more. The point of order, therefore, is inappropriate and the Budget Act should be waived so that the Senate can consider this bill on its merits, and I will make that motion at the appropriate time tomorrow.

I thank the Senator for yielding to me.

The PRESIDING OFFICER. The Senator from Colorado retains the floor.

Mr. ARMSTRONG. Mr. President, I am very glad to yield to my friend from California. I could not help thinking as he explained the point of order—even though it is evidently a valid point of order, and I do not doubt that a point can be made that it is inappropriate—and remembering what people always say around here when the issue comes up of some highly desirable program and somebody says, "We can't afford it." They always say, you know, this is not a cost, this is an investment in the future of America. That is standard argument No. 1.

If the professor of economics from Texas were to conduct a course on how to get bamboozled in public finance I would suggest that one place that he would want to footnote in his syllabus is it is not a cost, it is a future investment. That is one.

Another one that is very familiar is the one we have just heard, that this is only a technical matter. Of course, this is all technical matters. When you get right down to it, the Budget Act is just a technical restraint. It is not a very efficient restraint. The debt limit is only a technical matter. We can raise it, waive it, we can do anything we want, and we can wreck the economy of this country. If that is our desire, we can do so.

Actually, all the statutes we pass around here are only technical matters. It is only a criminal act to do things which society decided should not be done because some legislative body passed a statute and says this is a crime and we are going to punish people if you do it. I do not suggest waiving the Budget Act here would be a criminal act. I do think in an odd sort of way it would be a symbolic crime of some sort and the suggestion that this is kind of a routine thing which does not apply in this case, Mr. President, in my opinion because this is not a spending bill. This is an authorizing bill. Authorizing bills by their very terms are not supposed to spend money but this has some direct spending in it.

I will grant you $47 million is not big compared to $18 billion or $19 billion, but it is still a substantial amount of money and in due course I probably will raise the point of order simply because it frames the issue, and it gives Senators a threshold, something to think about, before we get to final passage on the conference report.

Mr. President, there are three or four reasons why this is a hard conference report to vote against. The first is our friendship for the Senator from California and the Senator from New York. I have already acknowledged that I do not like having to argue this issue out time after time with my friend from New York. He is a great guy, we are friends, and I do not think he would object if I said we were pals. I would do almost anything to help him, and I do not like to oppose him. It is hard to vote against Senator D'AMATO and Senator CRANSTON, who have invested a lot of their own time in here, but let me say to my colleagues, by gosh, that is no reason to vote for this bill, just because they have worked hard on it.

Second, it is a hard bill to vote against because there are some things in here we want. First and foremost of those is a permanent extension of the FHA. One of the arguments we are bound to hear sooner or later is if you do not pass this conference report, we will never get a permanent extension of the FHA. Senators will recall that about 10 days ago I offered a proposal which would have made FHA permanent. It was voted down after the same Senators who are now managing this bill said, well, if you vote for the Armstrong amendment, FHA will lapse next week because the House would never buy this amendment. So the Senate voted down my amendment and the House did not buy their version the following Monday. The program lapsed again.

I do not know how many times we are going to let FHA lapse before we finally make it permanent. We should have done it years ago. It lapsed seven times last year. It is a worthy program. As I said before, it ranks, in my opinion, right up there with the Interstate Highway Program, land-grant colleges, the GI bill, and a handful of the most successful programs in the history of this country. It ought to be permanent. It is not controversial, it is not expensive, it is doing its job, and it is efficient, which is more than you can say for the rest of these housing bills. It should not be held hostage to the housing bill.

But, Mr. President, that is not really a good reason to vote for this legislation because win, lose, or draw, we can pass an FHA housing extension anytime we want to.

I note, Mr. President, that the majority leader is here. I believe it would be his purpose to seek a unanimous-consent agreement. I believe I am within no more than 2 minutes of concluding my remarks. I am prepared to enter into the time agreement that I understand he will propound.

The third reason why this is hard to vote against is because it is popular. When you get right down to it, there are a lot of people who are going to benefit from this.

I have some good personal friends who have made a fortune building very useful kinds of subsidized housing. I said, look guys, you are right to take advantage of the law. You have to obey the ones hard on you, so go ahead. If the law is there, do it, but I honestly think making one fortune is enough for anybody out of these goofy subsidized programs.

It seems to me before we reauthorize them that we ought to get them targeted to the people who need them, and they should not be a boondoggle. They should be a careful expression of the compassion of the Congress for poor people. They are not any such thing in the present form, even though I know that the people who benefit, small number of people actually, will like it.

The last reason, Mr. President, why it is hard to vote against this is because there is a lot of political pressure on this and not all of it is the kind of civics textbook political pressure that would be appropriate under the circumstances.

There is some reprehensible stuff going on around here. As I have talked to Senators some of them have confided to me that they have been subject to what I regard as truly improper pressure. When they have been talking to various interest groups about election campaigns, not about housing, but about election campaigns, they have been told in no uncertain terms that by gosh, how our organization and our political action committee stands in your race for reelection next year and your State is held in abeyance pending the outcome of the housing bill.

Mr. President, that is hard to stand up to because some of our colleagues on both sides of the aisle are in tough reelection campaigns. It is no fun to pick a fight with powerful interest groups that have a lot of money to spend, have a lot of members back home, and who are that direct in threatening Senators. I do not know how Senators react to that. I know how one did because he told me. He said, "You do not have to hold the decision in abeyance. I won't accept the contribution from you guys anyway. My vote isn't for sale."

Maybe the groups did not mean it quite that way. Maybe they did not mean we are buying your vote. But the implication is pretty clear.

I have heard it often enough for the last few days to know that it is not an isolated case.

Mr. President, it is hard to vote against stuff that is popular but has a lot of political clout behind it. But we ought to do it for the sake of the country, to give some encouragement to

those who are trying to bring order out of chaos in the budget front, to keep faith with the need for the reform of these housing programs, and for our own self-respect. We ought to vote this conference report down.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that at 9:15 a.m. on Friday, the Senate resume consideration of the housing conference report and at that point the Senator from Colorado [Mr. ARMSTRONG] be recognized to make a point of order that the conference report violates the Budget Act, and debate on the point of order be in order and limited to 45 minutes to be divided in the following fashion: 30 minutes under the control of Senator ARMSTRONG; 5 minutes under the control of Senator GARN; 5 minutes under the control of Senator GRAMM; and 5 minutes under the control of Senator CRANSTON.

Provided, further, that at the hour of 10 a.m. on tomorrow the Senate proceed to vote in relation to the budget point of order;

Provided, further, that following that vote, if the conference report is still before the Senate, that there then be 1 hour for debate on the conference report, to be equally divided in the usual form, and that a vote occur on the adoption of the conference report at the conclusion or yielding back of time;

Provided, further, that following that vote, the Senate proceed to a Senate joint resolution, to be introduced today, to extend the FHA until December 16, 1987;

Provided, further, that upon disposition of the joint resolution authorizing a short-term extension of the FHA authority, the Senate immediately proceed to a concurrent resolution making corrections in the conference report, and that there be no amendments or motions to commit either with or without instructions in order with respect to that resolution;

Provided, further, that the vote which will occur at the hour of 10 a.m. pursuant to the order be a 30-minute vote and it will be a rollcall vote; that that be a 30-minute rollcall vote, that the call for the regular order be automatic at the expiration of the 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON and Mr. ARMSTRONG addressed the Chair.

Mr. ARMSTRONG. Reserving the right to object, I do not intend to object. As I understand the request of the majority leader, there would be no limitation on the final matter with respect to the time or amendments, the final matter being the FHA extension?

Mr. BYRD. That is correct.

Mr. ARMSTRONG. I thank the leader. It seems to me that the scheme he has laid out would be helpful to all concerned.

Mr. CRANSTON. Mr. President, reserving the right to object, I of course do not intend to object, I want to clarify one point. Under the agreement that at the hour of 10 a.m. on Friday the Senate proceed to vote in relation to the budget point of order, it is my understanding that that language leaves room for me to make a motion to waive the point of order to be made by the Senator from Colorado.

Mr. BYRD. It does.

Mr. CRANSTON. I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection? If not, so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes today. And as soon as Senators are willing to complete their debate on this matter, I am prepared to go over until tomorrow.

I thank all Senators.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Let met first assure the majority leader that as far as I am concerned, there will be no more time except about 1 minute which I will take now, and I do not know how much time other Senators wish to take. I simply want to say in regard to some of the statements from the Senator from Colorado about the OMB and cost estimates relating to this conference report, the following statement.

We have seen the cost estimate prepared by OMB and staff has carefully analyzed it. Frankly, it is so misleading and shot through with errors that I am surprised the table is being introduced here on the Senate floor.

The conference agreement reflects a clear decision to reduce fiscal year 1988 spending below the current levels. That was a very difficult decision. Most conferees made it very reluctantly. But they did so because enactment of this housing bill is so important.

The CBO analysis of the bill—which is free of the political shenanigans of OMB—shows that the bill, if fully funded, would provide budget authority of about $15 billion in fiscal 1988, and would result in outlays of about $600 million. As every Senator knows, this bill provides authorization ceilings only. Funding for programs in this bill would have to be accommodated within the overall totals available to the Appropriations Committee.

It is no secret that officials in OMB do not want Congress to take any action on housing legislation. They have fought bitterly to prevent Congress from passing any housing bill. For the past 3 years they have generated cost estimates that proved to be baseless. As far back as last January OMB officials were talking publicly about their strategy for getting a veto on a housing bill—that was long before the details of a housing bill had been decided. After the Senate passed a 2 year funding freeze, OMB staff gave President Reagan a cost estimate claiming the bill was a $131 billion spending blow-out.

OMB's position on the housing bill has long since been discredited. Most members on both sides of the aisle know that OMB can no longer be taken seriously on this issue.

Now someone at OMB is circulating a padded cost estimate in an effort to make this bill appear to be something other than the prudent bill it is. OMB's figures are phony.

First, they throw in over $1 billion for "contract amendments". These amounts do not apply to this housing authorization. These are amounts that the Appropriations Committee may have to provide to correct for shortfalls in appropriations estimates that were made in prior years. They would have to occur anyway. They would be provided out of the totals available to the Appropriations Committee—they are not new spending created by this bill.

Second, they throw in an extra $1 billion for Farmers Home programs. Again, these amounts are not relevant to passage of this housing bill—they relfect losses incurred in the Rural Housing Insurance Fund in prior years. This bill actually reduces new spending for rural housing.

Third, OMB's table suggests that "reuse of recaptures" would create almost $1 billion in additional spending. This is simply false. The bill only affects the use of funds that have already been appropriated, not new funding. Any funds that are recaptured but not rescinded could be made available only upon action by the Appropriations Committee. Conferees do not expect any additional spending would result from this provision.

Fourth, the table falsely shows $281 million in additional spending as a result of the Public Housing Operating Subsidies "CETA Provision." This provision of the bill simply establishes a formal process for reviewing out-of-date expense levels for public housing authorities. That review process can have absolutely no impact on fiscal 1988 spending. And in later years it would have an impact not on the spending total but on the distribution of funds available within the program. Moreover, this provision expands costs that can be considered for reimbursement. The reimbursement would have to come out of authorizations for operating subsidies and would involve no additional spending.

Fifth, the table includes $100 million for the Nehemiah Program and $30 million for Emergency Homeownership Counseling. In fact, the bill authorizes only "such sums as may be appropriated" in 1988 for these programs. To date, no appropriations have been included for either program. Under current budget circumstances, the OMB estimate is not based on reality.

Sixth, the table includes $50 million for "Troubled Projects" and "Capital Improvement Loans" and smaller amounts for several other programs. Again, these are inappropriate because the bill makes it clear that these funds are to be provided out of other amounts available.

In conclusion, the OMB table is more an effort of disinformation rather than a responsible cost estimate.

CBO's estimate would make it clear to all Senators that we have here a modest bill that provides funding levels slightly below the current levels for this year.

This statement shows how fallacious it is, and how carefully we have handled the proposed expenditures in this measure that reduce the cost of housing below present levels after colossal cuts in earlier years. The OMB table is more an effort of disinformation than a responsible cost estimate. CBO has made a responsible analysis that will make it clear to all interested Senators that here we have a modest bill that provides funding levels slightly below the current levels for this year.

Mr. President, I ask unanimous consent to have printed in the RECORD a report analyzing all this.

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

S. 825—THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

[Conference report in millions of dollars]

	1988	1989	1990	1991	1992
Section 8 and public housing commitments:					
Authorization level	7,092	7,438	0	0	0
Estimated outlays	12	348	2,111	2,315	1,016
Public housing operating subsidies:					
Authorization level	1,500	1,563	0	0	0
Estimated outlays	750	1,531	781	0	0
Increase PHA managment fees:					
Estimated authorization level	0	0	0	0	0
Estimated outlays	30	32	33	35	36
Housing for the elderly and handicapped:					
Authorization level	622	651	0	0	0
Estimated outlays	0	112	314	304	153
Congregate housing services:					
Authorization level	10	10	0	0	0
Estimated outlays	3	7	7	3	0
Rental rehabilitation grants:					
Authorization level	200	200	0	0	0
Estimated outlays	20	60	180	140	0
Rental housing development grants:					
Authorization level	75	78	0	0	0
Estimated outlays	0	8	45	69	31
Housing counseling assistance:					
Authorization level	4	4	0	0	0
Estimated outlays	0	2	4	2	0

S. 825—THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987—Continued

[Conference report in millions of dollars]

	1988	1989	1990	1991	1992
Federal Housing Administration fund:					
Estimated authorization level	0	0	0	0	0
Estimated outlays	(1,213)	(2,032)	(2,012)	(2,025)	(2,036)
Community development block grants:					
Authorization level	3,000	3,090	0	0	0
Estimated outlays	60	1,202	2,734	1,847	247
Urban development action grants:					
Authorization level	225	225	0	0	0
Estimated outlays	11	56	101	113	113
Urban homesteading:					
Authorization level	12	13	0	0	0
Estimated outlays	8	12	4	0	0
Rehabilitation loan fund extension:					
Authorization level	0	0	0	0	0
Estimated outlays	39	77	34	(7)	(7)
Neighborhood Reinvestment Corporation:					
Authorization level	18	18	0	0	0
Estimated outlays	18	18	0	0	0
Neighborhood Development Demonstration Program:					
Authorization level	2	2	0	0	0
Estimated outlays	0	1	2	1	0
HUD research and technology:					
Authorization level	17	18	0	0	0
Estimated outlays	5	14	12	4	1
Flood insurance reauthorization:					
Estimated authorization level	71	5	1	0	0
Estimated outlays	(14)	23	4	2	0
Crime insurance reauthorization:					
Estimated authorization level	(1)	15	15	0	0
Estimated outlays	(1)	12	15	3	0
Flood studies: [1]					
Estimated authorization level	37	38	0	0	0
Estimated outlays	20	33	16	5	1
Retention of land disposition proceeds:					
Estimated authorization level	10	0	0	0	0
Estimated outlays	10	0	0	0	0
Fair housing initiatives:					
Authorization level	5	5	0	0	0
Estimated outlays	1	5	4	0	0
Release of pool funds:					
Estimated authorization level	0	0	0	0	0
Estimated outlays	7	7	7	7	7
Miscellaneous provisions:					
Estimated authorization level	1	1	1	1	1
Estimated outlays	1	1	1	1	1
Nehemiah grants:					
Authorization level	([2])	150	0	0	0
Estimated outlays	([2])	15	30	105	0
Enterprise zones:					
Authorization level	1	1	1	1	1
Estimated outlays	1	1	1	1	1
Rural housing loans:					
Authorization level	2,050	2,147	0	0	0
Estimated outlays	780	1,528	1,086	593	394
Section 515 displacement prevention:					
Authorization level	73	77	0	0	0
Estimated outlays	48	57	11	11	11
Rural housing grants:					
Authorization level	52	54	0	0	0
Estimated outlays	19	41	27	7	6
Totals: [3]					
Estimated authorization level	15,076	15,803	18	2	2
Estimated outlays	616	3,172	5,556	3,536	(25)

[1] The conference report contains an appropriations authorization for such sums as may be necessary for fiscal year 1989. The estimate shown for 1989 is the 1988 authorization adjusted for inflation.

[2] The conference report includes an authorization for fiscal year 1988 of such sums as may be necessary. CBO has no basis for estimating the potential appropriation.

[3] The conference report would create a new program to provide homeownership counseling grants. The program would terminate at the end of fiscal year 1989. The appropriation of such sums as would be necessary would be authorized for 1988 and 1989.

The act would require claims to be paid from funds of the National Flood Insurance Program to compensate policy holders whose structures are in danger of imminent collapse because of flood-induced erosion. The budget impact of this provision is very uncertain and could range from no significant cost to a cost of several hundred million dollars over the next five years.

Mr. D'AMATO. Mr. President, I wonder if my distinguished colleague will yield for a question.

Mr. CRANSTON. Yes. I am ready to yield the floor.

Mr. D'AMATO. I make the observation that until sometime this afternoon, this Senator, as the ranking minority member of the Housing Committee, had no visits from OMB, no discussions with respect to any of the figures; that notwithstanding that we made repeated efforts in an attempt to speak to the administration and to the White House, we have no responses as to the various programs and the cost and any of the concerns thereto.

I am wondering if the staff of the chairman of the Housing Committee or if the chairman, himself, prior to today, had any visits by OMB, any discussions, any bringing forth of the facts that would lead one to believe that our figures were incorrect and out of sync.

Mr. CRANSTON. I had none, and I understand that the staff had no official representations from OMB. There were some informal discussions.

What OMB has done, apparently, is that it has gone to those who might oppose this bill and loaded them with disinformation, and they did not give us any adequate opportunity to knock down their false figures.

Mr. D'AMATO. I might say that a good name for OMB would be "the Office of Disinformation."

As my colleague has stated, they have a tough job. There is no doubt about that. But they do not make it any better by twisting the figures when they see fit, cutting the programs they may disagree with, shirking their responsibilities by failing to communicate forthrightly with the committees and the Members attempting to work something out, but really looking to see how they can sabotage those programs they are opposed to—the ideologies, OMB. They are not elected to run the country.

Let us get the record straight. The fact is that those Senators who expressed concern about the budget deficit want to do something about it, and that is not just defeating this bill, because that is not going to do one thing with regard to reducing the deficit and the package we are talking about.

I would like to see them, as it relates to restraint, exercise that restraint when it comes to their favorite program. The same Senators on this floor a few minutes ago castigating this bill, when it came to the electric rates for power, REA, seeing to it that it was equally spread, that burden—they were out there in front seeing that their parochial interests were taken care of, and billions of dollars for future years will be lost to the Treasury of the United States.

The same people, when it comes to their parochial needs, and that is the subsidization of the Farm Program,

which went to $24 billion—I do not hear them utter a whimper.

We hear about senior citizens and we hear about people who are disadvantaged, and we hear about people attempting to rebuild the inner cities with respect to UDAG. Perhaps they do not have the sophistication, but somebody has to stand up and say we want to build the housing. Let somebody tell me that 14,000 units are too much.

There are some who would end those programs. This Senator gets sick and tired of hearing the same kind of nonsense, that this is the budget buster, when it is not. If other programs suffered the kinds of cuts that have taken place in housing and made their fair share of the sacrifices, we would not have a budget deficit today.

To attempt to say that those who advocate passage of a housing bill are irresponsible and do not care and somehow have contributed to the incredible budget deficit that has taken place is simply inaccurate. I would say that if we want to engage in that kind of rhetoric, this Senator is prepared to put forth in some detail some of the spending programs that have contributed mightily to that deficit that some of my colleagues have supported regularly.

Mr. ARMSTRONG. Do it.

Mr. D'AMATO. We will. We have some time tomorrow. My colleague from Colorado asked me to do it.

Mr. ARMSTRONG. Mr. President, will the Senator yield for a second?

I hope he will do that, because I think the point the Senator makes is absolutely valid. It is very easy for Senators to come to the floor and criticize some program they do not like, and it is going to take more than that. It is going to take farm State Senators, and I am one, who will stand up and say it is time to curtail the farm credit.

Mr. D'AMATO. Maybe the Senator would support some amendments this Senator is going to put forth in cutting some of those subsidized programs across the board. I would like to see the big budget cutters, who will excoriate every program that does not fit into their special niche, do the same.

Mr. ARMSTRONG. The Senator is aboslutely right.

For example, how easy it is for me to come here and criticize, say, the cost of shipyards. We do not have any shipyards in Colorado. So that does not cut any ice.

We need Senators from farm States who will cut farm programs. We need Senators from national defense States—Colorado is one of them—to cut programs. I am ready.

We need Senators from Amtrak States, and I am one, who are ready to take cuts in Amtrak.

We need Senators from States that benefit from mass transit to take cuts. We need that all across the board.

We need Senators—and Colorado has a Senator who is a big supporter of senior citizens—who are ready to talk about reducing or scaling back programs that benefit senior citizens.

The point is we are all in this together, and I agree with the Senator from New York on that. We are talking tonight about a housing program, but it is not the only offender. If we let this go through, it undercuts our moral authority as we address the others, in my opinion.

Mr. D'AMATO. I am pleased, Mr. President, that my friend from Colorado has put what I would address as a more balanced approach, because I do not think it is fair to attempt to indicate, and I do not think that was his purpose, that this deficit has come about as a result of this bill or the housing programs, per se.

Indeed, there is a need to bring about some fiscal order as it relates to the entire operation and that is everyone has to share, and that is my point.

I am going to sit down by saying I really do believe as it relates to the burden of sharing that housing has made more than its fair share. I am not suggesting that in the future there may not be the need for additional sacrifices, but we have to see that is evenly complied and it is not one group that is exempted out at the expense of another.

My friend and colleague from Colorado, when he talked about the areas of agriculture, defense, shipbuilding, mass transit, et cetera, and those are programs that are vital to many people in many sectors, I think he underscores an important point. I certainly applaud him for what I would consider to be a balanced approach.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, the Senator from New York is making an excellent point. The excellent point is that this is the last sausage that is coming out of the sausage machine, just a little bit more pork. There has been a lot of sausage come out before. Why cut it off on this one? Why not wait until the next one? Of course, when the next one comes out, there will be another special interest group here saying, "For goodness sake, look at all those other sausages. Don't cut this one off. Wait, wait for another day, wait for another time, wait for another program."

In fact, we have been waiting for 40 years for somebody to stand up and try to make some sense out of the way we spend money here in the U.S. Congress.

How dare those rascals at OMB, how dare they come out and try to put dollar figures on authorizations that provide whatever amounts may be required, such sums as may be appropriated? How dare they say that is an authorization? What is wrong with those people—such sums as may be appropriated?

Mr. ARMSTRONG. Mr. President, does the Senator from Texas think that would apply to the defense bill? What would you suppose would happen if the Armed Services Committee had brought a defense authorization to the floor and said such sums as may be appropriated? They have been struggling almost a year to pass the defense authorization with real numbers in it.

Mr. GRAMM. If I can respond to the Senator from Colorado, the point is no such bill would ever be contemplated and ever adopted.

Mr. ARMSTRONG. It would be laughable. It would be hooted down.

Mr. GRAMM. But the point is that we are hearing these nasty devils at OMB criticized because they have the audacity to dare to try to estimate the costs that actually result from such phrases as such amounts as may be appropriated.

It is a totally open-ended authorization. The plain truth is that the amount authorized here is not $19 or $15 billion. It is an infinite amount. It is what the appropriators on these programs might decide to appropriate. So a debate about $15 billion versus $19 billion defies all logic because the truth is that this is an infinite authorization and it always is any time that you are writing law which says that you authorize such amounts as may be appropriated.

Now what OMB has done that so riles the distinguished Senator from New York is they have been generous. They have said, well, let us just look at the description of these programs and figure out how much they might cost. Let us look at FHA losses, let us look at the HUD amendments, let us look at the fees, let us look at the replacement subsides, let us look at the new programs. Heaven forbid anybody should look at what a new program actually costs when you are authorizing. I mean, just imagine how unfair it is to try to put a dollar figure on those programs.

The position of the Senator from New York defies logic and good sense.

OMB looks at the requirement that recaptured funds be spent. It looks at mandated costs. We mandate programs be undertaken. We mandate that we remove lead-based paint. We mandate we lower tenant rents. I mean, how dare anybody attempt to figure in the actual cost of these programs, what it costs to lower rents when the law says you are going to lower rents. We mandate. Interestingly enough, you know we eliminated CETA in 1981 but in this bill we man-

date that the cost of former CETA worker salaries become eligible for Federal subsidy. I mean, how dare OMB try to put a dollar figure on that?

The plain truth is that if you are generous and you say rather than putting infinity down as an amount that we are going to try to figure out what the programs cost, the total adds up to about $19 billion, and I would like to send a table to the desk and ask unanimous consent that it be printed in the RECORD because it summarizes what these programs really cost.

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

TOTAL FUNDING FOR HOUSING BILL [1]

[Budget authority in billions of dollars]

	1987 enacted	Housing conference	
		1988	1989
Total BA	16.2	15.0	15.7
Unfunded items:			
FmHA Losses		1.0	1.0
HUD amendments/fees/replacement subsidies		1.3	1.3
New programs (such sums)		.2	.2
Use of recaptures		1.0	.5
Mandated costs		.5	.5
Total funded level [1]	16.2		19.2

[1] Note: The amount that could well be appropriated to satisfy the funding requirements of S. 825.

Source: Office of Management and Budget.

Mr. GRAMM. Now, I would like to make an additional point or two about these devils at OMB before we pass on to another subject.

The first is that, while anybody can point to any cost estimate they want, the law is very clear as to whose cost estimate is the dominant and guiding cost estimate in terms of whether we are meeting the targets of the Gramm-Rudman-Hollings law and whether a sequester goes into effect. And that guiding estimate comes from the Office of Management and Budget and I think it is important in looking at budgetary impact that we recognize that.

With regard to the budget situation, the 311(a) point of order is not a trivial point of order. In fact, it is so significant that, in the Balanced Budget and Emergency Deficit Control Act, we required a 60-vote margin to waive a section 311 budget point of order because the 311 point of order is the way that the rules tell us that we are increasing the deficit for the year in question above the total that is allowed by law. You cannot have a more basic budget point of order than that.

The next point I would like to make is very simple, and that is we have heard a lot of talk about the fact that we have not had a comprehensive housing bill since 1980. I would like to remind my colleagues that today 1 million more families receive housing assistance than received housing assistance in 1980. We may not have passed a comprehensive housing bill since 1980, but the housing program, the Federal Housing Program, has continued to grow.

But is it not interesting that, while we are here debating the Federal Housing Program and talking about the fact that the American people are the best-housed people on Earth, no one has brought up the fact that the U.S. Government spends less money on housing as a percentage of GNP than any other developed nation on Earth? If I am wrong about that, I hope tomorrow someone will bring the figures forward and show me.

My assertion is that of every developed nation on the face of the Earth, the U.S. Government spends a lower percentage of GNP on housing programs. Now is that not interesting. Less money on Government housing programs, as a percentage of GNP, is spent in the Nation that not only has the best-housed people on Earth, but has the best-housed people on Earth far beyond our next-closest competitor. In fact, the people of the nation on Earth with the second-highest GNP, Japan, are far more poorly housed than are we.

Now, the point I want to make here is that anybody who thinks we are about to improve the housing of the American people in any significant way with this so-called housing bill does not understand housing in America. The American housing program is not HODAG. The American housing program is not UDAG or section 8. The American housing program is Americans going to work, earning a paycheck, and building up a nest egg to build and buy their own home.

Now there may be a lot of people who want to rush out and say, "This legislation is my housing program."

Well, this is not my housing program we are debating here. My housing program is a housing program that every American wants to participate in and is eligible for. And that is a housing program where people have a job, build up a nest egg and build and buy their own home. We have created the best housing on Earth with that housing program, not with section 8 or UDAG or CDBG, and the list goes on and on.

And it is interesting that many of the very groups who have asked people to vote for this bill recognize what I have just said. In fact they are the same groups who say, "Balance the Federal budget." The truth is every penny we spend here we are going to borrow. Every penny that will be spent on housing for the next 5 years, even if we meet the targets of the new Gramm-Rudman law, looking at it as the last, marginal expenditure, will be borrowed. That will be money taken out of the private sector, money taken out of the banks and savings and loans, money that would have been spent on the real American housing program in many cases, the housing program of work, savings, and opportunity that leads to private home ownership.

If, in fact, this is that last little sausage out of the sausage machine that destroys the credibility of Congress in being able to deal with the deficit, if it sends us into a recession, if it causes as part of other fiscally irresponsible actions and I share the view of the Senator from New York, this is not the first and not the only and probably not the last little sausage out of the mass machine, but it is a sausage and it is one that is coming out at exactly the time that we ought to be cutting the machine off—but if this contributes even in a small way to sending us into a recession and putting millions of people out of work, is housing going to be improved or hurt in America? It is going to be hurt. And that is why this bill in its current form should not become the law of the land.

Anybody who tommorrow votes to waive this budget point of order is clearly not serious about dealing with the deficit.

The next point I would like to make focuses on one of the mandated costs. It is a point that I have made on many occasions, and since I am going to get to speak tomorrow it is going to be my last one tonight. But I want to make it because it is something I feel very strongly about.

In 1981, as we were looking at Federal subsidies, we found something that to me was very disturbing. We found that we had a lot of programs that treated the people who were riding in the wagon better than they treated the people who were pulling the wagon. One of those programs had to do with rent subsidies. In fact, we found that the working poor were paying 30 percent, on average, of their income for housing and that the nonworking poor, who were in receipt of Government program assistance, were paying a lower percentage of their income on housing.

As a result, we made a decision that to some people may sound strange, but to me sounds like a decision that makes eminently good sense. We said that just because poor people worked, they ought not to be treated less well than the poor people who do not work; that, in fact, there are a lot of poor people who get up in the morning, get dressed, go out to work. It is a lot easier to stay in bed. There are a lot of poor people who work hard, who work on dangerous jobs, who work long hours in uncomfortable circumstances. It is a lot easier to watch television and to stay at home. And, therefore, we made a decision that we ought not to treat the people riding in the wagon better than we were treating the people that were pulling it.

The major reason was not only was it unfair, but it was stupid. It would simply induce more people to ride in the wagon and fewer people to pull it.

So one of the changes we made, in terms of trying to reach at least parity between the people doing the work and the people who were benefiting from the work that other people were doing, was this change in the housing program where we asked the nonworking poor to pay the same percentage of their income in rents as the working poor had to pay—30 percent.

Now, we come along in this bill and we say, "Nope. We are going to back away from that commitment. If the working people want lower rents, let them quit working, take Government benefits and then they can pay a lower percentage of their income for rents."

I do not think that is smart and I do not think it is right. And it is one of many little rotten provisions in this bill.

I am tempted to steal the line of my distinguished colleague from Colorado about the Nehemiah Program. As my distinguished colleague from Colorado has said more eloquently than I ever could, what a besmirchment of the good name of Nehemiah.

Nehemiah, of course, is that person in the Bible who saw people in need and took them in. If this Nehemiah Program takes anybody in, it is the taxpayer, because the Nehemiah Program does not take in the poor. The Nehemiah Program takes in the people who are not poor. It is exactly one of those programs that is the dream of every liberal politician: Let us get everybody riding in the wagon. Let us give a subsidy to everybody so everybody will vote for me.

There is only one problem with it. When everybody is in Government subsidized housing, who is going to pay for it? When everybody is riding the wagon, who is going to pull it? Should middle-income Americans be getting subsidized housing? I would submit, if you put it to the American people in any kind of objective way, they would say subsidized housing ought to be for poor people. But, increasingly—and this bill is another big step in that direction—the Government gives subsidies to people who are not poor, to people who have never been poor, and to people who are never going to be poor. This bill does that all in the name of providing adequate housing for the American people, when adequate housing for the American people is generated in the private sector of the economy.

If we were balancing the budget today, if we had 6 percent mortgage rates, would the American people be better housed than they are? Would they be better housed than if this bill were tenfold as large? They would be, Mr. President, in my humble opinion.

This one bill, $19 billion, in and of itself does not mean that the deficit is going to be twice the size it is today. Defeating this bill would not balance the budget. The distinguished Senator from New York has pointed out that there are other bad programs. But, Mr. President, if every time we try to deal with the fundamental problem of our era, which is runaway Government spending, we have got to face the argument there are other wrongs in the world and we ought to correct those wrongs before we correct this one, where do you start? Where do you make your first stand against spending?

In a very real sense, this is a bill which clearly is prospending, proregulation, which expands the scope of the housing program away from the poor and toward the rich. There is not a better starting point to reduce spending. It is not popular. We all know why the big vote occurred in the House.

Our job is to take the longer view and I think we can do that by first voting to sustain the budget point of order. What hypocrisy it will be if those of us who have stood up and said: We have to enforce the budget; we have to reduce the deficit; we have to reassure Wall Street; we have to stabilize the currency markets of the world; we have to prevent a recession—if, after having said all that, we come down here and waive the budget point of order and raise the deficit, I think our words are hollow and I think in fact it proves that our biggest problem on Wall Street and Main Street is that the American people know that our words are hollow, that they are not backed up by action. I think this is an opportunity to change that policy. Despite all the good politics, despite all the good people around the country who are for these programs, the adoption of this bill is not in the interest of the American people. It is not in the interest of the American economy. It would be a good thing for the future of America for us to defeat this bill or at least to sustain the budget point of order. Or, failing both, to sustain the President's veto.

I know that there are a lot of people who do not want to do that. I know there are people who are going to say the President is not really going to veto this. He just says he is going to veto it, but we will talk him out of it. I hope we are not going to talk the President out of it. The plain truth of it is Ronald Reagan has vetoed too few bills. This is one that I hope will not get by, and I think it is important that we not allow it to get by.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. The Senator from Texas has really contributed a very valuable metaphor to this discussion. He makes many contributions to the thought life of the Senate and, indeed, to the country; but in identifying those two broad classes of people, the wagon pullers and the wagon riders, he really gives us a benchmark for comparison of a lot of things. Even here in the Senate, may I say, there are some who are chiefly wagon riders and some who pull the wagon a disproportionate share of the time, and the Senator from Texas is known far and wide as one who pulls the wagon, and I thank him for it.

Mr. President, we are all eager to go home. It is long past the hour to give up. As I understand it, the agenda tomorrow calls for a vote on the point of order at 10 o'clock. I hope Senators will come down a little ahead of that, probably come down to hear some of the Senators who will get a chance to speak on this matter. Particularly I hope they will come to hear what Paul Harvey might characterize as "the rest of the story."

We have talked about UDAG, one of the most wasteful and extravagant programs we have ever seen and heard; about HODAG, which set out to give help to the poor in rental housing and ended up subsidizing the middle and upper-income groups; we have talked about whether the budget deficit contribution of this bill will be $15 billion of $18.7 billion; we have talked about the new program that will require for the first time 10 years of subsidies to people who are displaced by various Federal programs when the Federal bulldozer arrives.

You know, Mr. President, we have not talked about the great lead paint caper. If Senators want to get a preview of this, when you go back to your office prior to heading home ask your legislative assistant: Is there a provision in this conference report which, for the first time, will require that all the lead-based paint be removed in public housing even if there is no showing of a public health hazard? My colleagues, I just urge you to ask your legislative assistants this question and ask them what it is going to cost. Ask them: Could a thing like this, slipped into the conference report, cost hundreds of millions of dollars? Could it cost $1 billion? That is part of the rest of the story. We will get to it tomorrow. In the meantime I thank all Senators and I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I do not propose to prolong this discussion. I would like to note the startling contrast between the views of Members of the minority party in the Senate and Members of the minority party in the other body. There apparently must be some bipartisan merit and a good many Republicans beyond the Senator from New York who spoke ultimately in support of this amendment today. A great many Americans feel that this is

a very sensible measure. I would simply note in the original body when it came up in the conference report and it was passed on a vote of 391-1, one Republican did vote against it but voting for it were the minority leader, the minority ship, the ranking Republican on the House Banking Committee, the ranking Republican on the House subcommittee, and all the other Republicans who voted except one.

I now ask unanimous consent to place on the calendar a joint resolution introduced earlier by myself and Senator D'AMATO providing for a temporary extension of FHA insurance programs until December 16, 1987. That will be voted upon tomorrow.

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

Mr. CRANSTON. That has been cleared on both sides.

Mr. PROXMIRE. I rise to speak in opposition to S. 825, the housing bill we are considering.

I am opposing the bill because of my concern about its effect on the budget deficit. We cannot ignore the housing needs of lower income families or the role that the housing industry plays in maintaining a healthy economy.

I support a strong FHA. FHA insurance is vital for homeownership and rental activities. I also support an adequate program of housing assistance for those who cannot afford decent housing in today's market.

The bill before us, however, does more than that, and at a cost that jeopardizes efforts now being made by Congress and the administration to cut the deficit.

The bill, according to estimates made by the Congressional Budget Office and the OMB, will cost several billion dollars more than the administration's budget. The President, it is reported, has said that this housing bill is a budget-buster, and a likely candidate for veto. While I understand that my Senate colleagues on the conference committee reduced total budget authority for the bill below the expected compromise level, in order to accommodate White House concerns, I nevertheless, cannot in good conscience vote for a bill that will spend $15 billion for housing and community development in 1988.

I do not believe we can afford that amount this year. I don't believe we can afford to spend money we don't have for programs like UDAG—urban development action grants—and HODAG—housing development action grants. I don't believe we can afford to start a new housing development program like Nehemiah.

And I am also concerned about the potential cost of new programs that have no known cost. There's one new program in this bill that CBO says could cost the Treasury hundreds of millions; but, since CBO cannot estimate the cost with any confidence, the budget for the bill reflects no cost at all. To make matters even worse, the section 544 program I'm talking about, doesn't require an appropriation before the money is spent. Under this new program, the cost of relocating or demolishing a house threatened by erosion will be paid out of the flood insurance fund. That fund, as you will recall, is replenished by an appropriation after the Treasury checks have been mailed, and the losses to the fund determined. The flood insurance fund, which subsidizes flood insurance by some $125 million yearly, will now be called upon to finance an erosion program whose cost no one knows. I am seriously disturbed that this new program may provide costly financial assistance to many owners of second homes, at a time when we're cutting aid to families that can't afford one.

The erosion provision is not the only budget time bomb in this bill. There are several others, including the provisions dealing with lead paint abatement and aid for displacees, that have potential consequences for spending—and increasing our budget deficit.

To sum up: I am opposing S. 825, the Housing and Community Development Act of 1987. In my view, the bill spends more than it says it will, and more than we can afford.

Mr. RIEGLE. Mr. President. I rise today to support passage of the conference report accompanying S. 825, the Housing and Community Development Act of 1987.

The conference report before us represents over 3 months of extensive negotiations between the House and Senate conferees on a wide array of housing and community development issues. These issues were not always easily resolved, but thanks to the leadership of the chairman of the Housing Subcommittee, Senator CRANSTON, and the ranking Republican, Senator D'AMATO, I believe that we have a final product that can and should be supported by the entire Senate.

This is truly a bipartisan bill. It meets the needs of different regions of the country. It reflects the concerns of a broad majority of the conferees—conferees from different states and with differing philosophies. It is the product of discussions which have gone on for over 4 years and has involved not only members of the Banking Committee but a number of other Senators and Congressmen as well.

Just a few days ago the House of Representatives approved this conference report by a vote of 391 to 1. It is my hope that the Senate will follow their example and will vote overwhelmingly to approve this conference report.

Mr. President, the legislation before us today makes some very important changes to our Nation's housing and community development programs, and I would like to take just a moment to highlight some of these.

PERMANENT FHA AUTHORITY

This legislation will permanently extend FHA lending authority and will avoid the needless disruption in home mortgage finance that plagued FHA during 1986. As many of my colleagues may recall, during the last 2 years Congress has had to pass a series of stop-gap, short-term bills to extend authority for FHA insurance and other programs.

Despite our best efforts, FHA insurance shut down six times during 1986 for a total of 51 days and that was at a time when demand for FHA insurance has been the highest in history, at a time when 5,000 to 10,000 applications were being submitted every day.

These disruptions were simply irresponsible and must not be allowed to be repeated. By adopting this provision, we are taking a major step in reassuring American homebuyers and the home mortgage finance industry that such disruptions will never occur again.

COMMUNITY AND ECONOMIC DEVELOPMENT

Vital community development programs like the Community Development Block Grant [CDBG] Program and the Urban Development Action Grant [UDAG] Program are reauthorized for 2 additional years. Both programs will be funded at their current appropriated levels of $3 billion and $225 million respectively,

As many of my colleagues will recall, these programs have been the repeated targets of budget cutting proposals. I have opposed those cuts in the past, and I am delighted that the conferees have decided to maintain these programs at their current levels.

The bill before us also contains necessary changes to the UDAG selection criteria to allow at least 35 percent of the grant funds to be awarded on the basis of project merit only. These changes are similar to legislation, S. 1133, that I introduced in the 99th Congress, and I believe that they will do much to restore broad political support for the UDAG Program.

Last, the HODAG Program will be authorized for 2 more years and cities that have been denied HODAG eligibility in the past few months will be grandfathered back into the program. The Michigan cities favorably affected by this provision include: Detroit, Flint, Grand Rapids, Muskegon, and Lansing.

GREAT LAKES EROSION RELIEF

An important new provision will assist families whose homes are in danger of falling into the Great Lakes. It will allow homeowners who qualify for Federal Flood Insurance Program [FFIP] to make a claim for up to 40 percent of the value of their home to relocate it behind a 30- or 60-year erosion line.

This additional coverage is a commonsense approach to a very difficult problem. Homeowners win because they no longer have to sit idly by and watch their homes fall into the water before making a claim under the FFIP. The Federal Government wins because the amount of the claim is reduced by more than half since the cost of relocation is substantially below the cost of paying the full claim. The environment wins by promoting a policy that moves development back from our Nation's shorelines.

This provision has the support of the Association of State Floodplain Managers, Inc., The Coastal State Organization, The Center for the Great Lakes, The Coastal Alliance, the National Wildlife Federation, and the Sierra Club, Coastal Committee.

CHILD CARE IN PUBLIC HOUSING

Testimony before the Housing Subcommittee has shown that an increasing number of families with young children are seeking housing assistance. The bill responds to this new challenge by authorizing a $5 million demonstration program for child care in public housing.

The provision adopted by the conferees is similar to legislation I have introduced in both the 99th and 100th Congress and is based on a successful model already in place that allows nonprofit organizations to conduct before and after school child care in public schools.

ENTERPRISE ZONE LEGISLATION

As a long time supporter of enterprise zone legislation, I am delighted that the conferees have included a provision that gives the Secretary of HUD the authority to designate up to 100 enterprise zones.

Although this provision only provides HUD with the administrative authority to create such zones, I believe it is an important first step to further job creation and economic revitalization in our Nation's most distressed communities.

DISPLACEMENT

Lastly, Mr. President, in an effort to get this bill out of the conference, the conferees adopted an amendment that would require replacement housing assistance for individuals displaced by CDBG and UDAG activities. Frankly, I have concerns about this provision, and I urge the chairman of the Housing Subcommittee conduct hearings on the impact it will have on our nation's cities.

To the best of my knowledge, the Senate has not conducted any hearings which demonstrate that displacement is a national problem. Nor, in my opinion, has the impact of this proposal in terms of its costs to local communities been adequately addressed.

I am informed, for instance, that for the city of Detroit, the cost of a UDAG or CDBG project would be greatly increased to the extent that it may be unlikely for some projects to go forward because of the increased costs. Detroit has a very strong record for providing comparable housing satisfactory to those displaced. In most cases displaced persons in Detroit have been quite satisfied with their relocation benefits.

Mr. President, we all share the goal of preserving housing for low- and moderate-income people; however, we must be certain that any provision must not unduly penalize cities like Detroit that are already providing relocation assistance.

Mr. KERRY. Mr. President, first, I would like to congratulate my distinguished colleague from Hawaii, Mr. MATSUNAGA as well as the other conferees on this bill for their diligence and perseverance in making this reauthorization a reality.

Mr. President, I believe that the conference report before us today goes a long way toward fulfilling the original objectives of the 1965 Older Americans Act, that of providing those elderly in the greatest social and economic need with an array of human service programs which will assist them in maintaining their independence and dignity within their homes and their communities. Congress passed the original Older Americans Act in response to the lack of community social services for older persons. Through repeated authorizations of the original act, Congress has reaffirmed its commitment to and support for the myriad of programs established under the act.

As most of my colleagues know, the Older Americans Act is one of the most important and significant pieces of legislation designed to meet the needs of our elderly population. Through State and local agencies on aging, the Older Americans Act authorizes funding for adult day-care centers; transportation and legal services; congregate and home-delivered meals; and senior citizen centers. In addition, the act also authorizes the activities of the Federal Administration on Aging and provides funds to subsidize part-time community service jobs for unemployed persons over age 55 with low incomes.

In addition to continuing the time-proven programs since the original 1965 act, the conference report before us today contains a number of additional important provisions.

First, the bill contains a new, $25 million authorization to provide nonmedical, in-home services to the frail elderly who are at risk of being institutionalized.

The bill also contains a new authorization for State programs for the prevention of abuse, neglect and exploitation of the elderly; calls for a White House conference on aging in 1991; encourages increased minority participation among the elderly and provides $20 million over two years for an outreach program in each of the States, designed to maximize elderly participation in existing Federal programs, including the SSI, Medicaid, and food stamp programs. This is an important addition to the bill since research has shown that only 30 percent to 50 percent of the elderly eligible for these programs are actually participating and that increasing participation requires more active involvement in the community.

Finally, the bill strengthens the operation of the Long-Term Care Ombudsman Program and includes a new program for promoting health education in senior centers and other congregate settings.

All of us are acutely aware of the changing nature of our aging population, brought about by advances in education, medical research and public health. The Older Americans Act and the programs authorized by it have provided a foundation from which to address the issues and concerns facing our elderly population. The reauthorization before us today reaffirms the commitment we made in 1965. I applaud the conferees for their excellent work and I wholeheartedly support the conference bill before us today.

SYDNEY R. MAROVITZ

Mr. DIXON. Mr. President, Sydney R. Marovitz is one of our community's most distinguished citizens, and a member of one of the great Jewish families of Illinois—a family which has dedicated itself through public service to enriching the lives of citizens of every race, religion, creed, and color.

Sydney R. Marovitz, who is presently special assistant attorney general of the State of Illinois has served in numerous positions of public trust in an illustrious career spanning some 54 years. A former Chicago Park District Commissioner for 12 years, Sydney began practicing law in 1934 with his brothers, Harold and Abraham Lincoln Marovitz, now a Senior U.S. District Court Judge for Northern Illinois. His son, William, is a Senator from Illinois' Third District, and another son, Robert, is with the Chicago Convention Bureau.

A member of the Ner Tamid Congregation and its past president, Sydney was one of the founders of the Bernard Horwich Jewish Community Center, a member of the Zionist Organization of Chicago, the Board of Jewish Education, a board member of CASE, Men's American ORT, and other Jewish organizations. He is a former board member of the Jewish Welfare Board. He is a member of the American Jewish Congress and has traveled to Israel on many occasions. In the wider public arena, Sydney Marovitz is a former executive vice

president of the George and Anna Portes Cancer Prevention Center, a life trustee of the Adler Planetarium, the Chicago Building Commission, the Art Institute, the Little City Service League, and the Lincoln Park Zoological Society. He is a member of the Chicago, IL, and American Bar Associations, and of course, the Decalogue Society of Lawyers.

Mr. President, Sydney R. Marovitz has been chosen by the State of Israel Bonds in cooperation with the Decalogue Society of Lawyers as legal honoree for Israel's 40th anniversary. I want to add my voice to all those gathering in Chicago on Sunday, to honor Sydney Morovitz for his dedication and efforts to enrich the lives of citizens of every race, religion, and creed. Congratulations.

JOHN F. ENGLISH

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the death of John F. English, a political leader of our State and Nation for three and more decades of a hugely creative and eventful life.

Jack English, who was, of course, Irish, was a man of party, and given his time and place, the Democratic Party. There are not now so many men or women as they once were, and in the view of many of us both the parties and the Nation are the less for it.

Great political leaders are remembered for cohorts and cadres they bring into the political process. We think of Jackson, Lincoln, Franklin D. Roosevelt in these terms. Great party leaders distinguish themselves in different ways. As candidates for office will acquire new followers; party leaders acquire new territories.

Jack English took the Democratic Party into the suburbs. It was the quintessential party, that of New York, the oldest organized political party on the face of the Earth. And it was the quintessential suburb, Nassau County, home of Levittown the pioneering suburban housing project that came into being after World War II largely as a result of the entrepreneurship of the Levitts, but as effort vastly facilitated by Federal mortgage insurance and the GI bill. If I may add a personal note, I can remember the first family at 558 West 42d Street announcing they were moving to their own house in a place called Levittown, He was a veteran, of course, and in that neighborhood of course a Democrat. The popular wisdon held that he would soon become a Republican, and I don't doubt he might have done save that Jack English was there to spare him the fate.

He was a friend of more than 30 years, from the time that my wife, Elizabeth, and I worked in Governor Harriman's office in Albany, and he was to become active on Long Island. We mourn him and miss him. But no member of this body could feel his loss so deeply as the beloved senior Senator from Massachusetts who delivered his eulogy November 10 at St. Agnes Cathedral in Rockvill Center, NY. I ask unanimous consent that Senator KENNEDY's moving eulogy be included in the RECORD and also a sensitive and informative obituary written for the New York Times by his friend the political correspondent of the Times, Mr. Frank Lynn.

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

REMARKS OF SENATOR EDWARD M. KENNEDY, SERVICE FOR JACK ENGLISH, NOVEMBER 9, 1987

It seems like only yesterday. But it was 27 years ago, almost to the day—November 5, 1960. It was two days before the Presidential election, and my brother Jack had come back to Nassau County. They were running very late, because they had tried to come by auto caravan from Queens, out the old parkway. The crowd had lined up hundreds deep at Wantagh and Sunrise Avenue. They had been waiting hours in the drizzle, and yet they gave my brother one of the greatest receptions he ever had.

We knew the explanation right away. Jack English had worked another one of his patented political miracles. As my brother said, Nassau County was the only place in the country where Democrats would turn out in the rain on a Saturday afternoon—and Jack English was the only one who could always make it happen.

1960 was the campaign and 1960 was the year that I first met Jack. I quickly came to know what my brother meant, when he said that no Kennedy ever had a better or more trusted friend than Jack English.

In the quarter century since then, I must have talked to him once or twice a month—and sometimes ten times a day, whenever our family had a difficult problem to resolve in national or local politics.

I know it comes a little late, Regina, but I apologize for all those interrupted meals and late dinners, the long phone calls and the urgent summonses to Hyannis. We're grateful to Jack's family, more than I can ever say, for sharing him with us. President Kennedy thought the world of Jack—and Jack never let him down.

Robert Kennedy felt the same way, because Jack English was always there for Bobby too—first in the hectic days of my brother's race for the Senate in New York in 1964, and again in the Presidential campaign of 1968.

As Bobby began that Senate race, he found it hard to understand one thing—that in order to get along in politics in New York, you have to talk to politicians in New York. So Jack English did the only thing he could—if one Kennedy wouldn't talk, he'd find another one who would.

And that's how I spent my summer vacation in 1964—traveling with Jack English around New York City, and up and down New York State—returning Bobby's unreturned phone calls from political leaders all across New York.

And after it was over and the victory was won, Bobby quietly asked Jack for his roladex. He said, I think I'll call a few of these myself, and try to make some friends. But the best friend of all was the friend he had already made—Jack English.

What a pair they made in the four productive and happy years that followed. Next to President Kennedy, Jack English was the greatest teacher that Bobby ever had.

The day finally came, after the New Hampshire primary in 1968, when my brother had to decide at last whether to be a candidate for President. And Jack English was there again.

They all knew they had temporized too long. They were supposed to meet for dinner at the family apartment on U.N. Plaza, to go over the arguments pro and con for the thousandth time, and then make the "go or no go" decision, from which everyone knew there would be no turning back.

Bobby was famous for being late, and this time he was very late. While we were waiting in the room, Jack English turned on the television set—and all of us were stunned by what we saw. Walter Cronkite was on the TV screen, interviewing Robert Kennedy, and my brother was saying he had finally decided to run for President.

Well, our frustrations exploded when Bobby arrived an hour later; he looked like the cat who had swallowed the White House. Half of us had been for his decision and half of us had been against it, and so the argument started to get very heated.

But Jack English brought us back to earth. He said, "Bobby's already made the tough decision. The rest is easy—he just wants us to figure out some way that he can win. So let's start taking our assignments."

There was a long pause—so I put my hand up and said to Jack—"O.K., I'll take bumper stickers."

And after that campaign, after Bobby had left us, Jack English was always there for me as well. He was at my side from the beginning, in my own race for President in 1980. He wasn't as sure as I was that the polls were right, but he gave it all he had. As you may have heard, I had a little trouble in some of the states, but the two which Jack English had—New Jersey and New York—gave me my two most impressive victories of that year.

I've always thought that things might have turned out a little differently in 1980, if I'd had 50 Jack Englishes for all the 50 states.

He was with me in another kind of decision I have often made—the times when I decide not to run for President. I remember one evening late in 1982. I had planned a little gathering on short notice at my home in McLean, Virginia, because the time had come to decide about 1984.

Jack flew down from New York in late afternoon. Our friend Bill Carrick met him at the airport to drive him to my house. No one was supposed to know the agenda for the meeting—but no one ever fooled Jack English. He had figured it all out on the shuttle from New York. As he walked into my living room, he said, "You don't have to say anything, Ted. I know you're not running. I've done this too many times before."

In a sense, I am speaking today, not just for myself, but for President Kennedy and Robert Kennedy too. We loved Jack English like a brother. There were two Jacks in my life, and now they both are gone.

Somehow, somewhere, though, I suspect that Jack English is at it again. He's already held the first campaign meeting in heaven, and he's busy organizing the delegates for the next Kennedy race up there.

He was a friend and adviser for the ages and I miss him more than ever now.

Every cause Jack English touched, he left better than he found it. It is difficult to be-

lieve that any finer person or more loyal friend ever graced this county or this country.

Near the end of Pilgrim's Progress, there is a passage that tells of the death of Valiant, in words that remind me of Jack English:

"Then, he said, I am going to my Father's. And though with great difficulty I am got hither, yet now I do not regret me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be a witness for me, that I have fought his battle who now will be my rewarder.

"When the day that he must go hence was come, many accompanied him to the riverside, into which as he went he said, 'Death, where is thy sting?' and as he went down deeper, he said, 'Grave, where is thy victory?' So he passed over, and all the trumpets sounded for him on the other side."

[From the New York Times, Nov. 9, 1987]

JOHN F. ENGLISH, POLITICAL ADVISER TO THREE KENNEDYS, IS DEAD AT 61

(By Frank Lynn)

John F. English, a national, state and Long Island Democratic leader for many years, died Saturday of liver cancer at Mercy Hospital in Rockville Centre, L.I. He was 61 years old and lived in Muttontown, L.I., and in Kismet on Fire Island.

Mr. English, whose political astuteness was matched by his ability to laugh at himself and other politicians, was a top adviser to John F., Robert F. and Senator Edward M. Kennedy. He was chairman of the Fund for a Democratic Majority, Senator Kennedy's political action committee, and would have managed a Kennedy campaign for the Presidency. He was also instrumental in persuading Robert F. Kennedy to run for the Senate in New York in 1964.

Although he had long been identified with the Kennedy family, Mr. English was national political director of Edmund S. Muskie's Presidential campaign in 1972 and deputy national chairman of the Jimmy Carter Presidential campaign in 1980.

Mr. English also played a key role in the election of Eugene H. Nickerson as the first and only Democrat elected Nassau County Executive in the early 1960's. Mr. Nickerson is now a judge in Federal District Court.

SUBURBAN POLITICAL PRESENCE

Mr. English was a pioneer in establishing a suburban presence in New York State Democratic politics in the 1960's, emerging as a major state figure.

He has the polish and personality to be equally at home in a clubhouse and the White House.

Despite its success, his political career was an avocation. He was a founder and senior partner of one of the leading Long Island law firms, Meyer, Suozzi, English & Klein. The firm included among its partners Bernard S. Meyer, a retired State Court of Appeals judge; Joseph Suozzi, the former Appellate Division justice; John V.N. Klein, the former Suffolk County Executive, and Basil Paterson, the former state senator and New York City deputy mayor.

Mr. English had been law secretray to Mr. Meyer in 1959-60 when Mr. Meyer served on the State Supreme Court. He succeeded Mr. Meyer as Nassau Democratic chairman and was considered the most successful Democratic leader in the county then and since. At one point in his tenure in the 1960's, Democrats held four county offices, two congressional seats and half the county's six Assembly seats.

SON OF A POSTMISTRESS

Politics came easy to Mr. English. His mother, Anne Daley English, had been postmistress and Democratic leader of Franklin Square in Nassau County. He told friends that he was barely old enough to walk when he started handing out Democratic literature.

He was a graduate of Iona College and Fordham Law School. He served four years in the Navy in World War II, being awarded four battle stars and the Philippine Liberation Medal.

He is survived by his wife, Regina; a sister, Joan Blatz of Colts Neck, N.J.; two daughters, Danette Cooper of Cambridge, Mass., and Shelley, of Manhattan, and a son, Michael, of Hewlett, L.I.

A Mass will be held at 10 a.m. today at St. Agnes Cathedral at 29 Quealy Place in Rockville Centre. A private burial will follow at National Cemetary in Farmingdale.

MESSAGES FROM THE HOUSE

At 3:16 p.m., a message from the House of Representatives, delivered by Mr. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 53. Joint resolution to designate the period commencing November 22, 1987, and ending November 28, 1987, as "American Indian Week";

S.J. Res. 97. Joint resolution to designate the week beginning November 22, 1987, as "National Adoption Week"; and

S.J. Res. 174. Joint resolution designating the week beginning November 15, 1987, as "African American Education Week."

The message also announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 195) providing for filing and printing of the reports of the House and Senate select committees on Iran as a joint report.

The message further announced that pursuant to the provisions of section 276a-1 of title 22, of the United States Code, the Speaker appoints as members of the delegation to attend the Interparliamentary Conference on Drug Abuse and Illicit Trafficking in the Western Hemisphere, in Caracas, Venezuela, the following Members on the part of the House: Mr. SCHEUER and Mr. GILMAN.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000;

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2121. A communication from the Comptroller General, transmitting, pursuant to law, a report on the Rural Telephone Bank's financial statements for the year ended September 30, 1986; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2122. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, notification of the intent to study the conversion to contract by performance of a commercial activity being performed by Department of Defense employees at Fort Hood, TX; to the Committee on Armed Services.

EC-2123. A communication from the Assistant Secretary, Department of the Treasury (Fiscal Assistant Secretary), transmitting, pursuant to law, a report on the actual amount of revenues deposited in the Panama Canal Commission Fund during the fiscal year 1987; to the Committee on Armed Services.

EC-2124. A communication from the Comptroller General, transmitting, pursuant to law, a report on the Government National Mortgage Association's financial statements for the year ended September 30, 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-2125. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-2126. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting a draft of proposed legislation to implement the obligations of the United States under the Inter-American Convention on International Commercial Arbitration; to the Committee on Foreign Affairs.

EC-2127. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting pursuant to law, a report on international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-2128. A communication from the Assistant Secretary of the Treasury, transmitting, pursuant to law, a report concerning the operations and status of CSRDF and GSIF during the periods when new obligations could not be issued; to the Committee on Government Affairs.

EC-2129. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-98, adopted on October 27, 1987; to the Committee on Governmental Affairs.

EC-2130. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-97, adopted on October 27, 1987.

EC-2131. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-96, adopted on October 27, 1987; to the Committee on Governmental Affairs.

EC-2132. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-95, adopted on October 27, 1987; to the Committee on Governmental Affairs.

EC-2133. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-99, adopted on October 27, 1987; to the Committee on Governmental Affairs.

EC-2134. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-100, adopted on October 27, 1987; to the Committee on Governmental Affairs.

EC-2135. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report of their activities concerning the implementation of the Government in the Sunshine Act during the calendar year 1986; to the Committee on Governmental Affairs.

EC-2136. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2137. A communication from the Director, Office of Workers Compensation Programs, Department of Labor, transmitting, pursuant to law, notice of a proposed computer matching program; to the Committee on Governmental Affairs.

EC-2138. A communication from the Independent Counsel investigating an allegation concerning Mr. Raymond J. Donovan, transmitting, pursuant to law, a report on the investigation; to the Committee on the Judiciary.

EC-2139. A communication from the Secretaries of Education, Health and Human Services, and Labor, transmitting, pursuant to law, a special report on substance abuse prevention; to the Committee on Labor and Human Resources.

EC-2140. A communication from the Secretary of Education, transmitting, pursuant to law, a report of the special problems and needs of American Indians with handicaps both on and off the reservation; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Resistance:

Report entitled "Report of the Congressional Committees Investigating the Iran-Contra Affair (with supplemental, minority, and additional views) (Rept. No. 100-216).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special report entitled "Allocation of Budget Totals, Committee on Banking, Housing, and Urban Affairs" (Rept. No. 100-217)

By Mr. BURDICK, from the Committee on Environment and Public Works) without amendment:

S. 1865, An original bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for the protection of the public from nuclear accidents; placed on the calendar (Rept. No. 100-218).

● Mr. BURDICK. Mr. President, today I am filing the bill and the report of Committee on Environment and Public Works on the Price-Anderson Amendments Act of 1987, an original bill ordered reported by the Environment and Public Works Committee to amend the existing Price-Anderson Act.

The reauthorization of the Price-Anderson Act is a high priority for myself and the Environment and Public Works Committee. I believe the act should be reauthorized as expeditiously as possible.

I would like to especially commend the efforts of the Chairman of the Subcommittee on Nuclear Regulation, Senator BREAUX, and the ranking member of the subcommittee, Senator SIMPSON for their efforts in developing this legislation, which was reported unanimously by the Environment and Public Works Committee.

I hope that the full Senate can consider this bill as soon as possible.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. GARN, Mr. INOUYE and Mr. GRASSLEY):

S. 1862. A bill to amend the Public Health Service Act to provide for an immunosuppressive drug therapy block grant; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 1863. A bill to amend the bankruptcy law to provide for special revenue bonds, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 1864. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions regarding tax-exempt bonds, and for other purposes; to the Committee on Finance.

By Mr. BURDICK, from the Committee on Environment and Public Works:

S. 1865. An original bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for the protection of the public from nuclear accidents; placed on the calendar.

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S.J. Res. 218. A joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. D'AMATO):

S.J. Res. 219. A joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes, placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. GARN, Mr. INOUYE, and Mr. GRASSLEY):

S. 1862. A bill to amend the Public Health Service Act to provide for an immunosuppressive drug therapy block grant; referred to the Committee on Labor and Human Resources.

LEGISLATION TO AMEND THE PUBLIC HEALTH SERVICE ACT

Mr. HATCH. Mr. President, last year one of our colleagues made a courageous personal sacrifice when he donated one of his kidneys to his daughter. My good friend, the Senior Senator from Utah, Senator GARN, and his family have personally experienced the modern miracle of organ transplantation. That modern miracle is possible in part because of new immunosuppressive drugs. Unfortunately, these drugs are beyond the financial means of many Americans.

Last year while I was chairman of the Labor and Human Resources Committee, we heard from the family of another Utahan, Kielie Burrell. Her parents told the committee about the difficulty they were having paying for her immunosuppressive drugs after her liver transplant. We have also heard from other individuals who were not even considered for transplant operations because they do not have funding for the immunosuppressive drugs.

In 1986, there were 8,972 kidney, 1,368 heart, 924 liver, and 140 pancreas transplants performed in this country. In my own State of Utah, 139 kidneys and 53 hearts were transplanted.

It has been estimated that one quarter of those eligible by medical criteria for organ transplants have no insurance to cover the cost of the miracle immunosuppressive drugs that have made organ transplants possible. These drugs, which keep the body from rejecting the new organ, are extremely costly. In fact, cyclosporine, the most effective, costs $5,000 a year for a typical transplant patient.

In most cases, if the patient cannot afford the immunosuppressive drugs, the patient is not considered a candidate for a transplant. In other cases, transplants are performed, but the patient must depend on cheaper, less effective drugs that can increase the chance of rejection by up to 50 percent.

The real irony of this situation is that, in cases of kidney disease, passing up a transplant is not only unnecessary, it ultimately costs the taxpayers more money. The Federal Government currently pays for dialysis under the End Stage Renal Disease [ESRD] program, which until recently was the only option for chronic renal disease. And as expensive as immunosuppressive drugs are, they don't even begin to approach the cost of dialysis, which ranges from $18,000 to $25,000 a year.

Because of the high cost of dialysis, the annual cost of the ESRD program has skyrocketed from $200 million to

$12 billion in just over 10 years. The emergence of kidney transplants as a viable alternative can help turn back the rising tide of ESRD expenditures, but only if such transplants take place.

Today, I am introducing, with the support of Senator GARN, Senator INOUYE, and Senator GRASSLEY, legislation to address these issues. The Immunosuppressive Drug Therapy Act of 1987 provides $5 million over 3 years in the form of grants to States to help purchase these self-administered immunosuppressive drugs.

All organ transplant patients whose immunosuppressive drugs are not fully covered by existing private or public programs are eligible for assistance, but the extent of assistance may be based on the patient's ability to pay. States may require patients to pay part of the cost of their immunosuppressive drugs, but we anticipate that States in establishing copayments will take into account the financial resources of recipients.

States may either purchase the drugs and make them available to certified transplant centers for distribution, reimburse the centers for drugs provided eligible patients, or select an alternative course of action approved by the Secretary of Health and Human Services.

One thing State governments may not do is use this funding to supplant other spending. This legislation is intended to fill gaps in current coverage in order to help patients not being helped, not to become a substitute source of funding for patients already covered.

Mr. President, I am aware that health care proposals of this kind may induce a different kind of medical problem—they may set a few hearts fluttering among my cost-conscious colleagues in this Gramm-Rudman-Hollings era. I want to provide a little bedside reassurance on this score.

First of all, unlike many programs which start as little acorns and grow into mighty money trees, this program is not open ended. It sets specific funding levels for a specific number of years. We've anticipated that because of changes in what private insurance pays for and the interest in a Federal catastrophic care program, this program may not be needed in its original form or in any form in a few years. Therefore, we have directed the Secretary to report back to us in 2 years on the effectiveness of, and need for, this program.

But more important, as I pointed out earlier, this program will help to bring down the cost of a rapidly growing Federal program, the End Stage Renal Disease Program.

Last year, similar legislation, S. 2536, passed the Senate by voice vote toward the end of the 99th Congress. But, unfortunately, there was not time for consideration in the House. The 99th Congress did take some actions to expand Federal coverage for immunosuppressive drugs, but ironically, that more limited legislation was more than twice as costly as S. 2536 and still does not help the Kielie Burrells of the world.

This Congress will face a number of weighty matters over the coming months. But I hope my colleagues will take a few minutes and review this legislation, because its not very often that we can not only save money but also precious lives like that of little Kielie Burrell.

I urge my colleagues to join Senators GARN, INOUYE, GRASSLEY, and myself in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new part:

"Part D—Immunosuppressive Drug Therapy Block Grant

"SEC. 1931. DEFINITIONS.

"For purposes of this part:

"(1) ELIGIBLE PATIENT.—The term 'eligible patient' means an organ transplant patient who is not eligible to receive reimbursement for the total cost of immunosuppressive drug therapy under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the State's medicaid plan under title XIX of such Act (42 U.S.C. 1396 et seq.), or under private insurance.

"(2) IMMUNOSUPPRESSIVE DRUG THERAPY.—The term 'immunosuppressive drug therapy' means drugs and biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues and that can be administered by the transplant patient.

"(3) TRANSPLANT CENTER.—The term 'transplant center' means a transplant center certified by a State under the laws and regulations of such State.

"SEC. 1932. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"SEC. 1933. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From amounts appropriated under section 1932 for each of the fiscal years 1988 through 1990, the Secretary shall allot to each State an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the total number of eligible patients in the State bears to the total number of eligible patients in the United States.

"(2) MINIMUM ALLOTMENT.—Notwithstanding paragraph (1), the allotment of any State in any fiscal year under this subsection shall not be less than $50,000. If, under paragraph (1), the allotment of any State in any fiscal year will be less than $50,000, the Secretary shall increase the allotment of such State to $50,000 and shall proportionately reduce the allotments of all other States whose allotment exceeds $50,000 in a manner that will insure that the allotment of each State in such fiscal year is at least $50,000.

"(b) UNALLOTTED FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), to the extent that all the funds appropriated under section 1932 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1936(d));

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(2) ORGAN TRANSPLANT CENTERS.—

"(A) APPLICATION.—If a State does not submit an application for an allotment or description of activities in accordance with section 1936 for a fiscal year or notifies the Secretary that the State does not intend to use the full amount of the allotment of the State, an organ transplant center in the State may submit an application in accordance with section 1936 for the amount of the allotment not allocated to the State.

"(B) ALLOTMENT.—Subject to subparagraph (C), if an applicant center is approved by the Health Care Financing Administration and the center complies with the requirements imposed on the State by this part, the Secretary shall provide to the center the amount of the allotment not allocated to the State.

"(C) MULTIPLE APPLICANTS.—If two or more applicant centers in a State meet the requirements of subparagraph (B), the Secretary shall divide among the eligible applicant centers in an equitable manner the amount of the allotment not allocated to the State.

"(D) DISTRIBUTION TO OTHER STATES.—If one or more centers in a State receive an allotment under this paragraph for a fiscal year, the allotment shall not be made available to remaining States under paragraph (1).

"SEC. 1934. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 1933 from amounts appropriated for that fiscal year.

"(b) CARRYOVER FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"SEC. 1935. USE OF ALLOTMENTS.

"(a) IN GENERAL.—

"(1) USE.—Except as provided in subsections (b) and (c), amounts paid to a State under section 1934 from its allotment under

section 1933 for any fiscal year shall be used by the State to provide immunosuppressive drug therapy for eligible patients.

"(2) METHODS.—A State may use amounts paid to the State under section 1934 from its allotment under section 1933 to provide immunosuppressive drug therapy for eligible patients—

"(A) by purchasing the drugs and biologicals for such therapy and distributing such drugs and biologicals to transplant centers or eligible patients;

"(B) by certifying that an individual is an eligible patient for purposes of this part and by reimbursing a transplant center for the costs of immunosuppressive drug therapy provided by such center to such individual;

"(C) by any other method prescribed by the Secretary by regulation (other than the method described in subsection (b)(1)).

"(3) COPAYMENTS.—A State may require an eligible patient to whom immunosuppressive drug therapy is provided with amounts paid to the State under this part to make copayments for part of the costs of such therapy, without regard to section 1916 of the Social Security Act (42 U.S.C. 1396o).

"(b) LIMITATIONS.—A State may not use amounts paid to it under section 1934 to—

"(1) make direct payments to organ transplant patients; or

"(2) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the total amount paid to any State under section 1934 from its allotment under section 1933 for any fiscal year may be used for administering the funds made available under section 1934. The State will pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1936. APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS.

"(a) APPLICATION REQUIRED.—In order to receive an allotment for a fiscal year under section 1933, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the State will meet the requirements of subsection (b).

"(b) REQUIREMENTS.—As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to the State under section 1933 in accordance with the requirements of this part;

"(2) agrees to cooperate with Federal investigations undertaken in accordance with section 1907 (as such section applies to this part pursuant to subsection (d) of this section); and

"(3) certify that the State agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds.

"(c) DECRIPTION OF ACTIVITIES.—

"(1) IN GENERAL.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported.

"(2) PUBLIC COMMENT.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) REVISIONS.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to paragraph (2).

"(d) ADMINISTRATION.—Unless inconsistent with this part, section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this part in the same manner as such provisions apply to part A of this title.

"(e) ADDITIONAL INFORMATION.—Each annual report submitted by a State to the Secretary under section 1906(a) (as such section applies to this part pursuant to subsection (d) of this section) with respect to its activities under this part shall contain—

"(1) a specification of the number of eligible patients in the State receiving immunosuppressive drug therapy with amounts paid to the State under this part;

"(2) a description of the amount of any copayment required by the State under section 1935(a)(3); and

"(3) a certification that amounts paid to the State under this part are being used in accordance with this part.".

SEC. 2. REPORT.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report concerning the impact of part D of title XIX of the Public Health Service Act (as added by section 1 of this Act).

(b) CONTENTS.—The report shall contain—

(1) a description of the effect of the program established under such part on organ transplants in the United States;

(2) an analysis of the effects of such program on the costs of organ transplants and renal dialysis;

(3) an analysis of the extent to which amounts paid to States under such part are used for purposes other than the purposes specified by such part, including an analysis of the extent to which drugs and biologicals purchased with such amounts are provided to individuals who are not eligible patients under such part; and

(4) such recommendations as the Secretary considers appropriate, including recommendations as to whether financial assistance under such program should be continued during fiscal years after fiscal year 1990.

SEC. 3. CONFORMING AMENDMENTS.

(a) IN GENERAL.—The matter following subparagraph (D) of section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by striking out "and" at the end of subclause (VIII); and

(2) by inserting before the semicolon at the end thereof the following: ", and (X) the making available of immunosuppressive drug therapy (or immunosuppressive drugs) to individuals who have received organ transplants shall not, by reason of this paragraph, require the making available of any other type of drug or the making available of any drugs for other individuals".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply to drugs furnished after the date of the enactment of this Act.

By Mr. DECONCINI:

S. 1863. A bill to amend the bankruptcy law to provide for special revenue bonds, and for other purposes; to the Committee on the Judiciary.

MUNICIPAL BANKRUPTCY LEGISLATION

Mr. DECONCINI. Mr. President, today I am introducing this bill to amend the municipal bankruptcy provisions of chapter 9 of the Bankruptcy Code relating to municipal bonds.

Mr. President, in 1978, Congress enacted sweeping revisions of all aspects of the bankruptcy law. One of the major purposes was to conform bankruptcy law in many respects to the vast changes in commercial law that had taken place since the last prior revisions of the bankruptcy law 40 years before. In particular, the House report noted the near universal adoption of the Uniform Commercial Code and the consequent change in lending practices. In addition, Congress modernized business reorganization procedures, authorizing more consensual plans of reorganization and providing additional protection to secured lenders in the wake of several decisions under the former Bankruptcy Act in the mid-1970's that seriously impaired their position in reorganization cases.

For the most part, these changes were carefully considered only after extensive hearings, debate, and discussions. They have generally been well received and have worked as intended. Although some significant amendments were made in 1984, the basic structure of the amendments made in 1978 has survived intact.

However, the care that was used in the drafting of the provisions relating to ordinary business bankruptcies and reorganizations was not carried over into the revisions of the municipal bankruptcy law contained in chapter 9 of the Bankruptcy Code. Chapter IX of the former Bankruptcy Act had been recently amended in 1976 as a result of New York City's financial crisis. The 1978 revision largely adopted the decisions made in 1976 and incorporated by reference most of the business bankruptcy amendments made in 1978 insofar as they related to general matters such as a treatment of secured claims, avoiding powers, and plans of reorganization. Because the worlds of commercial finance and municipal finance are so diverse, the simple incorporation by reference of the 1978 commercial finance concepts into the municipal bankruptcy arena simply did not work.

Fortunately, no major municipal bankruptcy has tested the potential

shortcomings of chapter 9 as it was enacted in 1978. However, more considered study in the past several years by municipal finance practitioners and members of the bankruptcy bar has led the National Bankruptcy Conference to conclude that chapter 9 of the Bankruptcy Code needs revision in specific areas.

HISTORY OF THE PROPOSED AMENDMENTS

The potential problems created by the incorporation of general commercial finance concepts into the municipal bankruptcy provisions first came to light as a result of the financial crisis confronting the city of Cleveland, OH, in 1979. Cleveland needed additional financing, but lenders were unwilling to lend for a variety of reasons, including the incorporation into chapter 9 of the general bankruptcy concept that a lien on after-acquired property will not attach to property acquired after bankruptcy by a reorganizing debtor, unless the property acquired after bankruptcy constitutes proceeds of property held at the time of bankruptcy. Hasty attempts were made during 1979 and 1980 in connection with then pending legislation to correct technical errors in the 1978 act. Corrective provisions were included in bills that passed both the House and the Senate in 1980, but the legislation foundered on other issues and was not enacted.

After the immediate crisis passed, and a more thorough study of the problems of municipal bankruptcy was undertaken by the National Association of Bond Lawyers [NABL], NABL identified several areas in which the general incorporation into chapter 9 of business reorganization concepts simply did not work.

NEED FOR THE AMENDMENTS

The current deficiencies in chapter 9 of the Bankruptcy Code primarily affect "revenue bonds," that is, obligations of a municipality that are secured by a lien on specific revenues to be received by the municipality. These differ from "general obligation bonds," which constitute simply the promise by the municipality to use its taxing power to collect sufficient funds to pay the principal and interest on the bonds. Over the years, revenue bonds have occupied an increasing portion of the municipal bond market. As of 1983, they constituted about half of the bonds issued by State and local governmental units for publicly owned and operated facilities.

Chapter 9 as currently written could easily be read to terminate a lien on revenues upon the filing of a municipal bankruptcy by the bond issuer and could also be read to convert bonds payable solely from specific revenues into general obligations of the debtor municipality. These results are wholly inconsistent with municipal finance principles and many State and local constitutional and statutory provisions authorizing the issuance of bonds. If chapter 9 were interpreted in this way, the burden of bonds designed to be paid only from special revenues could be imposed on the people generally through taxation, despite the fact that the bonds might thereby exceed the municipality's debt limit or would require a vote if originally issued as general obligation bonds.

Similarly, a municipality often has enterprises with separate funds, and, except to the extent specifically permitted, the funds derived from one source are often legally unavailable for other enterprises or for general governmental purposes. Thus, for example, water receipts may be legally unavailable under nonbankruptcy law for general governmental purposes except to the extent that provision is made by law for payments by the water department in lieu of local property taxes. Although the various enterprises are not separate entities, they are operated almost as if they were. In many cases they are managed by separate autonomous governing boards.

If a municipality is unable to meet its obligations for general governmental purposes and for that reason files a bankruptcy petition, the assets of its water department should not be reached to pay general creditors of the municipality unless they could be reached under applicable nonbankruptcy law. Conversely, if water revenues are insufficient to pay operating expenses and the debt service on water-revenue bonds, other funds of the city should not be reachable to pay the bonds. In many cases it would violate State constitutional limitations to do so. Similarly, insolvency in the water department should not trigger preference treatment of payments made to general fund creditors, or vice versa.

State "joint action" agencies often finance electric generating units and transmission lines for the benefit of their municipal members on a project-by-project basis under documents which permit funds derived from each project to be used only for the purpose of that project. In such a case the funds of one project should not be reachable for the purposes of another project in the event the agency files a bankruptcy petition.

These conclusions are really truisms under State law, but it is not sufficiently clear that they would apply in municipal bankruptcy proceedings under Federal law. There is no clear statement that the Bankruptcy Code cannot be applied so as to make obligations payable from a source from which they are not payable under applicable nonbankruptcy law. Nor is there any provision to the effect that administrative expenses attributable to any function or project of the municipality will not be charged against funds derived from other functions or projects except as permitted by nonbankruptcy law.

In one respect, by its express terms, the Bankruptcy Code creates an apparent risk that revenue bonds can be converted into general obligation bonds. Under section 1111(b), unless the property subject to the lien is sold under the plan, a partially secured bondholder—that is, one whose lien on revenues is insufficient to pay his bonds—if he does not have recourse against the debtor for the remainder of his claim under nonbankruptcy law, will be treated as if he did have recourse. Although the term recourse fits municipal revenue bonds only poorly, this could be read as converting revenue bonds into general obligations.

The same problems could be said to exist with respect to conduit financing where bonds are issued for an industrial or nonprofit user and are payable solely from payments to be made by the user. But in pure conduit financing, where the municipality has no financial interest in the enterprise and no direct or contingent obligation to pay the bonds from other funds, the payments by one conduit user are probably safe from being reached to pay the bonds issued for another user since, according to the legislative history, these transactions do not create either assets or debts of the municipal issuer for bankruptcy purposes. (S. Rept. 95-989, 95th Cong., 2d sess. 109-10 (1978).)

While the fresh start policy of bankruptcy embodied in the termination after bankruptcy of liens on after-acquired property and the equality of distribution policy embodied in the nonrecognition—at least in business debtors—of separate though unencumbered funds for separate groups of creditors are important, the Bankruptcy Code also strongly embodies the policies of protecting the rights of secured creditors in their collateral and of protecting State control over its municipalities. See Bankruptcy Code section 903. On the one hand, if the municipality's revenues could be pledged in perpetuity, the rehabilitative prospects for a financially distressed municipality would be impaired or nonexistent. The only asset that a municipality has to offer its creditors in a municipal reorganization is its future revenues. If some creditors have obtained a priority with respect to these revenues due to prior financing, then reorganization would be next to impossible unless other creditors are willing to give up their claims entirely. On the other hand, reorganization should not be at the expense of a legitimate expectation to rely on and receive specific collateral, nor should it redo established procedures for handling separate municipal funds. Clear-

ly, a compromise is in order. It is needed to protect the integrity of the municipal finance process in the event of a significant municipal bankruptcy and to protect the fresh start and ability to reorganize offered to municipal debtors by the Municipal Bankrutpcy Act.

GENERAL ANALYSIS OF THE PURPOSES AND EFFECTS OF THE AMENDMENTS

A. Revenue Pledge Protection and Preferences

Revenue bonds are generally secured by revenue derived from a system, project, or facility, or by an interest in a specific tax levy. Mortgages or liens on the system, project, or facility itself are rare. They are usually forbidden by law and almost always considered to be against public policy. Under section 552 of the Bankruptcy Code, incorporated by section 901 into chapter 9, a lien on after acquired revenues is only valid to the extent that the revenues constitute proceeds of other property that is subject to a lien. Uniform Commercial Code section 9-306(1) defines "proceeds" to include "whatever is received upon the "sale, exchange, collection or other disposition of collateral." Section 552 was written with the Uniform Commercial Code definition in mind. To the extent that section 552 is construed in harmony with the UCC, the lien on a municipality's revenues after bankruptcy would be defeated.

Similarly, section 547(e)(3) may have the effect of moving the lien termination back to the ninetieth day before bankruptcy. Section 547(e)(3) provides that for purposes of determining when a preferential transfer is made, "the transfer is not made until the debtor has acquired rights in the property transferred." A debtor does not acquire rights in revenues until the tax or assessment is levied or the service from which the revenue is derived is provided. Thus, a lien on revenues received during the 90 days before bankruptcy—or possibly on rights to revenues which arise during that period—is deemed made within the preference period, even though the grant of the security interest was made long before bankruptcy.

This provision was designed to overrule cases such as *DuBay* v. *Williams*, 417 F.2d 1277 (9th Cir. 1969), and *Grain Merchants of Indiana, Inc.* v. *Union Bank & Sav. Co.*, 408 F.2d 209 (7th Cir.), cert. denied, 396 U.S. 827 (1969). H.R. Rept. No. 95-595, 95th Congress, 1st session 374 (1977). In the commercial context, it works well, because it was matched with an exception to the preference section that preserves liens on after-acquired inventory and receivables to the extent that the secured creditor does not improve its position during the 90 days before bankruptcy; 11 United States Code section 547(c)(5). In the municipal context, however, no comparable savings provision is possible, because the revenue pledges are not related to inventory and receivable financing, as they are in the commercial context, and there is no collateral from which the revenues are derived.

The proposed legislation eliminates the effect of these provisions in a chapter 9 case. It recognizes a postpetition security interest in revenue under certain specified circumstances, more fully described below. And it makes the preference section inapplicable to payments on bonds or notes of a municipality. The former change corrects the problem posed by section 552. It also makes it more difficult, if not impossible, for a municipal debtor to utilize the preference section—even without the latter change—to recover payments to bond holders made from pledged revenues within 90 days before bankruptcy, because it will be difficult to prove the "more than liquidation" test of section 547(b)(5). The latter change has the same effect and in addition protects ordinary defeasance transactions.

Bond indentures generally provide for defeasance by irrevocably depositing a sufficient sum—usually with earnings thereon—to retire outstanding bonds. In view of the possibility that the municipality may file a bankruptcy petition within 90 days, the deposit may be a preference and therefore, might not be irrevocable. Defeasance with revenues received within 90 days before a bankruptcy may be riskier. This applies equally to unpledged revenues and to revenues which are already subject to a lien to pay the bonds if that lien can be defeated by virtue of section 547(e)(3). It is especially troublesome if a defeasance can be avoided as a preference where another transaction—such as a new bond issue—has occurred in reliance on it.

A more difficult analysis applies to the use of refunding proceeds for defeasance. Generally speaking, it is not a preference to borrow from Peter to pay Paul if that use of the borrowing proceeds is required by the terms of the borrowing. See, for example, *Virginia National Bank* v. *Woodson*, 329 F.2d 836 (4th Cir. 1964). But the application of this principle to a defeasance by advance refunding is disturbingly unclear, because interest rate differences on the two issues may mean that principal amounts differ, resulting in a possible preference. The proposed amendments remove this danger.

B. "Insolvent"

Chapter 9 uses the term "insolvent" in two important contexts. First, in order for a municipality to be eligible to file a chapter 9 petition, it must be "insolvent or unable to meet its debts as they mature." Section 109(c)(3). Second, certain prebankruptcy transfers are avoidable as preferences or fraudulent transfers only if the debtor was insolvent at the time of the transfer. Sections 547(b)(3), 548(a)(2)(B)(i). These are general bankruptcy sections that are incorporated by reference into chapter 9. In none of these instances does the use of the word "insolvent", defined in Bankruptcy Code section 101(29), work.

"Insolvent" is defined as liabilities in excess of fair market value of nonexempt assets. By the nature of municipalities and generally by State law, most of the assets of a municipality are exempt from process to satisfy the claims of creditors. As such, virtually every municipality, by definition, is insolvent. But because a municipality's assets could not be seized or sold to pay debts, or are so tailored to a specific purpose that their value is uncertain at best, it should make little difference to creditors what the value, for example, of City Hall is.

A more reasonable test would be whether the municipality is paying or is able to pay its debts as they become due, which are the alternate standards for filing a municipal bankruptcy petition under section 109(c)(3) and the test for an involuntary bankruptcy against a nonmunicipal debtor contained in section 303(h)(1). This test is directly relevant to the financial health of the municipality. Thus, one of the proposed amendments provides that in a chapter 9 case, insolvent means only a nonpayment of debts or inability to pay debts as they come due. The assets versus liabilities test is made inapplicable.

C. Nonrecourse Debt

In order to solve a specific problem arising in nonrecourse commercial lending, section 1111(b) of the Bankruptcy Code permits a nonrecourse claim to be treated as having recourse against the general assets of the debtor. This provision, being part of the general plan provisions of chapter 11, was incorporated into chapter 9. However, if applied to municipal revenue bonds, it could convert them into general obligations of the municipality in violation of State or local constitutional or statutory provisions. For example, in many States, State law requires a vote of the people for the issuance of general obligation debt by a municipality, but does not require a vote on bonds payable solely from pledged revenues. One proposed amendment prevents the application of section 1111(b) and thereby prevents the conversion of bonds backed only by specific revenues into general obligation bonds. The amendment does so in a manner that is consistent with the general scheme of the reorganization provisions of chapters 9 and 11 by peventing the bifurcation of partially secured claims.

D. Automatic Stay

The automatic stay of Bankruptcy Code section 362 is extremely broad, preventing any postpetition collection

activities against the debtor, including application of the debtor's funds held by a secured lender to secured indebtedness. This provision is overly broad in chapter 9, requiring the delay and expense attendant upon a request for relief from the automatic stay to accomplish what the statute contemplates—the application of pledged revenues—after payment of operating expenses—to the payment of secured bonds. One of the proposed amendments so provides by making the automatic stay inapplicable to application of such revenues. The bankruptcy court would retain the power to enjoin application of proceeds, however, upon a specific showing of need, for example, where a secured creditor was about to apply proceeds of a gross revenue pledge in a manner inconsistent with the policies of proposed section 927.

E. Financing Leases

A "financing lease" is generally treated as debt in bankruptcy and not as a true lease subject to rejection under section 365 or to the claim limitation under section 502(b)(6). The 1984 amendment (Code section 365(m)), providing that "any rental agreement to use real property" will be treated as a lease under section 365 has generated a fear that a more expansive view will now be taken of "true leases" and a less expansive view of "financing leases." Because of State law restrictions, most municipal financing leases are subject to termination if the rent is not appropriated. Under a more restrictive conception of financing leases, these may now arguably be treated as "true leases" for bankruptcy purposes although they are treated as debt for tax purposes and sold as debt in the tax-exempt bond market. The amendments treat them the same way for bankruptcy purposes.

F. Rate Regulation

In a corporate reorganization, a change in the debtor's rates is subject to applicable rate regulation. Code section 1129(a)(6). Municipal utilities are subject to rate regulation in a number of States, and the same provisions should apply to them as to private corporations. A proposed amendment makes this provision applicable to municipal bankruptcies.

Municipal systems are often also subject to other regulatory requirements and to political requirements, unique to governments, such as voter approval of additional debt. Another amendment makes a municipal plan of adjustment subject to these requirements. Some have expressed a concern that a failure to make a plan subject to requirements of this sort could override State and local financial and political controls and raise constitutional issues as to the scope of the bankruptcy power that need not be resolved to further sound municipal bankruptcy policy.

G. ADEQUATE PROTECTION

Sections 362 and 364 require adequate protection to secured creditors in order to continue an automatic stay or to permit a priority borrowing by the bankruptcy trustee. These provisions apply to all bankruptcies. If the adequate protection in fact proves to be inadequate, the secured creditor has a superpriority claim under section 507(b). But this applies only to individual and corporate bankruptcies and not to municipal bankruptcies.

In municipal bankruptcy, since liquidation is not permissible and since all priority claims must be paid as a condition to plan confirmation, the ranking of various types of administrative expenses in a priority or superpriority order may not add anything to the statute. However, there should not be any doubt that a failure of adequate protection should give rise to an administrative expense claim. One amendment makes this explicit.

DETAILED ANALYSIS OF REVENUE PLEDGE AMENDMENTS

Under Bankruptcy Code section 552, except for "proceeds, product, offspring, rents, or profits" of other "property" already subject to a preexisting security interest:

> * * * property acquired by the estate or by the debtor after the commencement of the case is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

As applied in the municipal context, in which a security interest in underlying assets is rare, section 552 appears to terminate a security interest in revenues received after the commencement of the bankruptcy case, regardless of the validity of the lien under State law. The problem is particularly acute with respect to project or system financing, such as bonds secured by municipal utility revenues or other nontax revenues. The problem also presents itself in certain instances in which tax revenues act as collateral for bonds.

There are exceptions to the rule that underlying assets are not given as collateral for revenue bonds. For example, in South Dakota, there may be a statutory mortgage lien on plant assets. See, for example, 9 S. Dak. Codified Laws Sections 9-40-25 to 9-40-27. It would be highly artificial for the result under Bankruptcy Code section 552 to turn on the difference between the statutory mortgage and the more customary pledge of revenues without a lien on the plant. Even where foreclosure on the underlying assets is permitted, there appears to be little, if any, practical difference between the two situations. See Fordham, *Revenue Bonds Sanctions,* 42 Col.L.Rev. 395, 432-33 (1942).

Proposed section 927, along with the definition of special revenues in proposed section 902(2), protects the lien on revenues. It is closely modeled on section 552(a). It is intended to negate section 552(a) in the municipal context and to go no further. In other words, it is not intended to create new rights that otherwise would not exist. Section 552(a) limits preexisting rights. The proposed amendment only removes that limitation in the circumstances described in proposed section 927(a).

The proposed amendment applies only to special revenues, as defined in proposed section 902(a). Examples of the kinds of revenues included within the definition are revenues from municipally owned utility systems, betterment assessments, special excise taxes and fees, and in some instances local sales, income, or property taxes.

Utility revenues include revenues from the sale of water, power, natural gas, or other energy sources. It also includes revenues from a toll highway or bridge or other projects or systems which impose user fees.

Betterment assessments are typically imposed on landowners benefited by particular improvements to finance the cost of those improvements. In most States, betterment assessments are constitutionally required to bear a reasonable relationship to the benefit conferred. Bonds—known as special assessment bonds—payable solely from these assessments, are sometimes issued to pay the cost of the improvement, but general obligation bonds are also issued for this purpose.

Hotel-motel taxes, meal taxes, and license fees are included is special excise taxes. They are often imposed for particular purposes. For example, a hotel-motel excise or a meal tax might be imposed in a particular area of a municipality or throughout a city to finance the construction and operation of a convention center. Bonds secured by the special excise tax are issued to finance construction.

Tax increment financing will also receive the benefit of the proposed amendment. A city may finance street, utility, and land assembly costs for a downtown renewal project on a tax increment basis. That is, the bonds issued to pay for the project are payable solely from and are secured by a lien on the additional tax resulting from the increased valuations in the project area.

Property, sales, and income taxes would generally not be considered special revenues. However, some exeptions may exist. For example, where a special property tax is levied and collected for the specific purpose of paying principal and interest coming due on bonds issued in conjuction with the levy of the property tax, the revenues may constitute special revenues.

In these cases, there is generally a prohibition under State law on using the special tax revenue for any purpose other than payment of bonds. However, where the revenue may be used for other purposes, it should not constitute special revenues. Similarly, a city may impose an additional one-half percent or 1 percent sales tax to finance a particular project, such as rapid transit. While general sales taxes would not constitute special revenues, with appropriate limitations on the use of the additoinal sales tax, it could constitute special revenues.

Project financing can also create special revenues. A municipality may atttempt to finance separate projects by liens on the revenue of each project, issuing separate bonds for each project. Project revenues, whether based on sale of goods or services or based on cost-sharing among users, would constitute special revenues.

In all of these cases, communities have determined it to be financially or politically unsound to finance a major utility or other project or system with general funds of the municipality including tax receipts. Accordingly, they issue revenue bonds payable solely from the revenues of the project or system. To make sure that those revenues are not converted to other purposes, they pledge or assign revenues as security for the bonds, usually under State enabling legislation which provides expressly that they can do so.

Absent the mortgage, there is really no alternative for the municipality. The effect of the pledge of revenues is not unlike the result of a private utility's mortgage of its entire plant to a trustee for the benefit of bondholders. Nor is it unlike the lien on proceeds which is recognized in the code. The proposed amendment amounts to a recognition of a hypothetical mortgage on the plant from which the revenues are derived where a real mortgage cannot be created either for legal reasons or because of compelling considerations of public policy.

Proposed section 927 does not distinguish between bonds backed solely by special revenues and so-called double-barrelled bonds. These latter bonds are backed not only by special revenues but also by the the general credit of the municipality, including its power to levy property and other taxes. There is no security interest, however, in the general property tax receipts.

Nor does section 927 distinguish between projects or systems owned and operated by a municipality that also performs other functions or by a so-called special purpose municipality, such as a separate "body politic and corporate" established to finance, construct, and operate a utility system or other project or system.

These latter distinctions only go to the issue of whether the bondholders have a recourse against the general municipality on any shortfall of project or system revenues to pay amounts owned under the revenue bonds. This is an issue addressed by proposed section 925(b), which renders ineffective Bankruptcy Code section 1111(b) in the revenue bond context.

Subsection (b) of proposed section 927 provides for the payment from pledged special revenues of operating expenses of the project or system producing the revenues before use of those revenues to pay interest or principal on the bonds. In very general terms, a gross revenue pledge would be treated as if it were a net revenue pledge. Pledged revenues received after the commencement of the bankruptcy case would be applied first to the operating expenses of the system, project, or function producing the revenues—whether or not the bonds financed construction or purchase of the system, project, or function producing the revenues—before application to the indebtedness for which the revenues were pledged and only then to other lawful purposes.

The general purpose of this approach is to permit the continued operation or functioning of the system, project, or function that was financed by the revenue bonds. Without such continued operation, there is not likely to be a continued source of funds from which to service the bonds. The pledged revenues would not be permitted to be used for any other governmental purpose, but would be used to pay operating expenses to facilitate a workout and successful confirmation of an adjustment plan.

This approach should work fairly easily in utility situations or in user fee situations such as toll bridge authorities, and the like. Other situations may require more explanation. One such situation is tax increment financing. In this type of financing, bonds issued for public improvements are secured by a pledge of the additional tax resulting from the increased valuations in the area affected by the project. In this context, the pledged revenues could be used for operating expenses of the improvements before being applied to the secured indebtedness. Another situation might concern a project financed by a pledge, not of project revenue, but of revenue from some other special source. An example would be a convention center financed by a pledge of hotel-motel excise taxes or a rapid transit system financed by an increased sales tax. Here again, the pledged revenues could be used first for operating expenses of the project and second to pay the secured debt.

However, these revenues would not necessarily be subordinate to all of the operating expenses of the center or the improvements if they had their own source of revenues, such as from user fees. In each case, the court will be required to examine the need to protect the source of the pledge revenue and to determine whether maintaining operating expenses of the project, system, or function contributes to the ability of the project, system, or function to continue to produce the revenues needed to operate and service the bonds.

In determining whether operating expenses are necessary as provided in subsection (b), the court should not step beyond the bonds of Bankruptcy Code sections 903 and 904. Ths provision, like all others in chapter 9, are subject to the limitations of those sections. The provision should not permit the court to become involved in possible control over political or governmental functions. At most, the court should use a "business judgment" test in applying the provision, examining only whether the business judgment of the debtor's payment in incurring or proposing the expenditure—or proposed expenditure—is a reasonable one. The court should not substitute its own business judgment. See *Group of Institutional investors* v. *Chicago M., St.P., & P.Ry. Co.*, 318 U.S. 523 (1943). Moreover, the phrase "operating expenses" should not be construed to exclude capital expenses or expenditures, because they may be as necessary as ordinary operating expenses to maintain the source of revenue from which bonds are to be paid.

Finally, in developing and adopting a plan of adjustment, a gross revenue pledge would be treated in the same manner as during the case, under section 927. It will be analyzed and evaluated as it provided for the use of future revenues to pay operating expenses of the system, project, or function first and debt service on the secured indebtedness second.

Mr. President, this bill presents a reasoned and practical approach to the problems which confront municipalities in financial distress. However, as with any comprehensive change in a complex area of the law, there are sure to be shortcomings. Accordingly, this legislation as introduced should be viewed as a starting point for serious discussion.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109(c)(3) of title 11, United States Code, is amended by striking out "or unable to meet such entity's debts as such debts mature".

Sec. 2. Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," between "1129(a)(3)," and "1129(a)(8)".

Sec. 3. Section 902 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively;

(2) redesignating paragraph (1) as paragraph (2);

(3) inserting before paragraph (1), as redesignated herein, a new paragraph (1), as follows:

"(1) 'insolvent', notwithstanding section 101(29) of this title, when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means financial condition such that the municipality is generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute, or is unable to pay its debts as they become due;"; and

(4) inserting between paragraph (2) and paragraph (4), as redesignated herein, the following:

"(3) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems,

"(B) special excise taxes imposed on particular activities or transactions,

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing,

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions, and

"(E) taxes specifically levied to finance one or more projects or systems, but not including (except for tax-increment financing) receipts from general property, sales, or income taxes levied to finance the general purposes of the debtor.".

Sec. 4. Section 922 of title 11, United States Code, is amended by adding at the end thereof the following:

"(c) If the debtor, under this section, or section 362 or 364 of this title, provides adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under this section or section 362 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

Sec. 5. (a) Section 925 of title 11, United States Code, is amended by—

(1) adding to the section heading the following:

"and certain secured claims";

(2) striking out "A" and inserting in lieu thereof "(a) A"; and

(3) adding at the end thereof the following:

"(b) The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

(b) The table of sections for chapter 9 of title 11, United States Code, is amended by adding before the period in the item relating to section 925, "and certain secured claims".

Sec. 6. Section 926 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "If"; and

(2) adding at the end thereof the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

Sec. 7. (a) Section 927 of title 11, United States Code, is redesignated as section 929.

(b) Title 11 of the United States Code is amended by adding between section 926 and section 929, as herein redesignated, the following new sections:

"§ 927. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system is subject to the necessary operating expenses of such project or system, as the case may be.

"§ 928. Municipal leases.

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

(c) The table of sections for subchapter II of chapter 9 of title 11, United States Code, is amended by striking out the item relating to section 927 and inserting in lieu thereof the following:

"927. Post petition effect of security interest.
"928. Municipal leases.
"929. Dismissal.".

Sec. 8. Section 943(b) of title 11, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon;

(3) redesignating paragraph (6) as paragraph (7); and

(4) inserting between paragraph (5) and paragraph (7), the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

By Mr. DURENBERGER:

S. 1864. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions regarding tax-exempt bonds, and for other purposes; to the Committee on Finance.

TAX-EXEMPT BOND REFORM ACT

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that eases the unwarranted restrictions that Congress last year placed on tax-exempt bond financing for public purposes activities. Although several provisions of the Tax Reform Act of 1986 eliminated many of the abuses that were associated with tax-exempt bonds, I believe the volume cap restrictions are far too stringent and will stifle the ability of States to finance important public projects, especially housing for the poor and elderly.

The legislation I am introducing today would raise the State volume caps from $50 per resident or $125 million, to $125 per resident or $400 million. This is far more realistic and workable volume limit that will allow States and localities to meet future needs to rebuild their infrastructure and provide public services. At a time when we have eliminated general revenue sharing, and cut back on Federal programs that assist States, it just does not make sense to place unreasonable limits on the volume of bonds that States can issue.

Mr. President, this legislation attempts to address the housing crisis that our country confronts today. There are two aspects to the housing crisis. Private developers are just not constructing multi-family housing for low-income families. This is a problem which afflicts many of the poor and the elderly. The other part of the crisis centers on young people who just cannot afford the down payment and mortgage costs associated with buying their first home. They are literally priced out of the market, with little hope that they will ever be able to own a home of their own.

To address these problems, my bill allows bonds issued for multi-family rental housing projects to be excluded entirely from the volume cap, and interest on such bonds would not be subject to the alternative minimum tax. In addition, the bill provides greater financial incentives for developers to build low-income housing by increasing the credit for nonfederally subsidized housing to 9 percent and increasing it to 3 percent for federally subsidized projects. Unless we adopt these changes, I think you are going to see a continuation of the current standstill in housing construction for the poor and low-income elderly.

This legislation also addresses the problems that young first-time homebuyers face in trying to purchase their first home. The bill extends for 5 years the authority of States to issue qualified mortgage bonds for first time homebuyers. And it expands the income limit for qualification to 120 percent of median income.

To encourage tax-exempt financing for projects in economically depressed urban and rural areas, the legislation removes the small issue industrial development bond [IDB] sunset and establishes a formula that increases a State's overall volume cap if it invests more bond proceeds in economically

depressed areas, than in noneconomically depressed areas. Alternatively, if a State invests more of its IDB proceeds in noneconomically depressed areas, its volume cap would be reduced.

Mr. President, we made a mistake last year when we stopped allowing States to issue tax-exempt bonds for air and water pollution control facilities. There are few activities that are more in the scope of the general public interest than air and water pollution control. My legislation recognizes this fact and therefore restores the authority for States and localities to issue bonds for construction and improvements of such facilities.

This legislation repeals the provision limiting issuance costs to 2 percent, and reinstates the prior law 25-percent business use and security interest tests.

Finally, the legislation modifies the State and Local Government Series [SLGS] Program to effectuate Congress' directive to make the program viable. Under the bill, the Treasury must allow State and local governments to make a declaration of a split between demand-deposit and time-deposit securities. As currently drafted, the interim regulations do not allow for such declarations, and therefore discourage State and local governments from using the SLGS program.●

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S.J. Res. 218. Joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

GREEK INDEPENDENCE DAY

Mr. LAUTENBERG. Mr. President, today I am introducing a joint resolution to designate March 25, 1988 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." This joint resolution also asks the President to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities. I am pleased that Senator SPECTER has joined as an original cosponsor of this joint resolution.

March 25, 1988 marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman empire. It is fitting that we celebrate this day together with Greece in order to reaffirm the common democratic heritage of Americans and Greeks.

The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the people. As Aristotle said:

If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost.

Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. Indeed, our own Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy.

Constitutional democracy has made the American way of life possible. It established the precious freedoms of speech, religion, and assembly which Americans cherish, and which are so fundamental to American Democracy. For that contribution alone, we owe a heavy debt to the Greeks. The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present day Greek-Americans in New Jersey and across the country to our American culture.

I urge my colleagues to cosponsor this joint resolution as a tribute to these contributions, past and present, which have greatly enriched American life.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 218

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1988, marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1988, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, today I join my colleague Senator LAUTENBERG in introducing a joint resolution to designate March 25, 1988, as "Greek Independence Day: a Celebration of Greek and American Democracy."

One hundred and sixty-seven years ago the Greeks began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. How fitting, then, that we should recognize the anniversary of the beginning of their effort to return to that democratic tradition.

This democratic form of government is one of the most obvious of the many benefits we gained from the Greek people. The ancient Greeks contributed a great deal to the modern world and particularly to the United States of America, including art and philosophy, science, and law. Today, Greek Americans continue to enrich our culture and to make valuable contributions to American society, business, and government.

It is my hope that the strong support for this joint resolution in Congress will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Accordingly, I urge my colleagues to join us in supporting this important resolution.

By Mr. CRANSTON (for himself and Mr. D'AMATO):

S.J. Res. 219. Joint resolution to provide for the extension of certain programs relating to housing and community development and for other purposes; placed on the calendar by unanimous consent.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. CRANSTON. Mr. President, I join Senator D'AMATO in introduction of a joint resolution to extend the FHA insurance program. This action is needed to provide the administration with sufficient time to review and act on the Housing and Community Development Act of 1987.

The House yesterday adopted the conference report with overwhelming support—391 to 1. I expect the Senate to pass the measure on Thursday.

I urge my colleagues to pass this measure promptly.

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. THURMOND, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 778

At the request of Mr. KENNEDY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as cosponsor of S. 778, a bill to authorize a star schools program under which grants are made to educational telecommunications partnerships to develop, construct, and acquire telecommunications facilities and equipment in order to improve the instruction of mathematics, science, and foreign languages, and for other purposes.

S. 1346

At the request of Mr. MATSUNAGA, the name of the Senator from North Carolina [Mr. SANFORD] was added as cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1541

At the request of Mr. REID, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1541, a bill to provide veterans benefits to persons who served as seamen in the U.S. merchant marine during World War II.

S. 1561

At the request of Mr. BOND, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1595

At the request of Mr. DOMENICI, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 1595, a bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave transfer program for Federal employees, and for other purposes.

S. 1600

At the request of Mr. FORD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1787

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1788

At the request of Mr. TRIBLE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1788, a bill to protect the aquatic environment from certain chemicals used in antifoulant paints, and for other purposes.

S. 1848

At the request of Mr. KERRY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1848, a bill to authorize a Minority Business Development Administration in the Department of Commerce.

SENATE JOINT RESOLUTION 193

At the request of Mr. KERRY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 193, a joint resolution to establish a bipartisan commission on Third World debt.

SENATE JOINT RESOLUTION 203

At the request of Mr. D'AMATO, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 203, a joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States.

SENATE JOINT RESOLUTION 206

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution to declare Dennis Chavez Day.

SENATE RESOLUTION 270

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 270, a resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1988

JOHNSTON (AND OTHERS) AMENDMENT NO. 1157

Mr. JOHNSTON (for himself, Mr. Mitchell, Mr. COHEN, Mr. SASSER, Mr. GRAMM, Mr. BENTSEN, and Mr. KASTEN) proposed an amendment to the bill (H.R. 2700) making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 40, line 20, after the words, "S. 1668, Nuclear Waste Policy Act Amendments Act of 1987, as reported to the Senate on September 1, 1987, is included herein and shall be effective as if it had been enacted into law", insert the following: "with the following amendments included:

"(2) On page 25, after line 21, add a new subsection as follows:

'(d) Upon the date of the enactment of this section the Secretary shall phaseout in an orderly manner within 6 months funding for all existing research programs designed to evaluate the suitability of crystalline rock as a potential repository host medium.'

"(4) On page 27, strike lines 21 and 22 and insert in lieu thereof the following:

'OVERSIGHT BOARD

'(a) Within 30 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences (hereinafter in this section referred to as "the Academy") for the purpose of establishing an oversight board under the auspices of the Academy to review and evaluate the scientific and technical adequacy of the Secretary's programs under this Act.

'(b) The oversight board established under this section shall consist of an appropriate number of scientists, engineers, and other individuals determined to be qualified by the Academy.

'(c) Activities of the Secretary to be reviewed by the oversight board under this section include—

'(1) activities under section 402(a)(2) relating to the information useful in selecting a preferred site;

'(2) activities under section 402(b)(2) relating to surface based testing at candidate sites that are not selected as the preferred site;

'(3) the site characterization program at the preferred site; and

'(4) such other activities involving significant scientific or technical issues as the Academy finds appropriate.

'(d) The oversight board shall establish procedures for the appropriate involvement in the work of the board by the Secretary, the Commission, affected states and affected Indian tribes. In addition to other reports deemed appropriate by the Academy, the board shall provide an annual report on the status of the programs of the Secretary under this Act that have been reviewed by the board. All reports of the board shall be available to the Secretary, the Commission, and the public.

'(e) The expenses of the oversight board under this section shall be paid from the Waste Fund.

'AUTHORIZATION OF APPROPRIATIONS

'SEC. 411. There is authorized to be appropriated from'.

"(5) On page 33, the last line of the table of contents is amended to read as follows:

'SEC. 410. Oversight Board.

'SEC. 411. Authorization of Appropriations.'

"(6) On page 25, after line 21, insert the following new subsection:

'(d) In the event that the Secretary at any future time considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall give consideration as a supplement to the siting guidelines under section 112 to potentially disqualifying factors such as—

'(1) seasonal increases in population;

'(2) proximity to public drinking water supplies, including those of metropolitan areas; and

'(3) the impact characterization or siting decisions would have on lands owned or

placed in trust by the Federal government for Indian tribes.'

"(8) on page 13, line 5, strike the word 'If' and insert in lieu thereof the phrase 'Except as provided in subsection (1), if'; and

"(9) On page 18, after line 17, insert the following new subsection (1):

'(1)(1)(A) There is established a MRS Review Commission (hereinafter in this subsection referred to as the "MRS Commission"), which shall consist of three members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

'(B)(i) Members of the MRS Commission shall be appointed not later than thirty days after the date of the enactment of this subsection from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the nation's nuclear waste management system.

'(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this paragraph, the MRS Commission shall—

'(i) review the status and adequacy of the Department's evaluation of the systems advantages and disadvantages of bringing such a facility into the national radioactive waste disposal system;

'(ii) obtain comment and available data on the subject from affected parties, including states containing potentially acceptable sites;

'(iii) evaluate the utility of such a facility from a technical perspective; and

'(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

'(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

'(A) repository design and construction;

'(B) waste package design, fabrication and standardization;

'(C) waste preparation;

'(D) the waste transportation system;

'(E) the reliability of the national system for the disposal of a radioactive waste;

'(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

'(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the nation's electric utilities in building and operating such a facility.

'(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress between January 1, 1989 and January 20, 1989.

'(4)(A)(i) If the recommendation of the MRS Commission under paragraph (1)(D) is that the national nuclear waste management system should not contain a monitored retrievable storage facility, the Secretary may exercise his authority under subsection (d)(2) unless Congress, within 90 calendar days of continuous session of Congress (as computed for purposes of section 115) after transmission of the recommendation of the MRS Commission under paragraph (3), passes, and there is enacted into law, a resolution disapproving the deployment of a monitored retrievable storage facility as a part of the national nuclear waste management system.

'(ii) Any resolution under this subparagraph shall be introduced within 30 days after the date of transmission of the recommendation of the MRS Commission under paragraph (3). Such a resolution shall be expedited and considered by Congress in accordance with the procedures for consideration of a resolution of repository siting approval under subsections 115(d) through (g), except the 60-day period in section 115(d)(3) shall be shortened to 30 days.

'(B) In all other cases, the Secretary may exercise his authority under subsection (d)(2), after the report and recommendation of the MRS Commission has been transmitted to Congress.

'(5)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistance in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

'(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

'(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

'(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

'(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

'(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

'(C) The MRS Commission shall cease to exist sixty days after the submission to Congress of the report required under this subsection.

'(D) There are authorized to be appropriated to the MRS Commission to carry out the purposes of this subsection such sums as may be necessary.'. and

"(10) section 402 is amended by adding the following new subsection:

'(m)(1) The Secretary, or his designee, shall value land for leasehold or ownership title for purposes of site characterization and repository development in a manner that, in the opinion of the Secretary or such designee, addresses the unique geophysical attributes causing such land to be selected as a candidate site for deep geologic disposal for high-level radioactive waste and spent nuclear fuel.

'(2)(A) The Secretary, in acquiring private land for site characterization and repository development under this Act, shall, to the extent practicable—

'(i) acquire such private land only after a site characterization plan has been issued under section 113; and

'(ii) minimize the disruption of private use of lands in the vicinity of those acquired.

'(B) Nothing in subparagraph (A) affects the authority of the Secretary to secure a leasehold interest, easement, or right of way that the Secretary determines is necessary to carry out the purposes of subsection (a)(2).

'(3) The Secretary shall offer any landowner, or his heirs, first right to repurchase any land previously secured from such landowner for site characterization or repository development, should the site be found unsuitable, and after the site has been fully reclaimed as required under section 113.'.".

REID AMENDMENT NO. 1158

Mr. REID proposed an amendment to the bill (H.R. 2700) supra: as follows:

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

"SEC. . IMPORTANCE OF PUBLIC HEALTH AND SAFETY IN SITE CHARACTERIZATION.

"(a) Notwithstanding any other provision of law or this Act, the Secretary of Energy, in selecting the preferred site for characterization as a permanent nuclear waste repository shall give primary consideration to potentially adverse impacts on the public health and safety of locating a repository at such site.

"(b) All other considerations shall be subordinate to that in paragraph (a) above."

REID (AND ADAMS) AMENDMENT NO. 1159

Mr. REID (for himself and Mr. ADAMS) proposed an amendment to the bill (H.R. 2700) supra: as follows:

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

"SEC. . Nothing in this act shall ratify or exempt from judicial review prior administrative or executive actions or decisions related to the repository site selection process under the Nuclear Waste Policy Act of 1982. In the event that any action of the Secretary of Energy, President, the Administrator of the Environmental Protection Agency or the Nuclear Regulatory Commission under any provision of the Nuclear Waste Policy Act of 1982 prior to the date of enactment of this act is by judicial decision invalidated or affected in such a way as to modify or render invalid the candidate status of any or all candidate sites recommended for site characterization, such site or sites shall not be eligible for selection as the preferred site for sequential character-

ization as a permanent nuclear waste repository."

MITCHELL (AND COHEN) AMENDMENT NO. 1160

Mr. JOHNSTON (for Mr. MITCHELL, for himself and Mr. COHEN) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 5, after line 20, add the following new paragraph:

"The Secretary of the Army, acting through the Chief of Engineers, is directed to use not to exceed $300,000 to conduct a reconnaissance level study with respect to the Androscoggin River Basin and its tributaries, Maine."

JOHNSTON AMENDMENT NO. 1161

Mr. JOHNSTON proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 13 line 18 insert the following before the colon: "Conservationist."

On page 15 line 1 strike "$1,404,738,000" and insert "$1,400,000,000".

On page 15 line 10 insert the following before the period: *"Provided further,* That none of the funds made available under 'Operation and Maintenance, General' shall be used to pay the expenses of the Department of the Army regulatory activities".

On page 15 line 22 strike "$55,262,000" and insert "$60,000,000".

On page 15 line 23 insert the following before the period: *"Provided,* That $5,000,000 shall be available for obligation only after the Secretary of the Army in consultation with the U.S. Army Corps of Engineers has submitted to the appropriate Congressional committees concurrently with transmission of the fiscal year 1989 budget, a legislative proposal, including fee schedules, to recover all actual costs of Department of the Army-Civil regulatory programs: *Provided further,* That the Secretary of the Army shall work with the General Accounting Office to ensure that effective auditing and cost accounting procedures which meet standards acceptable to the Comptroller General are established at the earliest possible time".

On page 18 after line 19 insert the following new section.

"SEC. . None of the funds made available under 'Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil', except as provided for under 'General Regulatory Functions', shall be used to pay the expenses of the Department of the Army—Civil regulatory activities."

On page 55 line 7 insert the following before the colon: "or Public Law 100-119".

On page 25 line 12 strike "$30,809,000" and insert in lieu thereof: "$29,809,000".

On page 25 line 19 strike "$29,472,000" and insert in lieu thereof: "$28,472,000".

On page 25 line 25 insert the following before the period: ": *Provided further,* That not to exceed $1,009,000 shall be available for the Hidalgo County Irrigation District No. 1 supplemental loan".

On page 21 line 4 insert the following before the colon: ": *Provided further,* That within available funds $18,400,000 shall be for continuing the clean-up and related activities of the Kesterson Reservoir and the San Luis Drain of the Central Valley Project in California".

WILSON (AND CRANSTON) AMENDMENT NO. 1162

Mr. JOHNSTON (for Mr. WILSON, for himself and Mr. CRANSTON) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 6 after line 8 add the following new paragraph:

"The Secretary of the Army, acting through the Chief of Engineers, is directed to use not to exceed $450,000 to conduct reconnaissance level feasibility studies for raising Pine Flat Dam on the Kings River, California, for the purposes of providing additional water storage capacity and other related purposes."

STAFFORD (AND LEAHY) AMENDMENT NO. 1163

Mr. JOHNSTON (for Mr. STAFFORD, for himself and Mr. LEAHY) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 12, line 10, strike the period and insert a semicolon and the following: "Shelburne Bay, Vermont.".

SPECTER (AND HEINZ) AMENDMENT NO. 1164

Mr. JOHNSTON (for Mr. SPECTER, for himself and Mr. HEINZ) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 12 between lines 9 and 10 add the following: "Presque Isle Peninsula, Erie, Pennsylvania;".

McCLURE (AND SYMMS) AMENDMENT NO. 1165

Mr. McCLURE (for himself and Mr. SYMMS) proposed an amendment to the bill H.R. 2700, supra; as follows:

On page 41, insert on line 20 before the period the following:

"*Provided,* That within the funds available within materials production activities, the Secretary of Energy shall prepare and submit to the Committee on Appropriations and Armed Services of the Senate and the House of Representatives, not later than May 1, 1988, an acquisition strategy report for replacement production reactors. Such report shall provide the rationale and description of the recommended acquisition strategy for replacement nuclear materials production capacity that would fulfill the long-term requirements of the United States for tritium and plutonium, including the recommendation of the Nuclear Weapons Council with respect to matters within the responsibility of the Council. Such report also shall include an analysis of whether or not the acquisition strategy should provide for the procurement and construction of two or more replacement production reactors, either concurrently or sequentially. Such report also shall include, but not be limited to an analysis of the use of alternative reactor technologies at one or more sites based on the most current information including overall program costs and schedules, safety, environmental and licensing features, strategic and national security benefits, and amortization of reactor capital and operating costs through the sale of byproduct steam. Such report shall include a comprehensive comparative financial analysis and cost estimate including annual and life cycle costs for research, development, design, construction, operating expenses and revenues and the levelized unit products costs relating to the replacement production reactor alternatives considered. The recommendations of the Secretary shall include a recommendation with respect to the preferred alternatives for achieving replacement nuclear materials production capacity, including the number of production reactors required, the preferred technologies, and the preferred sites, and a time schedule for their acquisition, construction, and operation. The provision of the National Environmental Policy Act (43 U.S.C. 4321, et seq) shall not apply to any actions taken by the Secretary in the conduct of activities associated with the preparation of such report, including, but not limited to, the formulation of an acquisition strategy or the selection of alternative technologies and sites for replacement production reactors."

METZENBAUM (AND GLENN) AMENDMENT NO. 1166

Mr. METZENBAUM (for himself and Mr. GLENN) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 39, line 4, strike the period and insert in lieu thereof: ": *Provided further,* That within six months from the date of enactment of this act the Department is directed to complete a study for deploying an Atomic Vapor Laser Isotope Separation production facility which is co-located with the existing enrichment facilities near Portsmouth, Ohio.".

BUMPERS AMENDMENT NOS. 1167 AND 1168

Mr. BUMPERS proposed two amendments to the bill (H.R. 2700) supra; as follows:

At the appropriate place in the bill add the following:

"SEC. . The McClellan-Kerr Arkansas River navigation project authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled 'An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes,' approved June 28, 1938 (52 Stat. 1218), and section 10 of the Flood Control Act of 1946 (60 Stat. 647), is modified to include municipal, industrial and agricultural water supply as authorized project purposes. Withdrawals of water for such purposes may be permitted to the extent that such withdrawals are consistent with applicable State laws and do not interfere with the other authorized purposes."

On page 12, between lines 8 and 9 insert "Mill Creek, Fort Smith, Arkansas;"

EVANS (AND ADAMS) AMENDMENT NO. 1169

Mr. EVANS (for himself and Mr. ADAMS) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 36, line 15, insert the following new section:

SEC. 206. Section 208 of the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "$88,000,000 (January 1987 prices),

provided that of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

MIKULSKI AMENDMENT NO. 1170

Mr. JOHNSTON (for Ms. MIKULSKI) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 49 after line 20 insert the following:

SEC. . The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest.

DURENBERGER AMENDMENT NO. 1171

Mr. JOHNSTON (for Mr. DURENBERGER) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 18 after line 19 insert the following:

SEC. . The undesignated paragraph under the heading "Noyes, Minnesota," in section 401(d) of Public Law 99-662 (100 Stat. 4131) is amended by striking out "$250,000" and inserting in lieu thereof "$650,000".

JOHNSTON AMENDMENT NO. 1172

Mr. JOHNSTON proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 41, line 20, after the word "operations.", insert the following: "*Provided further,* That of these funds $20,000,000 shall be made available for the Hanford Waste Vitrification Plant (Project 88-D-173).".

HECHT (AND REID) AMENDMENT NOS. 1173 THROUGH 1177

Mr. HECHT (for himself and Mr. REID) proposed five amendments to the bill (H.R. 2700) supra; as follows:

AMENDMENT NO. 1173

On page 40, insert at the end of the provision with the caption "Nuclear Waste Disposal Fund", the following: "Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'On page 33, line 9, insert the following new section 7 and redesignate section 7 as section 8:

'REPORT

'SEC. 7. In the event that the Secretary undertakes characterization of a site at Yucca Mountain, Nevada, for a nuclear waste repository, under the Nuclear Waste Policy Act of 1982, as amended, such site characterization shall include research to examine the potential effects on such site of continued testing of nuclear weapons at the Nevada Test Site including, but not limited to, whether such testing would cause earthquakes at such site, movement along faults affecting such site, or damage to such a repository if located at such site.'."

AMENDMENT NO. 1174

On page 40, insert at the end of the provision with the caption "Nuclear Waste Disposal Fund", the following: "Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'(1) Insert the following new section 11 of the Nuclear Waste Policy Act of 1982 on page 30, line 8 of said bill:

'REPORT

'SEC. 11. The comprehensive statement of the Secretary pursuant to section 114 shall include a comparative analysis of the economics of nuclear waste management strategies based on (1) reprocessing spent fuel as a source of new fuel for light water reactors and the disposal of the resultant nuclear wastes and (2) direct disposal of spent fuel. Such analysis shall also compare the advantages and disadvantages of such strategies.'."

AMENDMENT NO. 1175

On page 40, insert at the end of the provision with the caption "Nuclear Waste Disposal Fund", the following: "Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'(1) On page 31, line 19, delete the quote and insert in lieu thereof the following new subsection:

'(f) There is hereby authorized to be appropriated such fund as may be necessary from the Nuclear Waste Fund, without fiscal year limitation, to the Secretary of Energy for use in the upgrading and construction of road and rail facilities to be utilized in the transportation of spent nuclear fuel and highlevel radioactive waste within the State in which a repository is located under this Act. Obligation of such funds by the Secretary shall be on the basis of need as determined by the Secretary after consideration of the availability of alternative sources of funding. Obligations of funds under this subsection may be made only after consultation with the governor of such State.'."

AMENDMENT NO. 1176

At the appropriate place in the bill add the following:

"Within 45 days of the passage of this Act, the Secretary is directed to report to the Congress on the amount of funds necessary annually over the next 5 years to:

"(1) conduct a detailed research program on the subseabed disposal of nuclear wastes;

"(2) Identify and assess potential impacts of subseabed disposal on human health and the marine environment; and

"(3) Develop preliminary designs for a subseabed disposal system, including estimated costs and institutional requirements."

AMENDMENT NO. 1177

On page 40, insert at the end of the provision with the caption "Nuclear Waste Disposal Fund," the following: "Except that such measure shall be effective as if it had been enacted with the following amendment included therein:

'On Page 33, between lines 8 and 9, insert the following new section, and renumber the subsequent sections accordingly:

'SUBSEABED DISPOSAL

'SEC. 7. (a) OFFICE OF SEABED DISPOSAL RESEARCH.—There is hereby established an Office of Subseabed Disposal Research within the Office of Energy and Research of the Department of Energy. The Office shall be headed by a Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

'(b) FUNCTIONS OF DIRECTOR.—The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within thirty days of the date of the enactment of this Act.

'(c) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Seabed Consortium described in Subsection (d) of this Section, and other persons.

'(d) SEABED CONSORTIUM.—(1) Within 60 days of the date of enactment of this Act, the Secretary shall establish a university-based Seabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

'(2) The Seabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

'(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

'(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements;

'(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

'(3) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of subparagraph (2).

'(e) ANNUAL REPORT.—The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

'(f) FUNDING AUTHORIZATION.—Such funds are hereby authorized to be appropriated as are necessary for carrying out the purposes of this section.'."

BINGAMAN (AND OTHERS) AMENDMENT NO. 1178

Mr. BINGAMAN (for himself, Mr. KENNEDY, Mr. DOMENICI, Mr. WILSON, and Mr. CRANSTON) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 41, line 20, after the period insert the following: "*Provided, further,* That of the amount appropriated to the Department of Energy in this paragraph, $125,600,000 may be obligated only for the verification and control technology program of the Department of Energy.".

BINGAMAN (AND OTHERS) AMENDMENT NO. 1179

Mr. BINGAMAN (for himself, Mr. DOMENICI and Mr. INOUYE) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 12, between lines 10 and 11, insert the following:

The Secretary of the Army, because of the Federal trust relationship that links the United States and Indian people, is directed to expend within available funds not to exceed $50,000 to plan and not to exceed $700,000 to design and engineer appropriate works to alleviate high ground water problems on agricultural lands owned by Cochiti Pueblo, New Mexico, directly downriver from Cochiti Dam: *Provided, however,* That no such funds shall be expended by the Secretary for design and engineering until the Secretary and the Tribal council of the Pueblo have agreed in writing to a plan of design that, in the judgment of both parties, will resolve the problems related to such high ground water: *And, provided further,* That the Secretary and the Tribal Council of the Pueblo shall continue to negotiate, and, if the parties so agree, the Secretary shall submit to Congress, if appropriate, a proposed settlement that would be in lieu of, or in addition to, any construction of works for the purposes of alleviating high ground water problems. For the purposes of this negotiation only, the provisions of section 3 of the Act of May 15, 1928 (45 stat. 535, ch. 569; 33 U.S.C. 702c) and sections 2401(a), 2401(b), and 2680(a) of title 28, United States Code, are waived. Nothing in this paragraph shall be construed to prejudice the rights, responsibilities, and defenses of either party in any litigation between the Pueblo and the United States, nor commit the Secretary * * * solution of the controversy.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 1180

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 15, between lines 19 and 20, insert the following:

The Secretary of the Army, with the use of available funds, is directed to prepare a revised master plan for recreation and resource management for Abiquiu Dam and Reservoir, Rio Chama, New Mexico at a total federal cost not to exceed $100,000. The findings of the revised master plan shall be furnished to the Congress no later than January 31, 1989.

DASCHLE AMENDMENT NO. 1181

Mr. JOHNSTON (for Mr. DASCHLE) proposed an amendment to the bill (H.R. 2700) supra; as follows:

On page 36, between lines 14 and 15, insert the following:

"SEC. . The Secretary of the Interior is directed to use not to exceed $70,000 in fiscal year 1988 for soil classification studies required to complete the integration of the Hilltop Irrigation District as a Federal unit of the Pick-Sloan Missouri River Basin program.".

CONRAD AMENDMENT NOS. 1182 AND 1183

Mr. CONRAD proposed two amendments to the bill (H.R. 2700) supra; as follows:

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

"SEC. . Notwithstanding title II of the Reclamation Authorization Act of 1975 (Public Law 94-228), the city of Dickinson, North Dakota, is forgiven all obligations incurred by such city under the contract (numbered 9-07-60-WR052) entered into with the Secretary of the Interior or his delegatee.

(b)(1) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into a new repayment contract with the city of Dickinson the terms of which shall entitle the city of Dickinson to water supply benefits provided by the bascule gate project authorized by title II of the Reclamation Authorization Act of 1975 in consideration for repayment of the costs of the bascule gate project as provided in paragraph (2).

(2) Repayment terms of the new contract shall provide for—

(A) repayment by the city of Dickinson of the capital cost of the bascule gate project of $1,625,000 over a period of 40 years at an interest rate of 7.21 per centum per annum; and

(B) payment of the annual operation, maintenance, and replacement costs of the project facilities.

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

That (a) notwithstanding any other provisions of law, the city of Minot, North Dakota, is relieved of all liability for repayment to the United States of the sum of $1,026,489.29 associated with the excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294).

(b) The relief from liability for repayment granted by subsection (a) shall be effective retroactive to January 1, 1978, the start of the city of Minot's repayment obligation under the 1972 repayment contract with the Bureau of Reclamation.

(c) If the excess capacity referred to in subsection (a) is ever used, the city of Minot shall reimburse the United States for the costs referred to in subsection (a) proportionate to the actual use of the excess capacity.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, November 12, 1987, in open session to consider the nomination of Frank C. Carlucci, to be Secretary of Defense.

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

SUBCOMMITTEE ON AGING

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aging, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, November 12, 1987, to conduct a hearing on the "Volunteer Service Promotion Act of 1987," S. 1189.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Thursday November 12, 1987, to receive testimony concerning H.R. 2325, a bill to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas; and H.R. 2416, a bill to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia; and for other purposes.

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

SUBCOMMITTEE ON THE CONSUMER

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 12, 1987, to hold hearings on S. 1518, the Methanol and Alternative Fuels Promotion Act of 1987.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 12, 1987, to hold oversight hearings on the 20th Anniversary of Public Broadcasting.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, November 12, 1987, to hold a hearing on S. 1039, a bill to review and determine the impact of Indian tribal taxation on reservations and residents; and, to meet during the session of the Senate on Thursday, November 12, 1987, to hold a hearing on S. 1722 and S. 1723, bills to establish a National American Indian Museum with the Rules Committee.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 12, 1987, to hold a hearing on intelligence matters.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, November 12, 1987, to conduct an executive session on "Family Planning," S. 1366.

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

ADDITIONAL STATEMENTS

CIAP: A SUCCESSFUL PUBLIC HOUSING PROGRAM

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, recently the Tullahoma, TN, Housing Authority successfully completed 4 years of work, and its application for $1.1 million Comprehensive Improvement Assistance Program [CIAP] grant was approved by the Department of Housing and Urban Development. This news, in itself, is not remarkable. By the end of fiscal year 1986, approximately $8.9 billion of capital improvements had been financed through this program.

For Tullahoma, this grant means that 107 units of public housing, first opened 33 years ago, will be upgraded. The low-income families and elderly persons who live in those units will, in the words of THA Chairman Richard Franks, have good, decent places to live. Work will begin on the Dossett Homes and Carver Apartments in the middle of next year. They will receive modern energy-saving windows, kitchens, baths, flooring, and other needed improvements.

As this CIAP grant and many others are announced for various projects across the country, I believe we would do well to reflect on the role of Public and Indian Housing Authorities, the CIAP Program specifically, and the Nation's housing policy generally.

The Tullahoma Housing Authority is, I think, typical of PHA's across America. It supervises seven projects, and the THA staff is constantly striving to improve its accounting and management techniques. But at THA, simply supervising is not enough. Staff members have passed out information on the Tullahoma Cares Adult Literacy Program, and THA has offered space to hold reading classes. This public housing authority takes seriously its goal to help people get on their feet, move out of public housing, and eventually become homeowners themselves.

Quite often, we hear through letters and constituent meetings that there are problems in public housing. Of course, that is true, and those problems—especially in larger complexes in big cities—cannot be ignored. However, it is my belief that the PHA's generally are conscientious in their management of housing projects and anxious to provide good service to tenants. But they are burdened by a severe lack of resources to cope with the deterioration of existing facilities.

For instance, the administration's budget called for a 75-percent cut in the CIAP Program. Congress rightly rejected such a drastic step, but the ever-shrinking pool of resources for programs of this type make future funding susceptible to additional cuts. It is my hope that we will realize that investments in the public housing are just that, investments, and the price of allowing Americans to live in deteriorating public housing will cost us much more in capital and human terms than the relatively small amount needed now to keep these units fit.

Mr. President, since 1981, the decades-old national commitment to public housing has all but been abandoned. The number of subsidized units, along with the budget authority for subsidy programs, has been slashed by more than two-thirds. There is simply not enough housing for low and very low income households. As this trend continues, the homeless population in America increases as much as 25 percent per year. We need a recommitment of resources for new construction and significant rehabilitation of conventional public housing.

In the face of a severe lack of adequate resources, local PHA's are struggling to provide the best service possible. I congratulate the Tullahoma Housing Authority; Executive Director Elaine Mann; and authority members Richard Franks, Ted Ball, Jr., T.E. (Gene) Northern, Rev. Henry Tate, Robert B. Moyer, and Alderman James Shelton. Their work and the work of other PHS member directors is vital to the success of the Nation's housing program, and they deserve our thanks and continuing support.●

INDEPENDENT JUDICIARY: A KEYSTONE OF AMERICAN GOVERNMENT

● Mr. DOMENICI. Mr. President, now that the debate on the nomination of Judge Robert Bork to serve on the Supreme Court has ended, I hope that we can put that debate into proper perspective.

The controversy over whether to confirm Judge Bork was not a debate over his qualifications or his competence—everyone conceded that he is an outstanding legal scholar. Rather, the debate, at its roots, was really a controversy over the independence of the Federal judiciary.

In the view of this Senator, the opponents of Judge Bork attempted to impose an orthodoxy on Judge Bork, a legal litmus test. They took him to task for criticizing the rationale of a number of cases, even though a wide variety of other prominent legal scholars had expressed similar concerns. This attack on Judge Bork was, unfortunately, successful.

Apart from its effect on Judge Bork himself, this attack concerns me because it threatens to undermine the independence of the judiciary. The opponents of Judge Bork insisted that he adhere to their philosophy of the law, rather than interpreting the law using the Constitution and the intent of those who wrote the law as a guide. In doing so, the opponents of Judge Bork have sought to impose their values on the American legal system, and deprive the judiciary of the independence that is absolutely essential to the liberties of the American people.

The Grants (NM) Daily Beacon recently carried a particularly thoughtful article on the Bork nomination, written by Mark Acuff. In the article, Mr. Acuff makes this point:

> No one has yet concluded that Judge Bork is not qualified. They contend only that they disagree with him. That's not the way it's supposed to work.

Because I believe this article offers some very thoughtful reflections on the importance of an independent judiciary to our American system of government, I ask that the article, "Independent Judiciary a Keystone of American Govt.," be printed at this point in the RECORD.

The document follows:

INDEPENDENT JUDICIARY A KEYSTONE OF AMERICAN GOVT.

(By Mark Acuff)

It has not been much remarked, but the chief casualty of the Bork nomination proceedings in Washington has been the concept of an independent judiciary.

Independence of the judicial branch is one of the keystones of the American Experiment. It is worthwhile to note that it barely made it to that status, as a number of the founders were not at all sure what to do with the judicial branch after they got through with the executive and legislative arms.

But the concept of the fully independent third branch of government won out, and it has become one of the fundaments of the American way. The essence of the notion is that the judiciary shall be so insulated from reprisal or political strife that it shall be able to conduct its business without bother and render its judgments without concern or worry.

In other words, a judge has to be free to make an unpopular decision without fear of being bounced out of office or lynched. That there is no such independence of the judiciary in many countries goes without saying.

Yet in the Bork case, we have an obvious intrusion of the legislative branch into the judiciary. The legislative branch is supposed to ascertain that nominees to the federal bench are qualified, then leave them to their decisions. Instead, the present legislators in Washington have obviously based their decisions on politics. No one has yet

contended that Judge Bork is not qualified. They contend only that they disagree with him. That's not the way it's supposed to work.

I was reminded of this the other day while reading some of the works of Eugene Manlove Rhodes, perhaps the most able writer New Mexico produced in the turn of the century period.

Rhodes wrote cowboy literature, but of a most literate sort. His cowboys are liable to spout Latin phrases or make references to the Bard of Avon while sitting around the campfire.

Rhodes Pass is in fact one of the long lost New Mexico places I'm dying to visit. The government won't let me. It's the pass over the mountains between Engle and Carrizozo. If you know that road, you must have lived here before WW II, as the government closed it when White Sands Missile Range was set up.

Anyway, the Rhodes essay which got my interest in this context was one bewailing the foot dragging of Congress on the issue of admission of New Mexico and Arizona as states.

Rhodes really let Congress have it, pointing out that the members of that August body were obviously far more interested in the number of Democrats or Republicans likely to be elected in New Mexico and her daughter territory than in the justice of the cause.

But Rhodes also brought up the matter of the independent judiciary, and in this case he was wrong. The writer was defending Arizona's proposed constitution, which contained a measure allowing recall of judges.

Now, this is a serious matter. In this day and age of high crime and much resentment of the "liberal" courts, recall of judges might well pass muster if put before the voters. Recall means, in a nutshell, that a judge who offers up an unpopular decision can be removed from office by action of the voters.

Arizona is in the process of recalling a governor at the moment, so the notion is not that hard to believe as real. If Arizona's proposed constitution had been accepted in Washington, they might well be recalling judges too.

As it was, Arizona was still trying to keep that in her constitution as late as 1912, when both states were admitted to the Union. But President William Howard Taft vetoed the idea and told Arizona to take the obnoxious item out of the constitution or stay a territory.

Arizona decided it wanted to be a state more than it wanted to recall unpopular judges, so out the provision went, Arizona revised her constitution, and finally became a state two weeks after New Mexico did.

And that is the only reason Arizona did not become a state the same day New Mexico did. Every citizen of the two states ought to know that. It's an important history lesson.●

IDA

● Mr. ADAMS. Mr. President, when I opened up a recent issue of the Washington Post, I paused to read an open message to the Congress concerning the International Development Association, better known as IDA. This is an impressive message and I ask that it be printed in the RECORD at the conclusion of these remarks.

Mr. President, after reading the text of this message, I think my collegues will realize why, inspite of the serious pressures to reduce our Federal budget deficit, it is imperative that the United States continue to support contributions to IDA.

I commend this message to my colleagues in both the House and Senate. Not only is the list of former Presidents, Secretaries of Treasury, State, Agriculture, Commerce, and U.S. Trade Representative particularly noteworthy, but so are the members of the private sector who support continued U.S. participation in IDA. As we moved forward in the weeks ahead to debate the level of the U.S. contribution to the eighth replenishment of IDA, I hope we will all bear in mind the tangible benefits our Nation and the world is receiving from this very worthwhile and foresightful organization.

The message follows:

[From the Washington Post, Oct. 22, 1987]

IDA IS AN IMPORTANT INVESTMENT IN OUR FUTURE

We the undersigned are united in the belief that:

The International Development Association (IDA), the arm of the World Bank that makes long-term loans to the poorest countries, requires a new infusion of funds by Congress. We strongly support this eighth IDA replenishment and urge Congress to approve the full amount requested by the Administration—$958 million for each of the next three years.

IDA is the most important source of development financing for the 56 recipient countries. IDA's unique combination of financial support and economic guidance creates a highly effective instrument for development. For the U.S. IDA offers an outstanding investment opportunity as a result of favorable leverage and burden sharing arrangements.

Cost effectiveness: For every one dollar contributed by the U.S. IDA receives $3.31 from other donors and generates $16 in total investment.

Burden sharing: The U.S. percentage contribution has declined from 42% in 1961 to 23% in the latest replenishment. In the meantime, the Japanese share has grown to 21%.

Agricultural focus: IDA was a major supporter of the "Green Revolution" which led to food self-sufficiency in much of Asia. Over 40% of IDA lending is for agricultural improvement.

African emphasis: 45%-50% of IDA VIII will go to Africa, primarily to boost food production. IDA is the largest single source of assistance to Africa.

Policy reforms: IDA backed reforms in 22 African countries are encouraging privatization and market-oriented economic policies.

Export benefits: Based on 1985-86 data, the U.S. had a positive trade balance with IDA countries, excluding China and India. Roughly 190,000 American jobs depend on exports to IDA countries.

Farm export prospects: Studies show that increased agricultural production in poor countries generally leads to more U.S. farm exports, as their citizens upgrade their diets. The 29 IDA graduate countries are the fastest growing markets for U.S. agricultural products.

Foreign policy goals: IDA complements U.S. foreign policy goals by stretching U.S. development dollars to assist friendly countries. IDA provides the mechanism for donor coordination and coherent economic advice.

The American people support IDA type assistance: A recent major public opinion survey concluded that the majority of Americans support foreign assistance, with support increasing since 1978. Up to 60% support the types of agricultural programs funded by IDA.

IDA was an American idea: Senator Mike Monroney of Oklahoma proposed IDA in 1958 to extend the scope of the World Bank to reach the poorest countries. Senator Monroney's foresight has had strong bipartisan support ever since. Every President since Eisenhower has backed IDA.

We believe that IDA is a sound investment for a more prosperous and peaceful world and urge the Congress to support full funding for continued U.S. participation.

FORMER PRESIDENTS

Jimmy Carter, Plains, Georgia.

Gerald R. Ford, Rancho Mirage, California.

Richard M. Nixon, New York, New York.

FORMER SECRETARIES OF THE TREASURY

Robert B. Anderson, New York, New York.

Joseph W. Barr, Arlington, Virginia.

W. Michael Blumenthal, Chmn. & CEO, Unysis Corp.

John B. Connally, Houston, Texas.

C. Douglas Dillon, New York, New York.

Henry H. Fowler, Alexandria, Virginia.

David M. Kennedy, Salt Lake City, Utah.

G. William Miller, G. William Miller & Co.

William E. Simon, Chairman, Wesray Corp.

FORMER SECRETARIES OF STATE

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Edmund S. Muskie, Chadbourne & Parke.

Dean Rusk, Athens, Georgia.

Cyrus Vance, Simpson, Thacher & Bartlett.

FORMER SECRETARIES OF AGRICULTURE

Robert Bergland, Natl. Rural Electric Coop. Assn.

Earl L. Butz, Dean Ameritus, Purdue Univ.

Orville L. Freeman, Chmn., Intl. Dept., Popham, Haik.

Clifford Hardin, Chmn., Intl. Policy Cmte.

FORMER SECRETARIES OF COMMERCE

Frederick B. Dent, Spartanburg, S.C.

Philip M. Klutznick, Chicago, IL.

Juanita Kreps, Duke University.

Amb. Elliot Richardson, Milbank, Tweed, Hadley & McCloy.

Alexander B. Trowbridge, Jr., Pres., Natl. Assn. of Manuf.

U.S. TRADE REPRESENTATIVES

Reubin O'D. Askew, Greenberg, Traurig, Askew, et al.

William D. Eberle, Manchester Assn., Inc.

William M. Roth, San Francisco, California. CA.

OTHERS

Harold W. Andersen, Chmn., Omaha World-Herald Co.

John B. Anderson, Former Member of Congress.

Robert O. Anderson, Pres., Hondo Oil & Gas Co.

Shirley Smith Anderson, The Population Institute.
Dwayne O. Andreas, Chmn., Archer Daniels Midland Co.
John J. Arena, Pres., Back Bay Inv. Mgmt., Inc.
Roy L. Ash, Ash Capital Corp.
Robert Asher, Washington, D.C.
Thomas L. Ashley, Wilkinson, Barker, Knauer & Quinn.
John R. Babson, Intl. Eye Foundation.
Charles F. Barber, Former Chrmn., Asarco Inc.
Birch Bayh, Former U.S. Senator.
C. Fred Bergsten, Former Asst. Secr. of Treas.
Christine A. Bindert, Sr. VP, Shearson Lehman Brothers.
Charles Blitzer, Mass. Inst. of Technology.
Richard Bolling, Former Member of Congress.
James Booe, Communications Workers of Amer.
Nan Borton, Intl. Voluntary Serv.
Peter Bourne, Pres., Development Intl.
Thornton F. Bradshaw, RCA Corp.
Edward W. Brooke, O'Connor & Hannan.
Burton Brousner, M.D., President, SACOW.
Harold Brown, Johns Hopkins Foreign Pol. Inst.
Lawrence E. Bruce, Jr. Pres., U.S. Cmte. for UNICEF.
Zbigniew Brzezinski, Ctr. for Strategic & Intl. Studies.
Edward P. Bullard, IV, President, Technoserve.
Willard C. Butchers, Chmn. & CEO, Chase Manhattan Bank.
Mayra Buvinic, Intl. Ctr. for Research on Women.
Thomas R. Byrne, Exec. Dir., PACT.
Reverend Joan Campbell, World Council of Churches.
Wallace Campbell, Chairman, CARE Intl.
Jack Carlson, Potomac, Maryland.
Elford A. Cederberg, Former Member of Congress.
Richard Celeste, Governor, State of Ohio.
John Gilray Christy, Chmn. & CEO, IU Intl. Corp.
Henry G. Cisneros, Mayor, City of San Antonio.
George J. Clark, Exec. VP, Citicorp.
A.W. Clausen, Chmn & CEO, BankAmerica Corp.
William T. Coleman, Jr., O'Melveny & Myers.
Joseph E. Connor, Chmn., Price Waterhouse.
Marlow W. Cook, Former Member of Congress.
David M. Cooney, Pres. & CEO, Goodwill Industries.
Richard N. Cooper, Harvard University.
J. Elliott Corbett, Pres, PAX World Foundation.
John Costello, Citizens Network.
Marlee T. Coughlan, Pres., League of Women Voters of Maine.
Ellsworth Culver, Pres., Mercy Corps Int.
Lloyd N. Cutler, Wilmer, Cutler & Pickering.
Dewey Daane, Vanderbilt University.
William B. Dale, Bethesda, MD.
Peter J. Davies, President, Interaction.
Thibaut de Saint Phalle, Saint Phalle Intl. Group.
Richard A. Debs, Morgan Stanley Intl. Inc.
Frederick L. Deming, Minneapolis, MN.
George Deukmejian, Governor, State of California.
Rimmer deVries, Sr. VP, Morgan Guaranty Trust Co.
Steven A. Dimoff, United Nations Assn. of U.S.
Robert Dockson, Chmn., CalFed, Inc.
Jo Doherty, YWCA.
John Donaldson, Black, Manafort, Stone & Kelly.
Robert F. Drinan, S.J., Former Member of Congress.
Robert B. Duncan, Former Member of Congress.
Stuart E. Eizenstat, Powell, Goldstein, et al.
Mark Esherick, Zero Population Growth.
Monte Factor, Chmn., End Hunger Network.
Thomas L. Farmer, Washington, D.C.
James J. Farrar, Cummins Engine Co.
George M. Ferris, Jr., CEO, Ferris & Co., Inc.
Robert J. Fien, Pres., Stone Construct. Equip., Inc.
R.W. Fischer, President, Soypro Intl. Inc.
Richard W. Fisher, Fisher Capital Management.
William F. Ford, President, Broadview Savings.
Lawrence Fox, VP. Natl. Assn. of Manufacturers.
Barbara Hackman Franklin, Dir., Wharton Govt. & Bus. Prog.
Edward R. Fried, Brooklings Institution.
Booth Gardner, Governor, State of Washington.
Richard N. Gardner, Columbia University.
George Gerardi, President, Hermandad.
Michael S. Gerber, African Med. & Research Fdtn.
John J. Gilligan, University of Notre Dame.
Gen. Andrew J. Goodpaster, Pres., Inst. for Defense Analysis.
Susan Goodwillie, Refugees International.
William B. Graham, Sr. Chmn., Baxter Travenol Labs., Inc.
James P. Grant, Exce. Dir., UNICEF.
Peter Gubser, American Near East Refugee Aid.
John H. Gutfreund, Chmn., Salomon Brothers, Inc.
Seymour Halpern, Former Member of Congress.
John Hammock, Belmont, Massachusetts.
Robert A. Hanson, Chmn. & CEO, John Deere & Co.
Dorothy I. Height, Pres., Natl. Council of Negro Women.
Niles G. Helmboldt, Equator Holdings Ltd.
John M. Hennessy, Chmn., Credit Suisse First Boston.
Reverend Theodore Hesburgh, C.S.C. President, Univ. of Notre Dame.
Rev. Alden R. Hickman, Heifer Project Intl.
W.R. Hildebrand, Pres., Fiatallis North America.
Richard D. Hill, Dir., First Natl. Bank of Boston.
Ruth J. Hinerfeld, Dir., Overseas Development Council.
Harlan H. Hobgood, Pres., Meals for Millions.
Luther H. Hodges, Jr., Chmn., Natl. Bank of Washington.
Daniel W. Hofgren, Goldman Sachs & Company.
Henry Clay Hofheimer II, Norfolk, VA.
Richard Holbrooke, Shearson Lehman Brothers.
Joan Holmes, Exec. Dir., The Hunger Project.
Thomas A. Holmes, Chmn., Ingersoll-Rand Co.
Robert D. Hormats, Goldman Sachs & Co.
Stanley W. Hosie, Fdtn. for People of S. Pacific.
Cordell Hull, Exec. VP, Bechtel Group, Inc.
Robert S. Ingersoll, Chicago, IL.
Bobby R. Inman, Chmn., Westmark Systems, Inc.
James W. Jensen, Pres., PAYHAVLER Corp.
Albert W. Johnson, Former Member of Congress.
Howard W. Johnson, Hon. Chmn. of MIT.
Peter T. Jones, University of California.
Amos A. Jordan, Pres., Ctr. for Strategic & Intl. Studies.
J.W. Kaempfer, Jr., Pres., Kaempfer Co.
Helene Kaplan, Esquire, Webster & Sheffield.
Peter B. Kenen, Princeton University.
Charles P. Kindleberger, Professor Emeritus, MIT.
Colbert I. King, Washington, D.C.
Wells C. Klein, U.S. Cmte. for Refugees (ACNS).
J. Burke Knapp, Portola Valley, CA.
Harry W. Knight, Chairman, Hillsboro Assoc.
Winthrop Knowlton, Cambridge, MA.
James L. Kohnen, Nordic Monitoring Systems.
Anne O. Krueger, Chapel Hill, NC.
Ronald L. Kuehn, Jr., Pres. & CEO, Sonat Inc.
Duane R. Kullberg, CEO, Arthur Andersen & Co.
John Lapp, Mennonite Central Committee.
Donald H. Larsen, Lutheran Immig. & Refugee Serv.
Wilbert J. Le Melle, President, Mercy College.
Glen & Mildred Robbins Leet, Co-Directors, Trickle Up Program.
Richard Lee Lesher, Pres., U.S. Chamber of Commerce.
Rev. Wm. M. Lewers, C.S.C., U.S. Catholic Conference.
Jay Lintner, United Church of Christ.
Sol M. Linowitz, Sr. Partner, Coudert Brothers.
C. Payne Lukas, Africare.
John H. Lumpkin, Sr., McNair, Glenn, Konduros, et al.
Robert C. Macauley, Pres., Americares Foundation.
Charles F. MacCormack, Pres., Experiment in Intl. Living.
Bruce K. MacLaury, President, Brookings Institution.
David W. Manning, Hercules Engines, Inc.
Leonard H. Marks, Chmn. Ex. Comm., For Pol. Assn.
Michael T. Masin, O'Melveny & Myers.
Charles McC. Mathias, Jr., Jones, Day, Reavis & Pogue.
W. David Maxwell, Provost, Clemson University.
Paul McCleary, Pres., Save the Children.
Hugh McColl, Chmn., N. Carolina National Bank.
Paul W. McCracken, University of Michigan.
William McDonough, Vice Chmn., First Chicago Corp.
John F. McGillicuddy, Chmn., Manuf. Hanover Trust Co.
Donald F. McHenry, Former UN Ambassador.
Robert E. McNair, McNair Law Firm, P.A.
R.T. McNamar, Pacific Palisades, CA.
Robert S. McNamara, Washington, DC.
Robert L. McNeill, Emergency Comm. for Amer. Trade.
Judy Hendren Mello, New York, New York.

Zoltan Merszei, Dir., LePercq-de-Neuflize & Co.
Howard M. Messner, Amer. Consulting Engineers Council.
Ruben F. Mettler, Chmn. & CEO, TRW Inc.
Daniel L. Miller, The Breakthrough Fdtn.
Irwin Miller, Columbus, Indiana.
Michael D. Miller, Pres., Amer. Development Fdtn.
William G. Milliken, Former Governor, State of Michigan.
Chester L. Mize, Former Member of Congress.
John S. Monagan, Former Member of Congress.
Parker G. Montgomery, Chmn. & CEO, CooperVision.
Linda V. Moodle, Dep. Dir., Bretton Woods Cmte.
Richard M. Moose, Shearson Lehman Brothers.
Alfred F. Moran, Planned Parenthood of NY City.
Bradford Morse, Former Member of Congress.
Ambler H. Moss, Jr., Dean, University of Miami.
Steven Muller, Pres., Johns Hopkins University.
Gordon Murphy, Pres., Inst. for Intl. Development.
Edward C. Myer, General, U.S. Army (Ret.).
Robert R. Nathan, Chmn., Robert R. Nathan Assoc.
Marilyn Carlsen Nelson, Carlsen Companies.
Sheffield Nelson, House, Wallace, Nelson et al.
William S. Norman, Exec. VP, Amtrak.
Clitus W. Olson, M.D., Paul Carlson Medical Prog., Inc.
James C. Orr, James Orr Associates.
Henry Owen, Consultants Intl. Group.
Robert Paarlberg, Wellesley College.
John M. Palmer, Helen Keller Intl.
William Pearce, Cargill Inc.
Daniel E. Pellegrom, The Pathfinder Fund.
Charles H. Percy, Charles Percy & Assoc.
J. Wm. Peterson, P.E., Construction Industry Manuf. Assn.
Peter G. Peterson, Chairman, The Blackstone Group.
Rudolph A. Peterson, Chairman, The Asia Foundation.
Shirley N. Pettis, Former Member of Congress.
John R. Petty, Chairman, Marine Midland Bank.
Kenneth H. Phillips, Foster Parents Plans, Inc.
J.B.L. Pierce, The Boeing Company.
Edmund T. Pratt, Jr., Chairman & CEO, Pfizer Inc.
Lewis T. Preston, Chmn., Morgan Guaranty Trust Co.
Ronald E. Pump, AT&T.
Katherine Quinn, New York.
Thomas F. Railsback, Former Member of Congress.
Mr. Myer Rashish, Rashish Associates.
George Remick, Pres., Finlay Hydrascreen USA.
Henry S. Reuss, Rose, Schmidt, Chapman, et al.
Nicholas Rey, Bear Stearns & Co.
S. Melvin Rines, Kidder, Peabody & Co.
Richard W. Roberts, Pres., Natl. Foreign Trade Council.
Charles W. Robinson, Chairman, Energy Transition Corp.
James D. Robinson III, Chmn. & CEO American Express Co.
Mary Roebling, Chmn. Emer., Natl. State Bank of NJ.
David Rockefeller, New York, New York.
William D. Rogers, Arnold & Porter.
Robert V. Roosa, Brown, Brothers, Harriman, & Co.
David Runnalls, Intl. Inst. for Environment & Dev.
Nathaniel Samuels, Shearson Lehman Brothers, Inc.
Henry B. Schacht, Chmn. & CEO, Cummins Engine Co.
G. A. Schaefer, Chmn., Caterpillar Tractor Co.
Peter Schaefer, Simplot International.
Mr. John A. Schnittker, Pres., Schnittker Associates.
Robert G. Schwartz, Chmn., Metropolitan Life Ins. Co.
John Williamson Sewell, Pres., Overseas Devel. Council.
Albert Shanker, Pres., Amer. Fed. of Teachers.
Harold T. Shapiro, President, University of Michigan.
David Shear, ORT International.
Laurence Simon, Pres., Amer. Jewish World Service.
Charles H. Smith, Jr., Chmn., SIFCO Industries, Inc.
Elise F. Smith, OEF International.
Gerard C. Smith, Chmn., Arms Control Association.
Jack Soldate, American Refugee Cmte.
Anthony M. Solomon, Chmn., S.G. Warburg (USA) Inc.
Shirley Frances Spivy-Weber, National Audubon Society.
Herbert Stein, American Enterprise Inst.
Maurice Strong, President, Baca Corp.
Walter Sterling Surrey, Jones, Day, Reavis, and Pogue.
Howard R. Swearer, President, Brown University.
John Swenson, Catholic Relief Services.
James W. Symington, Former Member of Congress.
Robert Taft, Jr., Former Member of Congress.
James B. Taylor, Pres. & CEO, Gates Lear Jet Corp.
Jere W. Thompson, Pres., The Southland Corp.
Paul B. Thompson, World Vision Relief Org.
Randall L. Tobias, Chmn., AT&T Communications.
Joseph Vittoria, President, Avis, Inc.
Richard M. Walden, Pres., Operation California.
Charles E. Walker, Charls Walker Associates.
David K. Watkiss, Watkiss & Campbell.
Ralph S. Watta, Adventist Devel. & Relief Agency.
Faye Wattleton, Planned Parenthood Fed. of Amer.
Ted Weihe, Overseas Coop. Devel. Committee.
John L. Weinberg, Sr. Partner, Goldman Sachs & Co.
Arnold H. Weiss, Washington, D.C.
Anne Wexler, Wexler, Reynolds, Harrison et al.
John C. White, Washington, D.C.
Nancy White, League of Women Voters of Mich.
Wilmore W. Whitmore, Pres., First Natl. Shares, Inc.
Eddie N. Williams, Washington, D.C.
Franklin H. Williams, Pres., Phelps-Stokes Fund.
Larry Williams, Sierra Club.
James D. Wolfensohn, James D. Wolfensohn, Inc.
Derish M. Wolff, Pres., Louis Berger Intl.
John A. Young, Pres. & CEO, Hewlett-Packard Co.

COMMEMORATING THE 95TH BIRTHDAY OF THE ARTIST, ERTE

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, today it is my privilege to have the opportunity to pay tribute to Erte, a man of genius artistic ability, by honoring his 95th birthday. It is difficult in this statement to do justice to a man whose influence has been felt for most of this century. He has developed such a quality of expression, that he has become an inspiration to both the young and old. His contributions to the world of art, theatre, and fashion have lifted the entire world's standards of quality and beauty.

Born in St. Petersburg, Russia, in 1892, he was attracted to art at a young age through his intrigue with Persian miniatures. Through persistent study, he developed his natural talent. By the early age of 23, Erte was renowned for his designs. His visions and dimension of beauty generated new concepts in fashion design, art and decoration. He is reported by some to be the "Father of Art Deco."

At the age of 95, Erte is still a vital force in the art world. He travels extensively, sharing his time and talents. Young aspiring artists are stimulated by his vision and superb craftsmanship. Erte's sincere, approachable manner and personal warmth make him a true gentleman. His sense of humor and grace are articulated in his manner as well as his art.

Mr. President, every country, every civilization, every generation needs melodies to sing lustily, books to inspire it, and dramatic productions to move it. But the opportunity to nurture and develop these talents must be available. Erte is a perfect example of what can evolve when that opportunity is provided and cultivated. It is difficult to prove that the arts are vital to a country, just as you cannot prove the existence of beauty or love or faith. As Carol Nixon, director of the Utah Arts Council, so eloquently stated "* * * While science puts man on the moon, the humanities and the arts put vision in our hearts. While science brings the world into our living-rooms and classrooms, the humanities and the arts teach us to enjoy it * * *." The arts enrich a country in ways that cannot be measured. Art expressions and exchange provides some of the best ambassadors that a country can send abroad.

Everyone benefits when a caliber of quality such as Erte's is developed. The world is truly a better place today with the gifts that Erte has brought to

it. Mr. President, I hope my colleagues will join me in commemorating Erte for his 95th birthday and his lifelong artistic contributions.●

INFORMED CONSENT

● Mr. HUMPHREY. Mr. President, I urge my colleagues to support my informed consent legislation, S. 272 and S. 273. The bills would help ensure that women considering abortion received the information necessary to make an informed decision about the procedure. The legislation is necessary because at abortion clinics across the country, incomplete information about the risks, effects, and alternatives is being provided, preventing what could truly be called informed consent. This would not be allowed for other medical procedures, and should not be for abortion.

I ask unanimous consent that a letter from Alaska in support of informed consent be entered into the RECORD.

The letter follows:

JANUARY 3, 1986.

DEAR SENATOR HUMPHREY: Thank you for taking up the cause of the pre-born in our country. My own child was an innocent victim of abortion because I was scared, ignorant and uninformed, but most of all because it was legal. I was 14 years old at the time and would never have been able to get an abortion if it were illegal.

I have suffered the consequences of this bad decision for years. I still lay awake sometimes at night and cry. That baby was to be my only child. My husband and I have been trying for six years to have children. I see a child about the age my child would have been and begin to wonder what it would have been like. I have experienced self-hatred, depression, and preoccupation with what might have been. Thanks to my husband, pastor, and groups like right-to-life and W.E.B.A. I am gaining control of the situation.

Where was the law when I needed them. More importantly, where was the law when my baby needed them? And where is the law now as thousands of innocent babies are being slain.

Thank you for taking up the cause of the preborn. I feel like someone is finally on my side.

Cordially,

JOANNE HARDESTY,

Alaska.●

FRAUD OF THE DAY—PART 14

● Mr. HEINZ. Mr. President, today's fraud involves an item which might not be familiar to some Senators—steel pipe flange. This article is not a common household item to consumers, but its very obscurity makes it a good subject for discussion as a fraud of the day. It demonstrates that customs fraud does not just strike highly visible steel or textile and apparel products. It affects minor segments of these massive industries as well—flanges, sweaters, ball bearings, and swim shorts. These segments are not at all unimportant, however, since taken together they form the vast bulk of their respective industries, and the frauds which involve them injure their industries and the U.S. economy as a whole.

In early 1986, special agents in Houston discovered that the Maass Flange Corp., of Seally, TX, had been importing steel pipe flanges of East German origin and declaring them to be of West German origin. Since East Germany is one of the Communist nations that does not receive most-favored-nation treatment from the United States, much higher duties apply to its products than similar imports from western economies. This particular fraud resulted in a loss of duty of 21 percent on an entered value of $250,000. On June 3, Maass Flange pled guilty to two felony counts of fraud and agreed to pay duties and penalties of $250,000.

Obviously, this is not a sum that is going to enable us to retire the national debt. Nor did the entire steel industry breathe a collective sigh of relief and suddenly start using black ink instead of red. Nevertheless, the products in question are vital parts of many steel structures. Customs fraud committed in this area does not only affect domestic producers of steel pipe flanges, but also purchasers of flanges, who might prefer the way West German flanges are manufactured to the East German method. Or it could involve builders of steel structures, who find themselves with flanges of a different quality than expected.

This limited fraud involving a specific steel item has repercussions far beyond the primary impact. The impact of such fraud can be extensive and damaging, and the penalties for such fraud should be no less extensive or less damaging. A private right of action, as provided for in the Senate trade bill, would facilitate the imposition of equitable penalties.

I should also point out that a private right of action is hardly without precedent. Our securities and antitrust laws provide such an opportunity. A more recent example of such a private right of action occurs in section 430 of Public Law 99-440, the South African sanctions legislation enacted in 1985. In this law, the Congress created a private right of action recourse for domestic corporations forced to leave South Africa as part of the Anti-Apartheid Act. Section 430 allows such companies to sue corporations or individuals which take unfair advantage of a United States party's departure from South Africa.

I see in these examples ample precedent for a private right of action in cases of customs fraud. It is clearly not an unusual right in American law and it will unquestionably help us combat this crime that is devastating our economy.●

ORDERS FOR FRIDAY

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 o'clock on tomorrow morning.

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

LEADER TIME REDUCTION

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow morning be reduced to 5 minutes each.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that upon the completion of the recognition of the two leaders under the order there be morning business to extend to the hour of 9:15 a.m. and that Senators may speak therein.

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

YEA AND NAY VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on the vote that will occur in relation to the 311 point of order tomorrow.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I remind Senators of the vote at 10 o'clock tomorrow morning. There will be a rollcall vote at 10 o'clock tomorrow. It will be a 30-minute rollcall vote, it being the first rollcall vote of the day, and the call for the regular order will occur automatically at the close of the 30 minutes, which means that Senators must be here and have cast their vote by the end of the 30 minutes.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to the Public Law 94-201, appoints Dr. Marta Weigle, of New Mexico, as a member of the Board of Trustees of the American Folklife Center.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. CRANSTON. Mr. President, I now move that the Senate stand in recess until 9 a.m. tomorrow, in accordance with the previous order.

The motion was agreed to, and the Senate, at 8:39 p.m., recessed until tomorrow Friday, November 13, 1987, at 9 a.m.